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PLACES OF DETENTION IN MACEDONIA

*Report from the visit of the delegation of human rights NGOs to places of detention in
Macedonia on 29 and 30 June 2004*

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Executive Summary

On 29 and 30 June representatives of the International Helsinki Federation for Human Rights (IHF) conducted a mission on monitoring places of detention in the Republic of Macedonia. The mission was the second one under the project “Preventing Torture in the Closed Institutions of Central and Eastern Europe”, financed by the European Commission. The IHF delegation included representatives from:

- Bulgarian Helsinki Committee
- Greek Helsinki Monitor
- Helsinki Committee for Human Rights in the Republic of Macedonia
- Helsinki Committee for Human Rights in Serbia
- Helsinki Foundation for Human Rights in Poland
- Hungarian Helsinki Committee
- International Helsinki Federation for Human Rights
- Moscow Helsinki Group

The mission monitored the respect for the human rights of persons placed involuntarily in state institutions. These included institutions for confinement of persons sentenced for criminal offences or detained on suspicion of having committed an offence, under the authority of the Ministry of Justice; institutions for involuntary psychiatric hospitalization for the purposes of active treatment of mentally ill under the authority of the Ministry of Health, and institutions for involuntary placement of persons with severe developmental disabilities for the purposes of social care under the authority of the Ministry of Labor and Social Policy.

With few exceptions the Macedonian authorities were cooperative and allowed the IHF delegation to conduct a thorough monitoring of ten facilities: seven under the authority of the Ministry of Justice, two under the authority of the Ministry of Health and one under the authority of the Ministry of Labor and Social Policy. The delegation spoke with the administration, observed the premises and checked documentation. It was able to conduct private interviews with inmates. At the end, the delegation made a number of recommendations on all types of facilities.

With regard to the Ministry of Justice facilities the delegation observed that the Macedonian prison system does not allow for diversified forms of custody in all prisons. Some efforts were under way in that regard although in those prisons where individualized placement was made possible, it did not always allow for common activities during the day and resulted in forms of custody akin to solitary confinement. In the system as a whole, the engagement of the remand prisoners in meaningful activities during the day was a serious problem. In some facilities the delegation observed overcrowding. It found that holding prisoners for prolonged periods of time in the pre-trial units of the prisons of Bitola, Tetovo, Štip and Ohrid and in the disciplinary cells in these and in the other prisons amounted to inhuman and degrading treatment contrary to international standards. The cells were unheated, unhygienic and not sufficiently lit for reading. Inmates had no possibilities to communicate with other detainees; outside contacts were very limited and controlled; and correspondence was censored. Detainees were allowed to spend only one hour per day out of cells to walk in an isolated yard. A worrying finding was the excessive use of force by the security guards in the Idrizovo prison. It was not the first time that the IHF observed such practices in that prison.

The use of solitary confinement as a disciplinary punishment of juveniles also ran against international standards.

Medical services in the institutions of the Ministry of Justice were not integrated with the national health system as required by the international standards. In some prisons the newly admitted prisoners were not examined immediately by a qualified doctor and their complaints were not registered upon admission.

In several prisons the IHF delegation found problems with the right to privacy. On several occasions it observed arbitrary censorship of correspondence. This breach of confidentiality extended to the correspondence of the prisoners with their lawyers and with the European Court of Human Rights. The delegation expressed concerns about the permanent surveillance with cameras in the cells of the prisoners in the Štip prison.

The delegation recommended that the prison in Tetovo should stop admitting women, as the present conditions there do not allow for appropriate segregation and protection. It also recommended that the prison system in Macedonia should make a concerted effort to recruiting women in the staff of all prisons.

With regard to the psychiatric institutions the IHF delegation noted that the procedure for commitment of a person to an institution for active treatment falls short of due process standards. It does not envisage a specific procedure for appearance in person before a court for determination of the legality of his/her detention shortly after the initial placement. The court hearings for involuntary hospitalization are not conducted according to the due process standards. The civil and the criminal commitment to a psychiatric institution for active treatment are not subject to *ex officio* judicial review periodically and in short periods of time. The commitment procedure also does not allow for a participation of a lawyer already from the moment of detention and an obligatory representation during the entire proceedings, including the appeals. Placement of persons under guardianship to psychiatric institutions for active treatment or to social care institutions for disabled persons does not take place through a court procedure in accordance with the due process standards.

The treatment procedure in the institutions for active treatment in Macedonia does not envisage obtaining an informed consent from the involuntary patients, nor a system to evaluate the capacity of the patient to give an informed consent for treatment. The treatment methods in some institutions were not sufficiently diversified and in some institutions were restricted to pharmacotherapy. In the Neuro-Psychiatric Hospital in Negorci the delegation found application of an unmodified electro-convulsive therapy (ECT), i.e. one without anesthesia and muscle relaxants. The use of means of restraint in the psychiatric institutions of Macedonia is not based on law and is not registered in a special register.

The delegation was concerned with the living conditions of the patients in some institutions. They were unacceptable in the 5th and the 6th wards in the Demir Hisar Psychiatric Hospital and in the ward for patients with severe developmental disabilities in the Neuro-Psychiatric Hospital in Negorci.

With regard to the special institution for mentally disabled persons in Demir Kapija, the delegation recommended that all residents in the Demir Kapija social care institution and especially those in the "Health" Ward should be offered meaningful activities and rehabilitation programs. It also urged the

Macedonian government to reconsider the capacity and the location of that institution and, if there is a need for such institutions at all, to establish them more evenly on the territory of Macedonia.

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Introduction: Context and purpose of the visit

On 29 and 30 June 2004 representatives of the International Helsinki Federation for Human Rights (IHF) conducted a mission on monitoring places of detention in the Republic of Macedonia. The mission was the second one under the project “Preventing Torture in the Closed Institutions of Central and Eastern Europe”, financed by the European Commission. The project has 8 partner organizations from Eastern and Western European countries. The leading partner in this project is the Bulgarian Helsinki Committee. Representatives from the following organizations took part in the monitoring mission (in alphabetical order):

- Bulgarian Helsinki Committee
- Greek Helsinki Monitor
- Helsinki Committee for Human Rights in the Republic of Macedonia
- Helsinki Committee for Human Rights in Serbia
- Helsinki Foundation for Human Rights in Poland
- Hungarian Helsinki Committee
- International Helsinki Federation for Human Rights (IHF)
- Moscow Helsinki Group

The list of the representatives of these organizations is enclosed in the annex.

The primary purpose of the mission was to monitor the respect for the human rights of the persons placed involuntarily in state institutions. The bases of the monitoring were the international standards for the treatment of prisoners and the international standards for the treatment of mentally ill and mentally disabled. In Macedonia the mission concentrated on three types of institutions:

- Institutions for confinement of persons sentenced for criminal offences or detained on a suspicion for having committed an offence under the authority of the Ministry of Justice;
- Institutions for involuntary psychiatric hospitalization for the purposes of active treatment of mentally ill under the authority of the Ministry of Health;
- Institutions for involuntary placement of persons with severe developmental disabilities for the purposes of social care under the authority of the Ministry of Labor and Social Policy.

One of the major assumptions of the project partners is that openness of the detention facilities to domestic and international scrutiny by human rights NGOs and other civil society groups is a basic safeguard against ill treatment and other human rights violations. A number of international organizations recently came up with recommendations, encouraging countries to allow visits by human rights NGOs to places of detention.¹

The legislation of Macedonia does not provide explicitly for the possibility of the human rights NGOs to carry out monitoring missions in the places of detention. The Macedonian authorities however usually allow such visits. The IHF has already had a chance to visit some places of detention in Macedonia in May 2002. These included the prison in Idrizovo and the Neuro-Psychiatric Hospital in Bardovci, near Skopje.²

The IHF delegation formed three monitoring teams with 4-5 persons in each. These teams visited up to

¹ Among them is the OSCE (Cf. *Supplementary Human Dimension Meeting on Prison Reform*, Vienna, 8-9 July 2002).

² See: IHF, Report on the Fact Finding Mission to Macedonia 27-28 May 2002, available at: www.ihf-hr.org.

2 facilities a day. They received different degrees of cooperation of the administrations of the respective detention facilities, which reflected on the efforts required to conduct an appropriate inspection and on the quality of the results. Almost half of the members of the IHF delegation could speak languages in which they could establish some communication with the administration and with the inmates of the institutions. The other members were assisted with interpreters provided by the Helsinki Committee for Human Rights in the Republic of Macedonia.

The IHF delegation always insisted on the possibility to conduct private interviews with the inmates of the facilities visited. Unfortunately, this was not always possible for a variety of reasons. Macedonian legislation, just as the laws of many other countries, does not allow for contacts of remand prisoners with private groups, even for the purposes of human rights monitoring. These regulations do not have any rational basis whatsoever and are a remnant of an old and outdated approach to custody. Thus, the IHF teams were not able to conduct private interviews with remand prisoners. In several establishments the directors and the other members of the staff tried to control the team's visit and did their best to divert it from its course or to prevent private conversations with any inmates. An additional obstacle to the delegation's mission was the incompetence of some of the staff members, who were not able to supply the necessary data or were not aware of the legal provisions on which they were supposed to base their actions.

Despite these difficulties, the IHF delegation was able to conduct meaningful research and to come up with important recommendations on both individual facilities and the system as a whole. Its observations and recommendations could serve as a point of departure for future monitoring activities of groups concerned with the human rights of the persons placed involuntarily in the Macedonian state institutions.

1. Ministry of Justice facilities

1.1. Background to the law and custody policy of the Ministry of Justice facilities

With regard to the regulation of the conditions of imprisonment and detention, there is a huge discrepancy in Macedonia between the law and the reality. Such a discrepancy, of course, exists in every country because of the peculiar nature of the prison environment, the specific vulnerability of the prison population and the lack of due process guarantees in the exercise of disciplinary powers. In Macedonia, however, the IHF delegation was left with the impression that the law describes a reality, which is very often incompatible with the reality in the prisons.

The major legal act regulating the prison conditions is the *Law on the Execution of Sanctions* (LES). It contains some remarkable provisions, which, however, are not applied in reality. Thus, Article 100 provides that each sentenced prisoner is entitled to a minimum of 9 cubic meters of living space. According to Article 101, the sentenced prisoners should be placed in single rooms if there are such possibilities in the institution. When they are placed in common dormitories, the psychological compatibility of the prisoners ought to be ensured. In any case the law forbids the placement of more than five prisoners in one dormitory.

LES provides for a minimum daily caloric value of the food sentenced prisoners are entitled to. It is 12,500 joules (3,000 calories), enough to cover the needs of a prisoner. The caloric value of the food provided to the juveniles should be 14,600 joules. The law also provides that the food should be prepared with regard to the scientific standards of nutrition.

The law provides that medical care should be ensured by a doctor who should be contracted in each institution (Article 121). The doctor should certify the medical condition of every sentenced prisoner upon admission. In addition, every sentenced prisoner has the right to use the services of any medical specialist they want at their own expenses of.

Under Macedonian law convicted prisoners, who are first-time offenders, sentenced to up to 2 years imprisonment, as well as habitual offenders sentenced to up to six months imprisonment are accommodated in regional prisons.

LES provides that the prisoners should be enabled to work such types of jobs that might be useful once they finish serving their sentence (Asrt. 21). Article 113 regulates the remuneration of prisoners, although the relevant provision is a bit vague. It provides that “the compensation’s amount shall be determined by the type, quantity and quality of both the product and the work”. Article 113, paragraph 4, provides that “the director competent for the execution’s affairs shall regulate more specifically both the compensation and rewards for the work of the inmates”.

Prisoners are entitled to some privileges for good behavior. These are defined in Article 149 of LES. In such cases their regime may be changed to a lighter one. However, for bad behavior they can be transferred to a stricter regime. In both cases the decision is made by the Directorate for the Execution of Sanctions at the Ministry of Justice and is subject to judicial review.

LES defines breaches of discipline. A prisoner who has breached discipline may be punished by

reprimand, public reprimand, withdrawal of privileges, solitary confinement and taking away of a part of the work compensation. A prisoner is subject to reprimand if he/she has committed a minor offense or has breached rules for the first time since admitted to prison. A prisoner may be punished by up to 15-days' solitary confinement if his/her misdeed constitutes a serious offense or if he/she has been a habitual offender while in prison. Punishment by solitary confinement may be suspended. The law does not provide for the total duration of such punishment over one calendar year. Article 175 provides that "the room, where the disciplinary penalty of referring to solitary confinement is executed, must have a size of at least 9 cubic meters, and it has to have natural light, it has to be equipped with sanitary facilities, drinking water, bed with bed linen, chair and table, and it must be heated".

The law also allows for the isolation of a prisoner for a period of up to 6 months in cases when the prisoner "endangers seriously the security in the institution through his own actions or he presents a severe danger to the safety of other prisoners, if the applied disciplinary measures had been unsuccessful" (Article 180). This measure is imposed by the Director of the Directorate for the Execution of Sanctions and is subject to appeal only to the Minister of Justice but not before a court.

LES does not prohibit the use of solitary confinement for the punishment of juveniles. According to Article 224, the juvenile inmate may be sentenced with disciplinary cell for up to 10 days. However, paragraph 2 of the same article states that "the duration of the disciplinary penalty shall be terminated when it has been estimated that there is no longer a need of its further execution". Article 225 provides that the juvenile cannot be isolated. Article 175, paragraph 4 of the LES states that "the punished person shall be visited by a doctor every day".

Article 173 of LES provides for some procedural rules in the course of the imposition of punishments. They are however too general and sketchy. Disciplinary measures taken against a prisoner are taken into consideration whenever a court or the Director decides on this early release.

The law provides for the use of force (physical force, truncheon, forceful separation, instruments of restraint, etc.) in order to "prevent an escape from an institution and during convoys, as well as for the purposes of preventing a physical attack, injuring, causing a material damage or surmounting a resistance of prisoners in relation to lawful order taken by an official" (Article 184). Firearms can be used by a prison officer as an ultimate measure in order to "protect a human life; reject a direct attack endangering his life; reject an attack on object being secured by him; prevent the escape of a prisoner from the institution of a closed type or from the closed division in an institution; prevent the escape of a prisoner during convoy if he has been sentenced for a criminal act carrying a penalty of 15 years or more" (Article 185). These incidents shall be registered and the officer who applied them shall submit a detailed report. The report is forwarded to the Ministry of Justice, which has to assess whether or not such a measure was justified and proportional. A prisoner who was subject to the use of force or firearms has the right to file a complaint with a prison Director or the Ministry of Justice.

LES prohibits torture, inhuman and degrading treatment or punishment in the prisons (Art. 12). Article 142 of the *Penal Code* provides for criminal sanctions in cases of torture, although the definition of torture in this provision is narrower than the one from the UN *Convention Against Torture*.

The prisoners from closed units are entitled to one visit per month, those under semi-open regime to two monthly visits, while the prisoners accommodated in the open unit have the right to receive four

visits each month. All visits are restricted to one hour. Prisoners may receive extra visits – a privilege as such depends on their conduct.

LES provides for the routine monitoring of the correspondence of the prisoners in the institutions of closed type (Article 140). It also provides that the telephone calls of these prisoners can be made only in the presence of a prison officer.

Remand prisoners are subject to a stricter regime. They are not entitled to make phone calls. Court officers supervise their entire correspondence. Visits to untried prisoners are subject to the approval by presiding judges. A presiding judge decides whether or not a prisoner can receive a visit in the presence of a security guard.

LES envisages inspections in the prisons by the Ministry of Justice and by the court supervising the execution of sanctions. Article 79 provides for setting up of a prison monitoring state commission in Macedonia composed of judges, penologists, sociologists and educationalists, as well as from state officials. The commission is tasked to monitor the implementation of the law through periodic visits to penal institutions and reports to the government.

1.2. Visit to the Bitola Prison

The IHF delegation visited the Bitola Prison on 29 June 2004. The delegation had an initial meeting with the Director and several members of the staff. Then it inspected the premises and had interviews with other members of the prison staff and with prisoners. Unfortunately, the delegation was not allowed to conduct interviews with prisoners in private. The latter were conducted in the presence of the prison director and a security guard. The team was also not permitted to interview untried prisoners.

1.2.1. General information

The Bitola Prison is a small regional prison housing prisoners from Southwest Macedonia, a region with some 30,000 inhabitants. Built in 1958, the prison is located near the town of Bitola. The prison complex includes a pre-trial detention unit, a closed unit and a semi-open unit. The open unit that accommodates around 20 prisoners is situated within the prison of Prilep, some 40 kilometers away from Bitola.

Most prison buildings were dilapidated. According to the prison director, funds necessary for their reconstruction and adaptation have been approved recently. The prison has at its disposal 83 hectares of farmland, assigned by the state.

The prison is designed to accommodate some 30 persons in the pre-trial detention unit and around 95 persons in the detention ward. At the time of the delegation's visit it had 46 detainees. Of them seven were untried prisoners, 35 were prisoners under sentence and four persons were imprisoned for misdemeanor. The prison administration explained that the small number of prisoners is due to the harvest and farming season when the convicted prisoners and those sentenced for misdemeanor

usually request postponement of their sentences.³ Thus, the prison population is by far larger in wintertime. On average, the prison's annual turnover ranges from 600 to 800 people.

The prison population was composed of prisoners awaiting trial, convicted prisoners and prisoners sentenced for misdemeanor. All of them were men. However, women were occasionally detained in the pre-trial unit. All these categories of prisoners were physically separated. Pre-trial detainees accused of joint crimes or those who came from the same criminal group were placed in individual cells in the pre-trial unit.

At the time of the delegation's visit, only two prisoners occupied the closed unit. Given that new criminal proceedings have been instituted against both of them, the prison administration considered them security risks and placed them in the closed unit. The semi-open unit accommodated 33 prisoners and four persons convicted of misdemeanor. The latter are assigned a separate room.

1.2.2. Material conditions and hygiene

The size of the cells in the pre-trial detention unit amounted to 4 cubic meters. The cells were furnished with 2 or 3 beds, shelves for personal belongings, tables and squatter toilets. Lockers were placed outside the rooms. The design of the cells did not allow direct entry of natural light and fresh air. The only opening (on the upper part of the cell door) looked onto a corridor with windows. Artificial lighting was totally inappropriate – one light bulb, emanating feeble light, was installed above the door opening and for some unclear reason looked onto the corridor.

The prison had its own central heating system, which used oil. The rooms were not heated directly, since the heating radiators were installed in the corridor. Taking into account the size of these radiators and the area they were supposed to heat, the team believes that heating in the winter is inadequate.

Bathrooms were dilapidated, but working. Hot water was available at all times, and the number of showers was adequate. The prisoners are obliged to shower once a week at least.

In the closed unit the toilet facility and the bathroom, located outside the rooms, were in good condition. Beddings were washed and changed twice a month. Prisoners can shower once a week or at more frequent intervals if necessary.

In the semi-open unit the walls were freshly painted and showed no signs of humidity. Floors, covered by linoleum, were kept clean and tidy. All rooms had radiators that according to prisoners keep them adequately heated. All the prisoners had lockers of their own. As in other units, bedclothes were washed and changed twice a month. Washing machines were enough for the prison's needs, according to the Director. The prisoners exempt from work took a bath once a week, while those engaged in prison work could bathe daily, if they wanted to. Toilet facilities and bathrooms, located outside the rooms, were rather dilapidated. The prisoners accommodated in the semi-open unit practically spent entire day in the open.

The admission unit was located within the semi-open unit and resembled the rest of the premises in that unit. After admission, the prisoners are kept in the unit for a month or two, a period during which

³ A possibility for postponement of the execution of the penalty is envisaged by Article 86 of LES.

they are under observation. Afterwards they are classified according to the treatment and rehabilitation programs available. The prisoners in the admission unit had outdoor exercises 30-60 minutes a day.

1.2.3. Food and kitchen

The food was prepared in a small and relatively clean kitchen equipped with all the necessary utensils. A professional cook was responsible for the preparation of weekly menus that had to be approved by the prison director and a doctor. A calories chart is written down for every meal (three “regular” meals, plus a snack). It did not become clear, however, how the caloric values of certain foods were determined. In some cases these values were obviously exaggerated. E.g. in one case a meal of beans and bread amounted to 3,081 calories.

According to the cook and several prisoners interviewed by the team, meat was served daily. Milk, dairy products and fresh fruit were on the menu only on holidays. Due attention is paid to the diet of Muslim prisoners. Special meals were also prepared for the prisoners who were on diet on doctor’s orders.

The prisoners could receive food parcels from families. In addition, there was a well-stocked prison canteen, which offered toiletries, coffee, cigarettes, juice, biscuits, ice cream, etc. at market prices.

1.2.4. Medical care

The prison has not organized a medical service or even employed a doctor on a full-time basis. It signed a contract with the Bitola First-Aid Station. A doctor from that medical facility visits the prison twice a week. Since the doctor was not on the prison premises at the time of the team’s visit, it was the prison director who provided the information about the medical care.

Upon admission, prisoners are examined by a doctor and have a medical file opened. Subsequently, all information about the prisoner’s health, and particularly information about bodily injuries that might be ascribed to physical ill-treatment, are entered into this file.

Medical examinations were conducted in a separate room. The latter was clean, well-lit and equipped with basic medical materials. However, no arrangements had been made so as to enable medical examinations to be conducted out of hearing and out of sight of non-medical staff. Further, no hot water was available in this room.

Whenever they want to be examined by a doctor, the prisoners had to apply in their wards. The doctor examines each applicant duly on his visiting days. In the event of an emergency, an ambulance is called to take the prisoner to one of the town’s hospitals. Also, whenever the doctor decides that a prisoner needs to undergo a lab test or dental intervention, or has to be examined by a specialist, security guards take the prisoner to a civilian hospital.

Security guards were tasked with distributing medication that had been prescribed by the doctor. Apart from aspirin, the prisoners were not allowed to keep any drugs.

The doctor is obliged to medically examine every prisoner punished with solitary confinement and to state whether he is suited to undergo such a punishment.

Apart from one prisoner suffering from hepatitis C, no cases of HIV infection or AIDS had been registered over the past several years, according to the prison director. Further, not a single suicide or suicide attempt had been registered over the same period. However, there had been several cases of self-mutilation (swallowing of spoons, vein cutting, etc.). Last year one prisoner died of varicella complication. According to the autopsy findings, he died of natural causes. However, some still have every reason to believe that he suffered from complication and died because of delayed and inappropriate medical care. The death of the prisoner was not properly cleared at the moment of the completion of this report. In spite of the request of the family, they were not given the official autopsy report. The partial documents that the Macedonian Helsinki Committee acquired speak of dubious formulations used for the caused of death.

1.2.5. Prison work

According to the law, prisoners in Macedonia are not obliged to work, though institutions are obliged to make appropriate arrangements in the event prison work is necessary. Prisoners may be engaged to perform work in the prison workshops (carpentry, farming, cattle breeding, etc.) or to work for companies in the community. A company that needs extra workers has to address the prison administration in writing. If the administration approves this arrangement, a prisoner may be assigned to work for the company only after submitting a written statement that he/she accepts the job. A prisoner engaged in prison work earns 1,000-2,000 Denars (20-30 EURO) a month. The prisoner's conduct and commitment to prison work is a major criterion for his early release.

1.2.6. Discipline and punishment

According to the Director, just a few prisoners in Bitola have been punished by solitary confinement over the past year or two. Not a single prisoner has tried to escape, misused his privileges or committed a major misdeed over that period. According to the Director, no prisoner has complained of the disciplinary measure taken against him. However the IHF delegation interviewed a prisoner who had been punished with a disciplinary cell for two weeks for theft⁴. He said he was deprived of outdoor stay, to which he was entitled even when placed in solitary confinement. He therefore complained in writing to the Director and wrote to his lawyer. The security guard, who attended the interview, confirmed that the prisoner was not allowed to take outdoor walks, but denied that he ever filed a complaint. According to the security guard the prisoner was "troublesome", a heroin addict who was administered a drug on doctor's orders.

1.2.7. Use of force and firearms

According to the Director, not a single case of use of force or firearms against prisoners, officers exercising their authority in an inappropriate manner or prisoners' complaints for illegal use of force of firearms have been registered over the past several years. The Director informed that only a handful of prisoners have complained about the staff's attitude towards them. Over the past two years, only one disciplinary proceeding had been instituted against a guard who had fallen asleep while on duty. The IHF delegation did not find evidence of illegal use of force or firearms in Bitola. However, in the team's view, very often the fact that no prisoner has filed a complaint related to illegal use of force is

more telling of a dysfunctional system of complaints than of the full respect for law and prisoners' rights.

1.2.8. Contacts with the outside world

Sentenced prisoners in Bitola were allowed to make one phone call per week. The duration of the calls was not restricted. One phone booth was available to the prisoners accommodated in the closed and semi-open units. According to the Director, a security officer could hear "discretely" the conversation. Phone calls made out of hearing of security officers practically stand for a privilege prisoners are supposed to deserve. If approved by the prison director, the prisoners from the open unit may use cell phones.

Visiting premises are located in a newly-constructed building decorated in a restaurant style. The prison had no special rooms for spouse or family visits. Instead, the prisoners were given extra leave, which had to be approved by the Director.

No premises have been set aside for religious observance or ceremonies. According to the Director, the prisoners were rather disinterested in exercising this right. However, a local priest is called in whenever a prisoner insists on a pastoral visit. Further, the prisoners were allowed to spend major religious holidays with their families in the outside community.

1.2.9. Activities

Apart from brief walks, the untried prisoners and the prisoners under sentence, accommodated in the closed unit, were not allowed to take part in any kind of activity in the Bitola prison. The prisoners from the semi-open unit, in addition to watching TV or playing chess, can play football, basketball, volleyball and table tennis, or go to a small gym several times a week.

A file containing all relevant international conventions and national documents and laws is kept in the library and available to the prisoners at all times.

The Director said that bearing in mind the prison's small capacity and its population composed of prisoners under short sentences, organizing any kind of education would be pointless. Even illiterate prisoners, he added, were disinterested in learning how to read and write. No arrangements have been made for cultural or recreational activities.

1.2.10. Inspection

A supervisory body of the Ministry of Justice's Administration for the Execution of Criminal Sentences is in charge of supervising the legality of prison regimes and staff conduct. The IHF delegation did not obtain clear information about the number of mandatory inspections laid down in the law. However, the Director said inspectors usually visit the institution once or twice a year. The supervisory body writes a report on established shortcomings or illegal procedures, and sends it to a visited institution, which is supposed to make the required amendments.

⁴ The Director, though, claimed that the reason for the solitary confinement was "attacking another prisoner

Under the law, the Ministry of Justice supervises the professional competence of the medical staff and the quality of the medical treatment provided to the prisoners. As far as the Director could recall, not a single official from the Ministry has visited the prison for this particular purpose.

1.3. Visit to the Tetovo Prison

The IHF delegation visited the Tetovo prison on 29 June 2004 and spent there three hours. It had an initial talk with the Director and the staff and then visited the premises. The delegation was able to see the entire prison and to speak privately with a number of sentenced prisoners, as well as with other members of the staff. The delegation was also able to see some documentation. The cooperation of the prison administration was at a very good level.

The team interviewed a number of sentenced prisoners and, at the end, asked the Director to suggest a prisoner to be interviewed. He chose a Macedonian from Tetovo who was sentenced to five months, but had only spent 20 days in the prison so far. There were no discrepancies between the stories of the prisoners that the delegation interviewed independently and the one suggested by the Director. The fact that the Director chose a prisoner who had only been in the prison 20 days and was a Macedonian does not suggest that he had a selective approach to those prisoners who he considered ought to be interviewed by visitors. On contrary, being ethnic Albanian (as well as the most of the inmates) the Director wanted, as he claimed, an ethnic Macedonian to express whether he felt there was something wrong (particularly on ethnic basis).

1.3.1. General data

Tetovo prison is a small prison, built in the period 1958-1961. According to the Director in 2003 it underwent partial renovation, although we saw no visible evidence of this. The Director was an Albanian, former high school teacher, who became a director 15 months ago, as part of the government's policy to appoint more Albanians to top government offices in line with the Ohrid Agreement.

Tetovo prison is a semi-open facility for male prisoners sentenced to up to 2 years imprisonment, male and female prisoners convicted of minor crimes, and male and female prisoners held in pre-trial detention. Only first-time offenders are sent there, or recidivists who have been convicted of minor crimes and sentenced to less than six months.

The prison's capacity is 50 prisoners. On the day of the visit there were 70 inmates, i.e. it was 40% overcrowded. The prison had 2 female remand prisoners and 26 male remand prisoners on the day of the visit. One person had been transferred to Skopje due to illness.

1.3.2. Segregation

The Director told us that the main criteria for segregation were the types of crimes committed, but in the light of what we saw this remark did not make much sense, as all prisoners were held together during the day. The only prisoners who were permanently separated from the others were those held in

during night sleep"

the remand ward. Male and female prisoners in the remand ward were held in separate facilities although the female remand prisoners were guarded by male guards.

The prison held Albanian, Macedonian and Roma prisoners. They were held together and were not segregated according to ethnic criteria. Most of the prisoners were Albanians from the regions of Tetovo and Gostivar.

1.3.3. Material conditions and hygiene

The delegation saw the pre-trial unit, the unit for sentenced prisoners and the auxiliary premises (toilets, day rooms, the kitchen etc.). All cells for sentenced prisoners were of a dormitory type. Members of the delegation saw the following facilities:

1. A dormitory for sentenced male prisoners, about 10 sq. m., with eight bunk-beds. The sheets and the mattresses were clean. There was sufficient daylight in the room coming from a big window. There were, however, no cabinets for personal belongings.
2. A dormitory for sentenced male prisoners, about 18 sq. m., with 12 bunk-beds. The sheets and the mattresses of the beds were clean. There was sufficient daylight in the room, but again there were no facilities for personal belongings.
3. A dormitory for sentenced male prisoners measuring 10 sq. m., with seven bunk-beds. The sheets and the mattresses of the beds were clean. There was sufficient daylight in the room, but there were no facilities for personal belongings.
4. A toilet facility, which was rather small and dirty. It was a room of about 5 sq. m. with three sinks, one shower and one toilet.

All the dormitories were empty. Their inhabitants were in a small square adjacent to the main building, which was covered with asphalt and surrounded with smaller buildings – the dining room, a day room and a toilet facility. The average space per capita in the dormitories was between 1.25 and 1.5 sq. m. per capita, a rather cramped and overcrowded situation, even taking into account the fact that the prisoners only sleep in their rooms.

Two prisoners of those interviewed said that the situation in the dormitories was cramped, but bearable in the summer as the prisoners spend their entire day outdoors.

The dining room had several tables and no chairs. The latter were used by the prisoners when they wanted to watch TV or sit in the square. They had to bring them, as well as some benches in every time they eat.

The delegation visited the wing for pre-trial detainees, some of the cells of which were also used as punishment cells. We saw the following facilities:

1. A cell for men measuring 6 sq. m. for two people, who stay locked up throughout the day except for one hour of outdoor exercise. It had a small toilet and washing facility. The cell did not have direct access to natural light. There was a small lamp above the door and a small window facing the corridor, which had windows. It was not possible to read during the day. The cell was also used as a punishment cell.
2. A pre-trial detention cell for women measuring 12 sq. m. for two people, who stay there locked up throughout the day except for one hour of outdoor exercise. There were two chairs and a table and sufficient access to natural light. The toilet facility was separate and there was

another shower room adjacent to the cell.

The wing for pre-trial detainees had its own area for outdoor exercise, which was big enough. Taking into account the total amount of space and the custody regime, however, the entire pre-trial detention facility could be fairly assessed as inhuman.

Prisoners had a possibility to take a shower once a week in winter and twice a week in summer. Those who worked could take a shower every day.

1.3.4. Medical care

The prison did not have any medical services, neither a special medical department, nor physicians. It had an agreement with the Medical Center in Tetovo, which arranges medical care for the prisoners. Twice a week a doctor visits the prison (Tuesdays and Fridays). The Director showed the delegation a journal where the doctor's visits were registered. According to this register, the doctor was only able to conduct 12 medical examinations a day (altogether in this journal, which had been kept for over a year, there were 53 doctor's visits recorded). As for emergency medical services, they were apparently available when needed, but there was no record of any emergency medical visits during June. The prison administration calls emergency medical aid when it needs certification of the symptoms of prisoners' physical abuse.

Prisoners were not checked for any medical conditions before they are admitted to the prison. This happens only when the doctor visits the prison.

1.3.5. Food

According to the Director, the caloric value of the food is determined by law. However, he was not able to tell us which law provides for this. The prison does not serve pork since most of the prisoners are Muslims. On the day of the visit there were no prisoners who were on a special diet prescribed for health reasons. The Director told the delegation that if they had inmates with such needs, the prison would be able to prepare for them special meals. The prison did not have a canteen where the prisoners could buy food. The prisoners could buy from outside shops when they were on vacation, through the prisoners who work or through the prison staff.

None of the prisoners interviewed by the delegation complained about the food. One prisoner said that the food includes about 50 g of meat three or four times a week. Some of the prisoners received parcels from their relatives.

1.3.6. Discipline and punishment

The Director claimed that he uses disciplinary punishment very rarely, mostly in order to punish those prisoners who did not return from home leaves. He also claimed that he would punish a prisoner for not returning from a home leave with a maximum of 15 days of isolation cell. The punishment may include also withdrawal of some privileges. There were no special disciplinary cells in the prison. For punishment the administration used one of the cells at the pre-trial unit.

The procedure for imposing any disciplinary punishment includes submitting of a report by the officer

responsible for re-education with a recommendation for the appropriate type of punishment. Then the Director issues a punishment order. There is a possibility for appeal to the Directorate for the Execution of Sanctions, but, according to the Director, this is not used by the prisoners. No judicial review exists. The Director said that during his term in office he was not aware of any use of physical force by the guards against the prisoners and did not know of any cases of sexual abuse amongst the prisoners. He was also unaware of any cases of police brutality.

The delegation interviewed one prisoner who spent 15 days in a disciplinary cell, punished by the Director, because he did not return on time from a weekend leave. In the disciplinary cell he was alone and spent all the day in the cell, without outdoor exercise and even received his food in the cell.

1.3.7. Work in the prison

Only eight inmates of the Tetovo prison had jobs. Seven of them worked outside the prison and one in the prison. The Director was not able to inform the delegation how many hours they work and what their salary was. We were only told that prisoners could keep for themselves 20% of the amount they earn and that their work was safe.

Work is a major privilege in the Tetovo prison as it brings money to those who work and varies their days while in prison. Those who work also had the opportunity to shop from outside shops since the prison did not have a canteen.

1.3.8. Activities

There was almost nothing that the prison offered in terms of organized activities. True, as it was a semi-open facility, prisoners could go home for the weekend as a reward for good behavior. Other than that, however, their days passed hanging around in the square, watching TV and playing games, all in the one place. Prisoners who were interviewed by the delegation expressed their boredom with this way of life and a desire to have organized activities, including some outside the prison.

1.3.9. Contacts with the outside world

The major contact of the prisoners with the outside world were the weekend leaves. According to the Director very few of them write letters and those who do usually mail them during the leaves or ask other prisoners to do this for them. The correspondence of the remand prisoners was monitored by the investigative bodies. Prisoners could also make phone calls from the prison.

The delegation found during an interview with one prisoner that prisoners who appeal their sentences were not entitled to weekend leave.

1.3.10. Inspection

The prison was visited for inspection purposes by the President of the Tetovo District Court and by investigative judges once or twice a month. There were two visits in June, and before that only one visit a month since the beginning of the year. The visitors monitor the living conditions of prisoners. The delegation was able to see the book in which they wrote their recommendations and discovered that only once the inspectors had made a recommendation concerning hygiene. No concern was raised

with regard to the overcrowded situation.

1.4. Visit to the Idrizovo Prison

The IHF delegation visited the prison in Idrizovo on 29 June 2004 in the afternoon and spent a little bit less than four hours there which was far from sufficient to properly monitor such a big institution. It had an initial talk with the Director and several members of the staff and then visited several wards. The staff, although polite and declaratively friendly, did its best to prevent the members of the delegation to conduct private interviews with prisoners and tried to direct their attention only to those parts of the prison, which they believed should be seen. Nevertheless the delegation was able to conduct some private interviews with prisoners and to see some documentation.

1.4.1. General information

Idrizovo prison is the biggest penal institution in Macedonia. Its population amounts to two thirds of the total prison population of the country. It held:

- All male first-time offenders sentenced to more than two years effective imprisonment;
- All male recidivists sentenced to more than six months effective imprisonment;
- All foreigners;
- All females sentenced to effective imprisonment;
- All juveniles sentenced to effective imprisonment;
- All prisoners sentenced to life imprisonment.

The prison had an open facility in Veles, which held male prisoners from the districts of Veles and Kavadarci, sentenced to effective imprisonment to up to two years. It also had an open facility for women and juveniles and a semi-open facility.

The director said that the prison did not have an official capacity but that it could hold around 1,500 prisoners. On the day of the visit there were 1,116 prisoners, including 32 women. The prisoners in the closed wards were 812, those in the open facilities were 220 and the prisoners in the semi-open facility – 84. Foreigners were 56. Later on the delegation noticed that there were also two special units, one for women and one for elderly prisoners, but the latter one was not considered a special part of the institution.

The prison was built during and after World War II and was partly reconstructed in 2003. The reconstruction process was going on at the time of the visit. In essence it consisted of rebuilding the major wings of the prison from one system of custody into another. The present system of custody in the closed wings was based on large corridors with cells on both sides. The cells had their own windows, but the prisoners spent most of their time in the corridor when locked in the wing playing games and socializing with other prisoners. The new system, into which several wings were already rebuilt, envisaged a long corridor and smaller cells with iron bar doors around it with no windows in the cells. Access to natural light came only through the corridors (See *Material conditions* below). The prisoners were locked all day in these cells, where they had also toilet facilities and could go out of the cells only during the outdoor exercises. It seemed that the "new" block was at the same time used to change the regime, meaning to prevent any socialization and mingling of the inmates even within the same block.

1.4.2. Categories of inmates and segregation

The prisoners in Idrizovo were segregated according to the regime. All those under closed regime were held together in the biggest building of the prison. There were two categories among them however – those placed in the old-type wings and those placed in the newly renovated wings. The Director explained that although the new wings were newly renovated, the administration had difficulties finding volunteers to go there since the possibilities for activities and socialization were fewer.

The 32 women in Idrizovo were placed in a special unit for women outside the main compound of the prison. There were 31 adults and one juvenile prisoner there. In fact this was the only juvenile female prisoner in the entire prison system of Macedonia.

On the day of the visit the prisoners were distributed by ethnic background as follows:

Macedonians	475
Albanians	323
Roma	140
Turks	57
Serbs	19
Others (including foreigners)	102

The 56 foreigners were from Albania, Kosovo, Montenegro, Turkey, Italy and Peru.

Segregation in Idrizovo was further based on two elements: the procedure and the criteria. Prisoners who arrive to the prison first spend three days in a special registration unit. This period was used to collect information about the person, to put together necessary documentation, etc. After this the prisoner was transferred to a transitory wing for a maximum of 30 days. This period was needed to observe the prisoner, to analyze his case, to work out a treatment program and to take a decision where the person would be placed. There was a special team of experts consisting of a psychologist, a pedagogue and a physician responsible for preparing the prisoner profile and present it to the commission, which decides on the placement.

The following criteria for segregation of prisoners applied in Idrizovo:

- the type of crime (the Director failed to clarify this in the subsequent discussion);
- the length of sentence;
- recidivism;
- the existence of other charges;
- the social status (conditions of life, family etc);
- health status.

1.4.3. Material conditions

1.4.3.1. The main building with the closed wings

The main building of the prison could be divided into two parts: old and new (after renovation). Staff

members accompanying the delegation tried to limit its visit to the new wing, which was in a better state. This wing had been totally reconstructed. Instead of dormitories for 20-30 prisoners, now there were cells for 2 or 4 prisoners, measuring 12-16 sq. m. Both smaller and bigger cells were big enough for inmates to feel comfortable but they were designed in an “American way”. This meant that there were no windows in the cell but each cell faced the corridor with windows. There were bars instead of doors, which made light coming easy to the cell (unlike the isolation cells). There was a toilet and a small wash-basin in each cell. The cells were clean and newly painted in pastel colors. All the cells were equipped with wooden furniture (beds, cupboards, shelves) made by the prisoners in the local workshop. Prisoners were allowed to keep personal belongings, including radios, TV sets, etc. In terms of material conditions this part of the prison made a positive impression, but prisoners did not like to be placed there because they feel themselves much more isolated than in the dormitories. Also they were not allowed to place posters and pictures on the walls.

Although our guides did not want us to go to the old part of the prison we insisted on that. We visited one corridor in the old part, which was big and had cells around it. Some prisoners stood in the corridor, others – in their cells, which were opened. In terms of material conditions, this part was completely different from the newly renovated one. The first impression was dirt; everything seemed to be dirty, the floor of the corridor, the windows and the walls. There were numerous lockers and metal boxes on the corridor for placement of personal belongings. All of the lockers were in poor condition.

The IHF delegation saw the TV room in that wing. It was a huge room with a small TV set, several tables and benches with no chairs. The room was in a very bad state of repair. It was not painted for many years and the floor was in desperate need of serious cleaning. The furniture was destroyed and dirty.

The cells in the old part of the prison were much bigger than in the new wing. Each cell was around 30 sq. m. and there were 20 prisoners in each cell. There were windows in the cells. Everything (floor, walls, ceiling) was dirty, smelt badly, and in need of renovation and painting. Although the material conditions in this part were very bad and the dormitories were overcrowded, the cells looked friendlier, probably because of the posters and the pictures on the walls, and the prisoners’ personal belongings.

1.4.3.2. The women’s wing

The women’s wing was located very close to the prison, but outside of the main wall. The unit was located in a separate building placed among trees. Although there were bars on the windows, it did not look like a prison. When the guards opened the glass door the IHF delegation entered a nice lobby with a coffee table and big chairs. On the wall there was a big portrait of Marshal Josip B. Tito, whom the Director praised much.

The women’s unit was divided into two parts: open and closed. The IHF delegation visited only the open part. All the cells (rooms) were modest in terms of quality of furniture and decoration, but clean. We visited a cell with one prisoner with her new-born baby. The cell was clean and nicely decorated. In the next cell, there was the only juvenile prisoner within the entire Macedonian prison system. She was 18 and was serving 5 years of a rehabilitation program. Her cell/room looked nice. It had everything that a teenager might need, including hi-fi, cosmetics and dresses. The other cells were

more ordinary. They were spacious, clean but had less personal belongings than the cell of the juvenile prisoner.

In this unit there was no limitation on taking a bath. There were enough facilities and regular hot water. The wing had also a small yard with some grass, benches, flowers and five big trees. It looked like a very nice place to spend some time. Women were allowed to be outside for three hours a day.

In spite of the delegation's request, we were not allowed to see the closed part of the unit. The Director claimed that he had no time (none of the delegation members insisted that he accompany us during the inspection of the premises) to show the delegation around.

1.4.4. Medical care

The prison had its own medical department. There were two general practitioners working full-time (one in the morning, one in the afternoon), one physician specialized in industrial medicine and one dentist. All of them were working on the spot. There were also physicians available upon contract, including an Eurologist, a laryngologist, a gynecologist, a radiologist, and an ophthalmologist. All they were assisted by two full-time nurses and two laboratory assistants.

According to the Director, the work of the medical center was under the supervision of the Ministry of Health, in spite of incapacity of the Director and the staff to discover when the last inspection took place and on which (legal) ground. The medical practitioners, however, were employees of the prison itself (meaning they undertake the whole procedure for employment, while the money is within the overall budget of the prison) and were part of the prison staff. The IHF delegation did not get a clear idea how the supervision of the Ministry of Health could ensure their independence in taking clinical decisions, particularly once the medical staff is completely dependant on the prison's management team.

Before entering the prison itself, the team paid a short visit to the medical center. The two rooms that were visited were well-preserved and clean. One of the rooms served as a place to see the patients. The second room was intended for an office. The team could take a look at the medical documentation. It was given a ledger where all visits and intervention were registered. Daily there were around 30 entries. The visits paid to the psychiatrist were specially marked.

The physicians we met informed us about the medical problems of the prisoners. The latter were typical for this type of institution and population. Among others they included also wounds resulting from fights among prisoners. There were no cases of HIV, although the physician on duty explained that not everybody had been tested. There were 206 prisoners who were drug addicts and their treatment was difficult because of the lack of medication. They had two patients infected with Hepatitis C who were separated from the others.

The physicians conduct the initial examinations of newly-admitted prisoners in the acceptance ward. The team was told that in cases of police misconduct prisoners were carefully examined and all the available information was registered. In such cases a report was always sent to the prison director. The prosecutor, however, was not directly informed by the physician.

Several prisoners, when interviewed, complained of the medical care in the prison. They said that it

was very basic and of poor quality. They also said that the medical unit was poorly supplied with the necessary medicines.

1.4.5. Work in the prison

Idrizovo seemed to be in a relatively good situation with regard to work, as almost 50% of its inmates worked on the day of the visit. The prison has its own farm (with 180 hectares of land and hundreds of cows, pigs, sheep and chickens) where more than 250 prisoners work. There was also a wood and metal factory with over 120 people staff. Nearly 130 prisoners were involved in different ways in the prison maintenance.

All prisoners received remuneration for their work. Their salaries varied from 500 Denars (8 Euro) to 2,000 Denars (32 Euro) per month. The prisoners got 70% of the money they earned. This money could either be paid out directly to them or it could be transferred to a bank account. The remaining 30% were put into a special after-release fund.⁵

Due to the difficult financial situation of the prisoners and their families work was considered a form of privilege. The delegation did not get a clear idea from the Director on the criteria for selection of those who worked. He mentioned professional education, type of regime, discipline and behavior. In fact these were mostly negative criteria to appoint someone to work, which means that if there were no counter arguments, such as previous attempts to escape or violations of discipline, the prisoner could be qualified to work. According to the Director, the financial obligations of the prisoners towards both the state and the victims of crime did not play an important role as criteria for selection for work.

1.4.6. Food

As a rule, prisoners in Idrizovo had three meals a day, but those who worked could have a fourth meal. The Director explained that the daily food allowance was established by LES and was minimum 12 500 joules (3000 calories) per day. The delegation was not provided with detailed information on the prisoners' daily food allowance. According to the Director, the *de facto* cost was much higher than foreseen in the budget since the prisoners were producing much of the food.

According to the administration, both the religious and medical dietary requirements of the prisoners were met. Those suffering from any kind of illness could be fed according to their needs. The same was true of religion. Muslims were allowed to avoid pork and to observe rules of the Ramadan.

Several prisoners complained of the food. They claimed that it was of a poor quality and insufficient.

The prison had a canteen where most of the prisoners could buy food. They paid with the money they were allowed to have with them. The limit of the possession of pocket money was 50 Euro (100 Euro for foreigners). The rest they were obliged to keep at the special deposit. According to the internal regulations there was no maximum limit for this deposit. Prisoners could also receive food parcels from their relatives.

⁵ This is provided for by Article 115 of LES.

1.4.7. Discipline and punishment

The disciplinary measures in Idrizovo were the same as elsewhere in the Macedonian prisons. They include reprimand, public reprimand, a ban on visits and parcels and, in the most serious cases, disciplinary isolation from 3 to 15 days. The latter could be also suspended. The disciplinary proceedings were initiated by a report of the staff. The Director then appoints a special officer who investigates the case and reports back to him. During the investigation the officer could question prisoners and collect other evidence. In the end, the Director imposes a disciplinary punishment.

Punishments imposed by the Director could be appealed to the higher administrative authority, the Ministry of Justice. Recently none of the sanctions imposed by the Director of the Idrizovo prison was repealed by the higher authority. There was no judicial control over the disciplinary measures.

One prisoner who was interviewed complained that he was transferred to a worse wing as a result of a disciplinary offence he committed. He also said that he knew of other prisoners who were punished in the same way. The Director denied the use of transfer as a disciplinary punishment.

The IHF delegation visited the wing with the disciplinary cells in Idrizovo. There were 24 isolation cells, close to the main body of the building. Each cell had a heavy metal door. The cell was around 6 sq. m. There was one bed in each cell, covered with a gray blanket. There was no window and no direct access to natural light, but there was a kind of “window” facing the corridor. In this window there was a lamp providing some artificial light to the cell. After we closed the door to prevent natural light coming in from the corridor, it became quite dark inside the cell. Under these conditions it was not possible to read or write. The cells had toilet facilities behind a concrete partition. The prisoners who were punished spent there 23 hours with only 1 hour of outdoor exercise.

1.4.8. Use of force and firearms

Excessive use of force is a serious problem in Idrizovo, which the IHF already faced during its fact-finding mission in Macedonia in 2002.⁶ At that time, the IHF delegation came across a case of severe ill treatment by the prison security guards of several prisoners who had visible traces of this abuse on their bodies. The staff, not surprisingly, explained the accident as an internal fight between prisoners although the traces were from truncheons and were on the backs of the prisoners. The IHF subsequently wrote to the Minister of Justice asking him to conduct an inquiry, but did not receive an answer to its letter.

On this mission too, the IHF delegation paid special attention to the cases of excessive use of force by prison guards. The Director admitted that there were such cases, but in most of them the use of force was justified by the behavior of the inmates. In some cases he took disciplinary measures against some members of the staff. The delegation did not get any information on how many these cases were and what exactly were the disciplinary measures taken.

Prisoners who were interviewed said that the excessive use of force by prison guards for punishment continues to be a problem although it is less so now compared to the past. They said that the new Director took some measures to deal with this situation.

⁶ IHF, Report on the Fact-Finding Mission to Macedonia 27-28 May, 2002.

On the day of the visit the delegation saw a medical certificate issued by one of the physicians on staff to the prisoner P.M. who complained that he was beaten up by prison guards. The certificate indicated that he had sustained 23-25 hits with a truncheon on his body on 28 June 2004. The number and the location of the traces suggested that what had happened was rather a kind of a punishment, not just a typical intervention of the staff to stop misbehaving prisoners. Having been able to collect all necessary details about the case, the IHF will follow up on this case with the Macedonian authorities⁷.

There was no single case of use of firearms by the staff, according to the Director. The delegation did not hear of such cases from other sources.

1.4.9. Activities

Work was the major occupation of almost one half of the prisoners in Idrizovo. Those of them who did not work, spent most of the time in their cellblocks, either in the cells or in the corridor. There were TV sets in some places. Prisoners could play sports both outside (soccer during their outdoor exercise) and inside (table tennis). Thirty-six prisoners were enrolled in the school. There was a library in the prison, which some prisoners used. No other forms of organized activities, such as correctional programs, therapy, etc. existed.

1.4.10. Contacts with the outside world

Prisoners were allowed to meet families and friends. Meetings were organized in a big room with 38 tables. Everybody entering the prison was searched. Prisoners were also allowed to receive parcels, which were subject to control. The Director said that there was no censorship of correspondence whatsoever in the prison and no monitoring of phone calls. This was, however, a statement, which was very hard to believe.

During the interviews with the prisoners the delegation could not find a case of surveillance of prisoner's correspondence as those prisoners with whom the delegation talked preferred other forms of communication with relatives and friends outside the prison or could not write. At the end of the visit during the final conversation with the Director the problem with the surveillance of the prisoner's correspondence was raised. To everybody's surprise the Director said that the administration does not monitor prisoners correspondence at all, despite the fact that most prisoners in Idrizovo were on a strict regime. Thus, the delegation was surprised how such a gross violation of LES was possible in this biggest penal institution in Macedonia. In any case the delegation did not take this statement of the Director seriously.

1.4.11. Inspection

Idrizovo prison is under the supervision of the Department of Execution of Sanctions of the Ministry of Justice and receives regular visits from officials of that department. It was also occasionally visited by the president of the local court. The IHF delegation did not see any written traces of such visits.

⁷ The case was subsequently investigated and the use of force against Mr. P. M. was evaluated as "necessary", because he tried to attack other prisoners with a twig. No explanation for the number of hits (23-25), and no disciplinary measure against the guard(s)

1.5. Visit to the Ohrid Juvenile Prison

The IHF delegation visited the Ohrid Juvenile Prison on 29 June 2004 and spent three hours there. The team interviewed the prison director, Mr. Ljupco Mitreski, members of the prison staff and some sentenced prisoners. The interviews with the latter were conducted in the presence of prison staff and security guards. The team was not able to meet with remand prisoners. Members of the team were allowed to inspect all prison premises.

1.5.1. General data

The prison in Ohrid is for juveniles aged 14 to 18. It is situated in the center of the town of Ohrid. It was transformed to a prison for male juveniles in 1999. The prison is the only prison for minors in Macedonia. It has a closed and a pre-trial unit. The prison capacity is 70 inmates and on the day of the visit there were 20 inmates – 17 sentenced and three remand prisoners.⁸ All of them are male. The building was constructed in 1950 and some minor improvements have been made since then (e.g. the entrance in 2003). The actual prison facility (where the inmates are held) is protected by a high wall.

The Director of the prison, a lawyer, was appointed to this position two years ago. He observed that the prison building was too small, and that there should be more alternative punishments, as it was impossible to have separate sections in such a small prison.

1.5.2. Categories of inmates and segregation

The prison held remand prisoners, prisoners who were sentenced for misdemeanors, first time offenders and recidivists. The 17 sentenced inmates were separated from the remand prisoners. Most of the prisoners have a long criminal record, because juveniles in Macedonia are sent to a juvenile prison only as a final measure, and for very heavy crimes (like rape and murder). According to Article 87 of the Macedonian *Penal Code* the minimum sentence of imprisonment for juveniles is one year. Juveniles sentenced to lighter sentences go to the Juvenile Correctional Center. The maximum penalty for a juvenile, according to the same law, is ten years imprisonment. The youngest inmate was 17 years old and the oldest - 22. The current Macedonian legislation does not foresee that a sentenced juvenile should be transferred to a prison for adults after becoming 18. Therefore, a person that had been minor at the moment of committing a crime would serve a term in a prison for juveniles even after he became an adult.

Six of the inmates were convicted for murder, three for double murder, while the rest were sentenced for rape, trafficking, drug dealing and theft. The prisoner with the longest sentence served nine years for murder. There were three foreign citizens – two from Albania and one from Kosovo.

The detainees in the pre-trial unit and the sentenced prisoners were from different ethnic and national backgrounds: Macedonians, Albanians, Roma, Turks and Serbs. According to the personnel there were no problems with the co-existence of the different ethnic groups. There was no interpreter employed in

⁸ At first, for some reason the Director refused to report the number of inmates, but later he confirmed that there were 17 sentenced prisoners. This was the number that the IHF delegation came up with during dormitory observations. According to the Director, three inmates were not in the institution, as two were working outside the prison and one was on a medical check-up in Skopje.

the prison, but as the Deputy Director was an Albanian, he helped with the interpretation.

Despite the fact that there was no possibility for segregation of prisoners, the unit for the sentenced prisoners had nevertheless two different wings located in different corridors of the building. The first wing was envisaged for the “bad prisoners,” as the Director explained, i.e. those who disregard discipline and do not try to improve their behavior. The second unit was for the “good prisoners”, and most of them worked either in the prison or outside the prison. There was no segregation based on religious or ethnic background. There were no female prisoners in the prison, as this was a male prison, but, in principle, if there were any they would be placed separately and had female guards.

1.5.3. Material conditions and hygiene

1.5.3.1. The closed unit

The entrance to the prison was built in 2003, but was rather small and narrow. After passing the entrance unit the delegation entered the yard of the prison. The territory of the prison was divided into working and recreation zones, as well as living and sleeping zones. On the ground floor there was a kitchen, a dining room, bathrooms and playground with 50 lockers for prisoners’ personal belongings. On the first floor there were sleeping rooms, bathrooms and showers and a day room. There was also the pre-trial facility. Despite the fact that the toilets had a bad smell, the walls, ceilings, floors and facade were in good condition.

The juveniles who were sentenced spent the day outside their cells. The “good” ones worked either inside or outside the prison, while the others spent the time in the yard or in the day room.

The facility did not have enough space to provide better accommodation for inmates. There were two corridors with no windows, 10-12 meters long, with electric lights and carpets on the floor. Since the appointment of the new prison director new beds and sheets were bought for the prison. Each bedroom housed between three and five inmates. Beds were more than 30 cm above the floor. The overall space per capita was four to five square meters, including two to three square meters of uncovered space. The beds in the juvenile and pre-trial units had thick mattresses. Each bed had a pillow, sheets, and two thin blankets. The bed sheets were changed every two weeks, but it did not become clear how often the blankets were washed. On the day of the visit the bedding was clean and fresh.

The cells in the unit for sentenced prisoners had good access to natural light, which was adequate for reading, and a tolerable noise level. The noise level in the pre-trial unit and in the disciplinary cells was also tolerable. Each cell had at least one big window, which faced the yard of the prison, and windows in the cells could be opened. There was no other form of ventilation. At the time of the visit the weather was very hot, yet the temperature in the cells was not very high. Heaters were installed in every room, though they were not very big. All cells were furnished in a similar way, with an equal number of beds and cupboards, and with no wall decorations. All beds were made in the same way and the cells all looked dull. On the wall of each bedroom hanged a list with the names of the inmates. In one of the rooms with inmates sentenced to lighter punishments there was a ventilator on the ceiling. The floor in the bedrooms was wooden.

The day room had one TV set with cable TV, a video recorder, three tables (for four people each) with benches, and one table for table tennis. Those who smoked could smoke in the yard. The IHF

delegation met 13 inmates in the living room. While the IHF delegation was talking with the inmates, the Director, one psychologist, one teacher and two guards were present, and this was the reason why the inmates could not talk freely.

The dining room had five tables, each with two benches, and no other furniture. It was very dark, and it looked not big enough for the number of inmates.

The bathrooms were on the ground and the first floor. There was a bathroom and a toilet on the first floor of the building, facing the yard, two toilet cabins without seats, two urinals and six sinks. The section for the “good” prisoners had two toilet stalls (cabins) with WC facilities for sitting and three sinks. The bathroom on the ground floor had tiles everywhere, no windows, but it did have electric light, four faucets, four showers and basins all around.

Minors who worked were allowed to shower every day, while those who did not work could take a shower twice a week. The water was centrally regulated. We were told that the prison administration was undertaking everything to raise the prisoners’ awareness of hygiene. The working inmates received 1,500-2,000 Denars [24-32 Euro] per month, and they could use the money for personal needs, like hygiene materials. Those who did not work received only 5 Euro from the state, so they had to ask their families to bring them hygiene materials.

1.5.3.2. The pre-trial unit

The pre-trial unit served the judicial districts of Ohrid, Struga and Debar. The capacity of the pre-trial unit was rather unclear (around 12-15 detainees). The detainees in the unit were under investigation and all of them were male. Separation in the pre-trial unit was based on court orders. In case prisoners were accused of being accomplices, they were not placed in the same cell. Sixty percent of the detainees were arrested for drug dealing and drug abuse, 30% were arrested for murder, and the remaining 10% were detained for heavy robberies and sexual crimes, including rape. These detainees could receive visits from their lawyers, but the visit had to be permitted by the investigating judge. The detainees at the pre-trial unit spent the time in their cells, and they went out only to meet their lawyers and families, or for a walk in a foreseen space. The investigating judge and the court decided on the number and frequency of visits for the detainees. No possibilities for work appeared to exist in the pre-trial unit.

The pre-trial unit had smaller cells with three beds each. The inmates had about three sq. m. of space. There was no direct access to natural light in the cells. There were two small windows (50 cm x 50 cm), facing the corridor of the unit, and they were the only sources of daylight and ventilation. The light in the cells was not adequate for reading or writing. Because of the lack of windows, no fresh air could enter the cell in spite of the windows above the doors, facing the corridor, being permanently open. All pre-trial cells had their own small lavatory. A cell visited by the delegation had three beds, one toilet, a small washing basin, a few shelves on the walls, and a small cupboard. The heaters of the pre-trial unit were placed in the main corridor.

The detainees from the pre-trial unit received food from relatives or asked the guards to buy them food every morning.

1.5.4. Food

The prisoners get four meals a day (breakfast, lunch, a snack and dinner). Breakfast is served at 6:30 a.m., a mid-morning snack is served at 11:00 a.m., lunch is served at 2:00 p.m., and dinner - at 6:30 p.m. The prisoners had thirty minutes to finish their meal. A two-week menu hung on the dining room wall, so the prisoners knew what they were having during the next fortnight. According to the menu, meat was always on the lunch menu.

The prison kitchen appeared clean. Prisoners received the food through a small window from the kitchen. The dining hall was rather dark and narrow, could pose a problem if the prison population increased. A cook prepared the prison food and one of the “good” inmates worked in the kitchen and learned how to cook.

Daily food rations contained 14,500 to 16,000 joules, or 3,480 to 3,840 calories. Kitchen staff informed the delegation that pork was not served. Yogurt, milk and fresh fruit were served daily. Detainees and prisoners could receive parcels and food from their relatives. There was no canteen in the prison. If there was a need, prisoners could also receive dietary food.

1.5.5. Medical care

No doctor, nurse, or any other medical personnel worked in the prison or in the pre-trial unit on a daily basis, nor was any information given if the young adults were subjected to systematic medical check-ups once a year. According to the Director, upon arrival to the prison medical checks were conducted at the local hospital in Ohrid. Every prisoner had his own health file. These files contained personal information, the criminal record, health history, medications prisoners took, information about tattoos, scars and/or other marks, including possible injuries that were obtained before arrival at the prison. If there was a need for a medical examination or a need for a specialist, the prisoners were brought to the Ohrid hospital. Dental care was also provided at the Ohrid hospital.

A contracted neuro-psychiatrist visited the prison twice weekly (Mondays and Thursdays) to examine the prisoners. There was no information on how many prisoners the doctor could examine in one day. A psychologist worked at the prison, and, according to her, the prisoners could contact her whenever they needed counseling. She did not explain further what kind of treatment was applied in her work with the prisoners. Psychological tests were conducted regularly.

The IHF delegation saw a medical form, which was supposed to be filled out whenever physical force against prisoners had been used. It was, however, not clear who was supposed to fill out this form and examine such prisoners. It was also not clear whether a medical professional examined the minors before and after they spend time in punishment cells.

1.5.6. Work in the prison

According to the prison Director, work was the best re-socialization and therapeutic measure. The Director stated that many inmates would like to work, but there was not enough work for everybody.

Three juveniles were working for private and public companies, but it was very difficult to find employment for convicts because of the employers’ prejudices towards prisoners. The inmates who worked outside the prison were employed as trench- and canal diggers, or they worked in parks and

took care of monuments. Those who worked outside the prison received payment of about 1,500-2,000 Denars [24-32 Euros] per month. They received their salaries each fifth day of the month.

Those who could not leave the prison building worked in the kitchen, where they were taught how to cook. Some of them served in the dining room or took care of cleaning and hygiene. The job they were assigned to was often a reward for their good behaviour. Additionally, there was a small workshop for wire fences, however the state had provided no funding for it. The Director stated that in the past they had had difficulties selling the wire. Juveniles, who worked at the fence workshop, also received payment for their good work.

1.5.7. Discipline and punishment

The inmates were quite afraid of the Director and the guards, after they were lined up upon the arrival of the IHF delegation, and they did not dare to talk very much with the members of the delegation in the day room. Unfortunately, the delegation did not get an opportunity to talk to the convicts in private, despite the fact that this was promised upon arrival of the IHF delegation.

Several disciplinary measures were used in the prison. The lightest was reprimand. The next was public reprimand. The most severe disciplinary measure was placement in a disciplinary cell. According to the Director this punishment was used very rarely. He was, however, unable to provide information on how frequently it was imposed in the prison. He did not specify what the exact procedure for placement in a disciplinary cell was. There were two types of solitary confinement: one with work and the other without work. The juveniles were put in a punishment cell if those who work outside the prison left their workplace without permission, if they returned to the prison drunk after leave and created problems, in cases of self-injury or injuring of others. The last case of an imposition of a disciplinary cell was when two inmates had hidden a mobile phone in their bread and smuggled it into prison. They spent seven days in solitary confinement. Punishing juveniles with solitary confinement is an inhuman punishment contrary to the international standards protecting juveniles deprived of their liberty.⁹ However, Article 224 of the Macedonian Penal law provides that “*The juvenile convict may be sentenced with the disciplinary penalty of solitary confinement maximum up to 10 days*”. However, paragraph 2 of the same article states that “*The duration of the disciplinary penalty shall be cease at one when it has been estimated that there is no longer a need of its further execution*”, while Article 225 says that “*The juvenile person may not be pronounced a measure of making him to be alone*”.

Conditions in the punishment cells were very bad. In the pre-trial unit there were three disciplinary wings and each wing had two separate disciplinary cells. Each cell had two small windows (25 cm x 50 cm each), smaller than the windows of the pre-trial cells. These windows were above the door of the cell and faced a small corridor with one metal door that closed the solitary confinement units. The main corridor had several bigger windows on the ceiling of the pre-trial unit. There was no access of natural light in the cells. The only furniture they had was a bed and a sort of a bedside box. The heaters of the solitary confinement units were placed in the main corridor.

Prisoners who were kept in solitary confinement got one hour of outdoor exercise a day, but the yard where they spent it was not larger than 15 square meters.

⁹ Rule 67 of the UN Rules for the Protection of Juveniles Deprived of their Liberty, U.N. Doc. A/45/49 (1990).

1.5.8. Use of force and arms

The Director said that under his government there were no cases of illegal use of force and arms. The delegation was not able to verify this claim by interviewing inmates and did not gather other evidence to the contrary. The guards however carried truncheons on their belts and the prisoners were apparently very afraid of them. It was unclear what the exact procedure for applying force was, and the question whether medical checks were carried out after force was used, also remained unanswered. The prison personnel knew of no cases of sexual or physical abuse between prisoners.

1.5.9. Contacts with the outside world

The delegation was told that all visits took place only during weekends and the inmates could be visited by their families and partners. However, most of the inmates came from destroyed families (divorced parents, no family at all, families with low social status, alcohol- and drug-addicted parents); 70% of them got no visits whatsoever. Those who behaved well were rewarded with home leave.

There was only one, very narrow room for visits, which was used for the pre-trial unit and for the disobedient juvenile prisoners, who had not deserved to go home or to meet their relatives outside the prison. This room was divided in two parts by a glass wall. The visitors and the detainee/prisoner did not have physical contact, and could talk only through the small holes in this wall. A guard was always present and there was no privacy for the prisoner/detainee and his visitors. As the room was very narrow, one could not receive more than two visitors at a time.

The inmates also had contacts with their lawyers, but the contacts were restricted to only 15 minutes. In the visits room, a glass wall separated the lawyers from the prisoners. The Director gave a strange explanation to this – that it was supposed to protect the lawyer from a possible attack.

There was a paid phone in the prison yard. When the prisoners wanted to make a call, they had to ask the educator or the psychologist to dial the number. Several times journalists expressed their interest to come and visit the prison. If they wanted to visit the prison, they needed a special permission.

1.5.10. Activities

The daily schedule of the juvenile prisoners included:

06:30 Prisoners get up and wash
07:00 Breakfast
07:30 Line-up and report
08:00 - 14:00 Those prisoners who work outside, leave to work
11:00 Midmorning snack for those who stay in the prison
14:00 - 14:30 Lunch
15:00 - 17:00 Free time
17:00 – 18:00 Tea time
18:00 - 18:30 Second line-up
18:30 - 19:00 Supper
21:00 Bed time

During the soccer championship the prisoners could watch TV until 22:00, until the lights were out.

The inmates who worked did so from Monday to Friday, and Saturday and Sunday were work-free days. The juvenile prisoners could play soccer, basketball, and volleyball in the open every day. There was table tennis, chess and different board games, and they had a small fitness club. They could watch TV, read newspapers and magazines.

An educator and a psychologist were part of the prison staff, and their task was to work on the re-socialization of the juveniles five days a week. They talked with the juveniles, helped them solve their problems, and tried to prevent violence and problems between inmates. They also accompanied the juveniles outside the prison to the movies and to some sports events. These groups were not bigger than ten. The educator and the psychologist stated that they often attended seminars and conferences in order to improve their work with juveniles. Neither the psychologist, nor the educator gave any concrete information on their work, and stuck to some general statements.

About 60% of the juveniles had not completed their elementary education, while four of them or 20% of all prisoners were completely illiterate. Though LES Article 218, paragraph 1, says that “a teaching of elementary upbringing and education, as well as other kinds of vocational training of the juvenile convicts may be organised in the juvenile institution depending on its conditions and possibilities”, a school had not been organized in the prison. In the last three months a professor from the University of Ohrid had started to teach at the prison, and two groups of students were put together. One was made up of those who were completely illiterate and the other one was made up of those who had elementary education. There were some class photos, but all were taken on 22 April 2004. The Director stated that he expected a school to be set up in the prison this year.

No religious activities and religious services were held in prison. The Director explained that the inmates did not show any interest for these activities. However, according to the Director, if an inmate wanted to practice his religion, there was no problem to fulfill his wish.

There was also a library prison. The prison personnel informed the delegation that the juveniles did not use it.

1.5.11. Inspections

The prison was visited by officials of the Ministry of Justice. The Director said that the CPT visited the Ohrid juvenile prison twice as did different NGOs. He did not specify the names of these NGOs. The Director claimed that he started the initiative to invite NGOs to the prison, though he did not mention any recommendations or documents left after these visits. Given his attitude to the IHF visit and his refusal to allow private interviews with inmates, it was hard to trust his words on how he appreciated the NGO visits.

1.6. Visit to the Štip Prison

The IHF delegation visited the Štip prison on 30 June 2004 and spent four hours there. The team

interviewed the prison Director, Mr. Mavrodi Karpicarov, members of the prison staff and some sentenced prisoners. The interviews with the latter were conducted in the presence of prison staff and security guards. The team was not able to meet with remand prisoners. The delegation members were allowed to inspect all premises at Štip.

1.6.1. General data

Štip prison is a district prison, located some ten kilometers from the city center. It holds both sentenced and remand prisoners and covers the areas of Radoviš and Strumica. The prison operates a closed, semi-open, open (in Strumica) and a pre-trial unit. Its capacity was 180 inmates and on the day of the visit in Štip it had 84 prisoners. Five more persons were brought to the semi-open unit when the team was about to leave the prison. The facility was built in 1986 and since then it had reportedly had regular renovations. The biggest one was of the heating system. Initially, due to lack of proper planning, heaters were installed only in the corridors. Now they have added heaters in the cells as well.

The actual prison facility (where the inmates were held) was protected by an iron fence. Outside the prison entrance there was a field that belonged to the prison, where some inmates worked.

1.6.2. Categories of inmates and segregation

The prison held remand prisoners, prisoners who were sentenced for misdemeanors, first time offenders sentenced to up to two years imprisonment and recidivists sentenced to up to six months. The prison was exclusively for male inmates over 18. By ethnic background they were mainly Macedonians. In addition, it held four Romani prisoners, three Turks and one Albanian. In the past, there were also some aliens from Bulgaria. Concerning their religion, the inmates were Christian (70%) and Muslim (30%).

The 56 sentenced inmates were separated from the remand prisoners, who were only eight. There were also 20 inmates punished for misdemeanours but these were held together with the other sentenced prisoners. Sentenced inmates were held in three types of wards: closed, semi-open and open (in Strumica), depending on the type of the regime and the length of their sentence. The Director of the prison – also a Director of the Strumica open unit – informed us that another 60 inmates were held there. There was no segregation of inmates based on their religion or ethnic origin.

1.6.3. Material conditions and hygiene

1.6.3.1. The semi-open unit

There were approximately 70 persons held in the semi-open unit. The delegation could not meet with any inmates held in that unit since they were all working on the day of the visit. The observation of the premises, however, even without interviews with inmates, revealed a situation that was quite overcrowded. One bedroom of 7.5 sq. m. had four beds, two windows (1.5 sq. m. each), two heaters and one electric light. The floor was wooden. Another bedroom of similar size had five beds, two windows one heater and one electric light. Thus, the average space per capita was 1.5 – 2 sq. m., quite insufficient even if we take into account that the inmates stood in the rooms just for the night.

The bathroom was in a good condition and had five basins and three quite old toilets with one window

(one sq. m.) in each one. There were altogether 16 rooms in the semi-open unit. In the two corridors there were electric lights and sufficient lockers for the inmates' personal belongings. In one of the corridors there was also a camera because, according to the officers, at times the inmates stole each other's things.

1.6.3.2. The closed unit

In general, the situation in the closed unit was even worse compared to the semi-open unit if we take into account that inmates there spent a lot of time in their cells. We saw two bedrooms: the first one was 8.75 sq. m. and had five beds, two windows (1.5 sq. m. each), two heaters and an electric light; the second room was 4.5 sq. m. and had three beds, one window (1.5 sq. m.), one heater and a wooden floor. Thus the average space per capita was 1.5 sq. m., a very cramped situation.

The bathroom had two showers and two small windows in one of its parts and in the other there were three basins and two toilet cabins with one small window in each. The floor was made of marble and the water pipes were scoured (a sign of poor maintenance). There were many bottles of water, as a way to deal with the regular water supply cuts in the Štip area.

The corridor was artificially lit, with two heaters (one in each end), lockers and two old trash bins. The prison rules were put up on the corridor wall.

1.6.3.3. The pre-trial unit

The pre-trial unit had eight detention cells, each measuring around 7 sq. m. with two beds (only 20 cm above the floor) with sheets. There was a toilet on the ground, but no basin, a wooden desk, one chair, one shelf and one small heater. The walls were quite old and dirty. There was no direct access to natural light and the ventilation was poor. Light came from one window on the top of the door (0.5 sq. m.). In addition, there was a projector light on the top of the door of each cell that the team found almost tormenting. In the corridor, in front of the cells, there were three long heaters, four electric lights and seven windows (3 sq. m. each) that looked to the yard. Detainees remained locked in the cells for at least 23 hours a day, a situation amounting to inhuman treatment.

The inmates in all units could take a shower once a week. The number of showers was satisfactory. The access to hygiene materials was good. Most inmates bought the hygiene materials themselves. The ones who could not afford this were provided with the necessary materials from the prison. The inmates wore civilian clothes, not uniforms and their hygiene was satisfactory. There were two washing machines inside the prison that could be used by the inmates.

1.6.4. Food

In Štip the daily food allowance per capita was 80 Denars [1.3 Euro]. The Director mentioned that the daily food allowance per capita in state prisons varies in the range of 80 to 300 Denars. This amount is fixed irrespective of the number of the inmates held in each prison facility. We were informed that recently, the Ministry of Justice formed a commission and there was a proposal to define a fixed amount per capita for food allowance by law.

The food was prepared in a large kitchen that had all necessary utensils. However, it was quite old and the floor was not in a good condition. There was no professional cook employed, since the previous

one retired three months ago and the new one was under a limited contract and was not professional. The menu list was on display on the kitchen's wall. The quality and quantity of the food did not appear to be very good. Fish was served once a week, meat – twice a week. However, neither dairy products, nor fruit appeared on the two-week menu list. We were informed that the menu paid attention to the inmates' religious beliefs.

The dining room, next to the kitchen, was spacious (around 30 sq. m.) with three rows of tables, six in each row, big windows, old wooden floor, marble tiles on the lower half of the wall, nine heaters, one TV set and a table-tennis. It looked to the prison entrance.

Both sentenced and remand prisoners were allowed to receive parcels and to buy products in the relatively well-supplied prison canteen, which offered water, juices, pastries, cakes, etc. The canteen was a separate building next to the prison entrance, with tables for inmates to sit.

1.6.5. Medical care

The medical staff was part of the prison administration. There was no full-time doctor but a contracted one, a neuro-psychiatrist by specialisation. The Director, being a psychologist, was also of help to the inmates. The contracted doctor visited the prison at least once a week and, if necessary, twice a week. In case of emergency, prisoners were transferred to civilian hospitals in Štip. Moreover, if according to the doctor, an inmate needed some special medical examination or specific treatment, he would be sent to specialists in civilian hospitals. There was no dentist in the prison and the inmates were attended by the civilian health centres or, if they wished to and could afford it, to private dentists.

Since the doctor was not present in prison every day, upon admission inmates were medically examined by the security officers on duty. This is a rather peculiar situation that needs urgent attention. According to the staff, inmates were being checked for visible traces of physical abuse and ill treatment and asked whether they had any specific medical problem such as diabetes, heart condition etc. If there was an indication of ill treatment, the doctor would be invited to examine them and to register all the information about such traces in the prisoners' medical files. Information of possible ill treatment would then be sent to the Director and the latter would pass it to the investigative judge in charge. The only case of an inmate who had signs of torture upon admission was registered three years ago. Yet he remained in Štip prison only one night, because his bail was paid and he left.

Although we were showed a couple of prisoners' medical files – blue ones for remand prisoners and yellow ones for the rest – these were very poorly filled in, with only some occasional entries. Moreover, the medical room of the prison facility gave the impression of being rarely used. The room (12 sq. m.) had one bed for medical checks with a dirty cover-sheet, a basin, a table, a case of shelves – almost empty, with only a few basic instruments – a heater and a mirror. Both the medical files and the condition of the room gave the team the impression that the medical care was not nearly in line with the national or the international standards.

Since we were not able to meet the doctor, we could get no information neither about the basis for taking clinical decisions, nor about his role in maintaining the hygiene. Prior to placement in an isolation cell for punishment, inmates have to be medically examined by a doctor, who should determine whether they were able to go through the punishment. Nevertheless, the doctor not being present all the time, this procedure runs the danger of not being followed with due respect.

Prisoners had the right to reject any medical treatment; in this case they had to sign a document declaring their rejection. The officer on duty was responsible for giving the inmates their medication. In cases of drug addiction, the inmates were given methadone with a doctor's prescription. Only aspirin was given freely without doctor's permission.

The IHF delegation got no information about the segregation of prisoners on medical grounds. There was a monthly check for hepatitis, HIV and drugs. There was a case of an HIV infected inmate in 1994 or 1995. In 2003, there was a case of tuberculosis and the inmate was transferred to Idrizovo.

According to the Director, mental health care was satisfactory since the doctor was a neuro-psychiatrist. Last year, the prison had a drug addict, who made an unsuccessful suicide attempt, without suffering any consequent injuries. No other suicide attempts or serious self-mutilation had been registered. However, there were a couple of cases of swallowing spoons and cutting arms with razor blades.

1.6.6. Work in the prison

According to the law, work is not compulsory for inmates. If inmates are to work outside the prison they had to sign that they were willing to accept the job, meaning that they were entitled to refuse the job as well.

In order to work outside the prison the prisoners in Štip had to send an application to the institution or company they were interested in and once they were accepted, a contract had to be signed between the institution/company and the inmate. Usually prisoners were engaged in agriculture, mechanics, in some state institution as couriers or cleaning staff or in enterprises that were located in the Strumica open unit. Their salary, when employed in jobs outside the prison, was 25% of the profit that the enterprise was making out of their work.

Inside the prison prisoners could work on the pig farm or on the land owned by the prison. For this type of job they were entitled to a monthly salary of approximately 800 to 900 Denars (around 15 Euros).

Work, together with the inmate's conduct, was taken into consideration in decisions on his early release.

1.6.7. Discipline, punishment and isolation

The system of punishments in Štip was the same as elsewhere in the Macedonian prisons. The severest punishment was placement in an isolation cell for up to 15 days. The IHF delegation saw the disciplinary cells, which were empty on the day of the visit. There were three such cells, each around 2.5 sq. m. Each had a small iron bed – 30 cm above the plastic floor – and a toilet facility that was just on the ground. The cells had wooden doors and a lock. There was no light inside the cells and no access to direct sunlight, fresh air and heating. It was only the small window on the top of the door that allowed indirect access to natural light, coming from the corridor, which had a window looking to the yard. There was artificial light in the corridor but insufficient as well.

In the period between 1 January and 30 June 2004 nine inmates had been punished with isolation cells for different periods of time: for attempted escape, for stealing from the canteen, for late return from home leave, for coming back drunk from home leave and for damaging the prison property. In the same period, only two more disciplinary measures (reprimands) were imposed. Overall, there was only one appeal and it was rejected.

1.6.8. Use of force and arms

The Director told the IHF delegation that when he took up duty he made it clear to the staff that the illegal use of force would not be allowed. Security guards could use firearms only outside the prison facility. There had been no cases of use of arms. Seven cases of use of physical force by security guards had been officially registered between 1996 and 2004. One of them was reported in 2004 and it was a case when guards tried to separate inmates that were fighting among themselves. However, according to the Director, this was a rare occasion, as the prison was relatively small and the prison population was not one to be characterized as ‘problematic’.

Whenever there was an incident of use of force by security guards, the practice was to inform the judge. To our team’s question why they do not also inform the prosecutor about the occurrence of such incidents, the Director answered that the judge was the one to decide on whether he/she wanted to inform the prosecutor or not. According to the law, a report is always prepared for every incident of use of force by security guards and is then sent to the Ministry of Justice. The Director was still expecting an answer from the Ministry concerning the last such case. The delegation did not find any information on cases of complaints of inmates of security guard’s misbehavior.

1.6.9. Contacts with the outside world

The sentenced prisoners in Štip had a right to family visits under the law. Contacts of the remand prisoners with their family members were under the control of the investigative judges. The frequency of visits for sentenced prisoners depends on the regime they are placed under.

Concerning the contacts with lawyers and diplomatic representatives, there was no limitation for sentenced prisoners. Yet, the investigative judge could order that remand prisoners could have contact with their lawyer only under visual surveillance. Remand prisoner’s correspondence was also under the surveillance of the investigative judge. There was no access to a telephone for detainees.

Prisoners in the closed unit were entitled to two telephone calls per week in the presence of security officers and their letters were always checked by the prison’s Director before they were sent. Prisoners in the semi-open and open units did not face any limitation, nor were their letters or phone calls under any surveillance.

The prisoners could make phone calls with phone cards from inside the prison. However, the duration of a phone call was limited to satisfy the demand of all prisoners. Also, the amount of calling time depended on the prisoner’s behavior, i.e. if it was good, he could be given the right to more calling time.

Newspapers were available to the inmates if they paid for them. There was an internal prison radio system, often in use. Yet, it did not operate in the closed unit, where only private radios were allowed.

According to the Director, the inmates had shown no interest in practicing their religion and currently there were no special premises for religious purposes. However, as soon as they expressed such a wish, the prison would be able to meet their demands, since there were spare cells that could be turned to prayer rooms in the future. The Director gave prisoners in the semi-open unit leaves for the big religious holidays.

The meetings of the prisoners with their lawyers took place in a separate room measuring 7.5 sq. m. It had one heater and one electric light and was furnished with one small table and four chairs. However, according to the security guards, for the lawyer's protection the inmate was kept in one part of the room that was separated from the other with a glass partition. The delegation found it very hard to accept such a justification. Remand prisoners accepted all kinds of visits in a small room (4 sq. m.) with two different entrances for visitors and detainees. The latter were separated by a half barred iron partition. In the room there was a window (2.25 sq. m.), one bench, one chair, one heater, one electric light and a tall ashtray. The overall condition of the room was quite poor, without much fresh air.

1.6.10. Activities

Remand and the sentenced prisoners in the closed-unit had a 30-60 minute walk in the open air. In the closed unit there was a day room (9 sq. m.) with two windows, two electric lights, a long heater and a wooden floor, furnished with one bench, two tables and a TV set. Inmates could stay there, play chess, watch TV and communicate. They seemed to be quite relaxed and had placed some photographs on the walls.

The other types of inmates had the opportunity to play football, basketball, chess and table tennis (in the dining-room), approximately once or twice a week. In the afternoon, when we left the facility, some inmates were resting near the canteen.

The prison had a small library (5 sq. m.), which was recently updated with 650 books. The room was furnished with a blackboard, two pieces of furniture with shelves for books, two typewriters and one sewing machine. However, the inmates were not much interested in using the library, since most of the titles were outdated.

1.6.11. Security staff and prison security system

The prison had 31 employees. There were 14 male security guards and one female guard. According to the Director, the number of security guards was small, given the number of the inmates held in Štip. The Director also complained about the inadequacy of the security guards, either due to the lack of appropriate education or the irrelevance of their professional backgrounds.

The surveillance of the prison was also conducted with cameras. There was a special security room with two computer screens to monitor the cells and the external area. There were three cells with cameras inside under a constant surveillance, a serious violation of the right to privacy.

1.6.12. Inspection

An oversight body of the central administration carried out regular visits to the prison, once or twice

annually. However, the IHF delegation did not see any written traces of their visits. The Director informed the delegation that the European Committee for the Prevention of Torture (CPT) had visited the prison facilities in Macedonia twice and had never complained about the prison conditions.

1.7. Visit to the Shutka Prison

The IHF delegation visited the prison in Shutka on 30 June 2004. The delegation spent about four hours in the prison and at the Juvenile Correctional Center, which is part of the Shutka institution. The delegates met and discussed the situation at the Shutka prison with the Director and his deputy. They were able to speak with prisoners, for the most part in the presence of the staff and only in a few cases also privately. All interviewed prisoners expressed readiness to speak to the members of the delegation and talk freely. Some of the prisoners spoke English and were able to freely communicate with the delegation without the personnel following the talk.

1.7.1. General information

The Shutka prison is situated in the Roma neighborhood of Skopje, about 15-20 minutes drive from the central part of the city. The building was originally constructed as a prison. The prison has a pre-trial sector. It is divided into three units. The first one is the closed unit, which is for the prisoners with highest sentences (up to 2 years in this institution), most serious crimes or worse behavior. The second unit is the semi-opened unit, which is for prisoners with light sentences and good behavior. The third unit is the opened unit, which is situated in the town of Kriva Palanka, about two hours drive from Skopje. Since 2001 the Juvenile Correctional Center in Tetovo was moved to Shutka because of the armed conflict there. It is still in Shutka, which creates problems for both institutions.

The capacity of the prison (both the closed and semi-opened unit) was 250 people. On the day of the visit there were 156 prisoners in the closed and the semi-open unit and 137 detainees in the pre-trial unit. The total number of inmates was 293. Thus, the prison was 17% overcrowded. According to the personnel, in previous years there were less than 80 prisoners.

The Director explained that the personnel were divided into five groups:

- staff working for correction and resocialization;
- security staff;
- legal department;
- administrative department;
- financial department.

1.7.2. Placement and segregation

Prisoners in Shutka were mainly first time offenders, sentenced to a maximum of two years. Currently there were only two recidivists, who had been sentenced to less than 6 months in prison. The prisoners were from diverse ethnic and national backgrounds. In the pre-trial section there were detainees from Peru, Italy, Turkey and Albania. The Macedonian prisoners were either from Albanian, Roma or Macedonian background.

Women in the preliminary detention were placed in different cells and they did not have contacts with

the male detainees even when they were walking in the yard.

The only reason to segregate male prisoners or detainees was the need not to place together accomplices in the same crime. Drug addicts were serving their sentences at the closed unit. The reason was that if they were allowed to work outside the prison and if they went frequently on home leave, they would easily find drugs.

1.7.3. Material conditions and hygiene

The cells at the semi-opened unit of Shutka looked like rooms in a dormitory. There were no bars on the windows and doors. The rooms had big windows. There was direct access to fresh air and natural light. There were however too many prisoners and the semi-opened unit was heavily overcrowded. In almost every room there were mattresses on the floor, because there were not enough beds. We saw three rooms: one was about 10 sq. m. and was for four people, another room was about nine sq. m. and had three sleeping places (two regular beds and one mattress on the floor), the third room, which was about 15 sq. m. had six sleeping places (four regular beds and two mattresses). Without the additional mattresses the overall space per prisoner in the rooms at the semi-opened unit was about three sq. m., still not sufficient.

The rooms were equipped with several shelves and cupboards. In some, although not in all of the rooms at the semi-open unit there were tables and chairs. Almost all rooms had two types of curtains – lace and thicker. There were pictures, posters and calendars on the walls. There were clothes, radios and small TVs and other personal belongings. The floor in the rooms was wooden and the floor in the bathroom and corridor was covered with tiles.

The prisoners from the semi-open unit spent only their evenings and nights in the cells. During the day they worked or played sports in the yard. The prisoners from the closed and the pre-trial units, however, spent in their cells their entire day and night (excluding outdoor walks for one hour every day). The conditions in these cells were much worse, as compared to the conditions at the semi-open unit.

The IHF delegation saw two cells at the closed unit. They were big, with an area of about 20 sq. m. each. There were three prisoners (but four beds) in each of the two cells. The furniture was in a poor condition. There was only one small window and one lamp, no decoration on the walls and not many personal belongings. The atmosphere at the closed unit was cold and uncomfortable. People looked more unwilling to talk to the IHF delegation than did the prisoners in the semi-open unit. The windows were small; they had bars and the cells looked dark and dim. The sheets looked dirty and worn off. There was no lavatory in the cells. The rooms were not very clean and tidy.

The pre-trial cells were bigger than the cells at both the closed and the semi-open units. The cell at the pre-trial unit that the IHF delegation saw was about 50 sq. m. and hosted 10 detainees. The cell was designed as two separate rooms with five beds and no doors and with a WC in between. The ceiling was very high, more than 3,5 m. There were only three light bulbs in the room and it looked like the light would not be adequate for reading or writing in the evening. There were three small windows, which were almost at the level of the ceiling. During the day access to natural light was enough. As for furniture, there was a table nailed to the floor, a cupboard and shelves for personal belongings in each of the two rooms of the cell.

There was one cell at the pre-trial sector, which was used for female detainees. The cell was in a very good condition. It had four two-story beds and a wooden table in the middle with several plastic chairs. There were several shelves with personal belongings and an adjacent WC. The lavatory had tiles on the walls and the floor and was very clean. The room itself was very clean and tidy. The beds, the walls and the bedding were all painted pink. The room was about 25 sq. m. and there were seven female detainees in it. The room had two large windows, facing the yard. Access to natural light was adequate. The ventilation was also good.

All prisoners at the pre-trial unit had enough blankets, pillows and sheets. All mattresses and bedding were clean at the day of the visit. Sheets are changed twice a month, according to the interviewed prisoners.

Prisoners from the semi-opened sector complained that they only had access to the bathroom once a week, which was not enough for those who work. At the closed sector the situation was even worse according to prisoners. They could shower twice a month – on every second Saturday.

1.7.4. Food

Prisoners who worked ate a snack before lunch. However, several prisoners complained that the snack was only bread. They also complained that the quality of the food was bad and one or two also complained that the quantity of the food was not enough. According to the Director the daily caloric value of the food was 3,000 kilocalories per person. Budget finances, as well as products from the agricultural and animal farm of the prison were used in order to meet the nutritional needs of the prisoners.

Dietary requirements were met, including those based on religion. No pork was served in the prison. Muslims were given the opportunity not to eat during the day at the time of the Ramadan. Their food was served late in the evening and early in the morning. At the time of the Ramadan their relatives could bring them additional food packages.

1.7.5. Medical care

There was a medical center at the prison, consisting of two rooms, equipped with a couch, a cupboard with medications, and a sterilizing machine. There was one nurse and a medical doctor, who came twice a week from Tetovo. The doctor was hired by the Juvenile Correctional Center, but he took care of the adult prisoners in Shutka as well. A neuro-psychiatrist also visited the prison occasionally and examined prisoners. If there was a need for specialized medical care, the prisoners were taken to an outside clinic. The procedure was the same for dental care. Almost every second day a dentist in an outside clinic examined at least one prisoner. The IHF delegation was told by the Director that when a prisoner wanted to be seen by a doctor, he told the security guards the previous evening. Next morning he is examined by a nurse and if there is a need, he is seen by a doctor.

According to the medical ledger at the medical center of the prison, which the delegation checked, on June 29 23 prisoners were examined and on the day of the visit, June 30, there were records of about 12 examined prisoners. The most frequent registered diagnosis or problems were cardio vascular. There were about 50 drug addicts on the day of the visit at Shutka prison.

The prison administration had problems with supplying enough medications for the prison. Last month the government gave the prison 1,300 Euro for medication, while the prison needed 2,500 Euro.

There were cases of prisoners harming themselves, most frequently as a protest against an unfair sentence or trial. Self-harm, according to the Director, was not considered a violation of the prison rules. However, two prisoners, who had attempted to commit suicide, had a security camera installed in their cell, which monitored them constantly.

1.7.6. Work in the prison

According to the Director, all prisoners who wanted to work were given some work. On the day of the visit, 102 prisoners were employed. Of them, 17 were employed in companies and worked outside the prison. The rest worked inside the prison. Twelve prisoners worked in the agricultural field, which provided products for the kitchen. Seventeen prisoners worked in the carpentry workshop. Eleven prisoners worked at an electric appliances repair workshop. They also took care of the prison electricity and water supply systems. Four prisoners worked at the animal farm. Three prisoners took care of the prison car park. One of them was with a light sentence and he worked as the prison mail driver – every day he went to the Skopje post office and took the prison mail. The prison had a car wash where three prisoners worked. The prison also employed prisoners as tractor drivers, kitchen staff, couriers, cafeteria staff, laundry staff, workers at the dining hall, cleaners and gardeners.

Work was not compulsory. All prisoners from the semi-open unit who wanted to work were given the opportunity. The work was paid. In addition, there were a number of benefits for prisoners who worked, including additional food and home leave.

1.7.7. Discipline and punishment

Several disciplinary measures against prisoners who break the law and the internal rules of the prison were used at Shutka. The lightest ones were reprimand and public reprimand. Another measure was the withdrawal of all benefits for a period of three months. Benefits included home leave, additional visits, phone calls and parcels. The most severe disciplinary punishment was placement in a disciplinary cell under conditions amounting to solitary confinement. The maximum period of solitary confinement was 15 days. There were two types of solitary confinement: with work and without work (meaning that the prisoner is forbidden to work while he is serving his punishment).

The Director of Shutka explained that the procedure for imposing disciplinary punishments was the following: after a violation of prison rules had been committed, a request for procedure is produced by whoever of the personnel became aware of the violation. That request is a statement describing what exactly happened. The legal service at the prison then decides if there had been a violation of prison rules and finally the Director determines the punishment. If the prisoner wanted to protest the imposed punishment, he could write to the Minister of Justice. No court procedure is envisaged.

There were no special disciplinary cells, but smaller cells at the pre-trial unit were used for this purpose. The IHF delegation saw one such cell, which was about 7-8 sq. m. and had a two-story bed, a “table” (which was a piece of wood 50x50 cm, built in the wall). There was no chair, no cupboard, but only a shelf. In one of the corners there was a small lavatory, built into a toilet stall with no door, but a

shower curtain. The punishment cell was very dark, with no window letting through natural light. There was a very small window above the door (50 x 50 cm), which was facing the corridor of the pre-trial unit. Before a prisoner was sent to the disciplinary cell, he was always examined by a doctor. On the day of the visit there were no prisoners in disciplinary cells.

According to the Director, force in Shutka was used against prisoners only if a prisoner attacked somebody from the personnel or in order to prevent a prisoner from physically harming other inmates. There had been three or four cases of use of force against prisoners for the last six months. After every case of use of force, the court was informed and a medical examination followed. The Director of the prison told the IHF delegation that there were several prisoners who brought windows and in such cases the guards handcuffed them to the bed and, if necessary, sedative medications were applied. There was no direct involvement of a doctor in these procedures.

The IHF delegation found that when two of the informal leaders in the prison were punished with disciplinary cells several months ago, other prisoners went on hunger strike to support their release. The Director stated that such situations were usually overcome with open and sincere talks of the personnel with the prisoners.

1.7.8. Contacts with the outside world

Family visits took place in Shutka every week (once a week, with additional visits awarded for good conduct). According to the Director, all prisoners, except for those from abroad, had visits from their families and relatives.

Physical contact during family visits was allowed for prisoners from the semi-open unit, who usually meet their visitors at the cafeteria (which was situated in the prison administrative building) or outside of the prison. The prisoners from the closed unit and the pre-trial unit used the visit room, in which there was a plastic window with small holes, not allowing any physical contact between the detainees or prisoners and their relatives. There were six seats for prisoners on one side of the plastic wall and two or three visitors per person were allowed. According to the Director, some prisoners with very good conduct from the closed unit were also allowed to meet their family members at the cafeteria.

There were two rooms for meetings with lawyers. The rooms were spacious; there was a big desk and several chairs in each. A security guard was attending all meetings of prisoners and detainees with their lawyers. According to the director lawyers require such a measure because several years ago a prisoner attacked his lawyer. It is however very hard to believe that this would be the case with all the lawyers visiting clients in Shutka.

According to the Director all correspondence of the prisoners is read. This includes letters to lawyers, to the Macedonian President and to the European Court of Human Rights in Strasbourg. This is a clear violation of a number of international standards that should be urgently addressed and dealt with by the Macedonian government.

1.7.9. Activities

Work was the major activity in the Shutka prison. Other than that there was little in terms of organized activities with a rehabilitative character. Prisoners from the open unit spent their day at work or

playing sports outside. The yard was big, but there was no shade in the hot summer day. The prison and the Juvenile Correctional Center shared the same sports field and juveniles and adult prisoners mixed there every day. The IHF delegation received information from both prisoners and staff that conflicts were frequent. Prisoners from the closed department and from the pre-trial unit had one or two hours outdoor exercise, during which they engaged in sports and other activities.

There was no school or other educational opportunities at Shutka. According to the Director, all prisoners were able to read and write to a certain extent. There were no illiterate people. There was a library at the prison but prisoners did not use it regularly.

There were several workshops, including carpentry and one for the repair of electric appliances, where prisoners received professional training. The atmosphere at the workshops at the time of the visit was one of disorder and disorganization. There were about 15 people in the carpentry workshop and they did not seem to be engaged in a work process. Most of them were cleaning or just hanging around.

No conditions for religious practices existed at the Shutka prison, but according to the Director, none of the prisoners wanted to practice their religion while in prison, something that is hard to believe, although the delegation was not able to verify it with prisoners. There were no visits from Orthodox or Muslim religious representatives.

1.7.10. Inspections

The Shutka prison was visited by representatives of the European Committee for the Prevention of Torture. The Director did not give any information on recommendations that the Committee made following the visit.

The delegation was told that every Friday a judge came to the Shutka prison and talked with the prisoners. He wrote reports for the President of the district court. No recommendations from his visits, however, were available in the prison.

Representatives of the Red Cross also visited the prison regularly. The Director stated that those representatives came to see only specific prisoners, not the entire facility. He was not content that the representatives of the Red Cross would like to talk to prisoners alone, without any members of the prison personnel being present.

1.8. Visit to the Juvenile Correctional Center - Tetovo

On 30 June 2004 the IHF delegation visited the Juvenile Correctional Center, which was at that time part of the Shutka prison. It spent there four hours in the course of which it interviewed the Director, staff members and prisoners. The delegates were given the opportunity to talk to the juveniles freely and without the presence of any members of the personnel. All interviewed children expressed readiness to speak to the members of the delegation and talked freely.

1.8.1. General data

At the time of the visit the Juvenile Correctional Center occupied a wing in the Shutka prison. It had

several buildings and workshops in Tetovo, which it abandoned during the armed conflict in 2001. They were still not returned because of an alleged conflict with a local Muslim organization, which claimed to own part of the institution's land. The government did not assist the quick solution of the problem and thus forced the minors to live in harsh conditions in a prison for adults, where they mixed with them at the sports field every day. All personnel, including the Director, the teachers and the security guards, travel every day from Tetovo, which is about an hour drive from Skopje.

The capacity of the center was 25 persons. On the day of the visit, 21 prisoners were accommodated there. The center housed boys from 14 to 18 years of age. However, the juveniles could stay until they turned 23. They could spend between one and five years in the institution. When they first came, they did not have a definite sentence. The length of stay depended on their behavior. This is the only correction institution for boys of this type in Macedonia.

The institution's personnel is divided into five groups. The Educational Department consists of nine persons including psychologists, pedagogues, social workers and a psychiatrist. They were involved in preparing programs for individual treatment and resocialization. The second group were the vocational instructors, who teach both theory and practice of carpentry, woodcarving, painting, metal work, etc. The third group were the security guards. There were 10 guards, most of them working in shifts. The fourth and the fifth groups of the personnel were the health unit, consisting of only one medical professional and the financial and administrative unit.

1.8.2. Categories of inmates, segregation of detainees and its purpose

Minors at the Juvenile Correctional Center had committed different crimes: robberies, murders, car accidents, rape, theft, etc. All of them were first-time offenders. If they committed a second crime they are sent to the juvenile prison in Ohrid.

The decision to place juveniles in the center came from a judge and is taken at a public hearing, with the presence of a prosecutor and representatives from the National Center for Social Work. The decision to end the stay is taken by a committee consisting of court representatives, the prosecutor's office, the Center for Social Work and the center staff (usually the Director and members of the Educational Department).

The correctional center is divided into three units. Newly-arrived minors, together with those with bad behavior, are put in the closed unit, where they are under close surveillance and stricter rules. If they show progress in their education and behavior they are moved to the semi-open unit. If they show further progress they are moved to the open unit, where they have more privileges, such as home leave and more visits from their families. Placement in those three units was the only form of segregation at the correctional center.

1.8.3. Material conditions and hygiene

At the time of the visit the building was not very well maintained because the placement of the institution at the Shutka prison was considered temporary. All bedrooms were on the second floor of the building. The first floor housed a day room, which was used as a classroom for the school and as a workshop for the vocational training classes. This room was also used as a dining room. There were six bedrooms on the second floor, with three-four beds each. One of the rooms was called a

“temporary room” and newly-admitted boys were placed there until they adapted to the conditions of the institution. That room was in a worse condition as compared to the others, with some of the furniture being broken and worn off. According to the Director, the boys could sometimes be very destructive to the room equipment until they get used to the institution and that was why it was in such condition. Usually, boys spent about a month or two in this room. At the time of the visit only one boy was placed in this room. The room itself was 12 sq. m. and had four beds. It had two desks, two chairs and two cupboards. The room and the bedding were dirty.

The other cells were much nicer and cleaner. They were “permanent cells” where juveniles were placed once they get accustomed to the order in the institution. They were the same size as the temporary one – 3 x 4 m² and had nice curtains on the windows, carpets on the floor, many posters and pictures on the walls, some of which were showing semi-naked women. The bedding, blankets and mattresses were clean. There were cupboards, some of which were locked, and shelves. There were also radios and tape recorders. Rooms were heated by a central heating system, integrated with the rest of the prison.

There was one toilet and one bathroom in the entire facility. They were clean and in a good condition. Buying hygiene materials was a responsibility of the prisoners and their families. If however they were not able to provide them, the Director would buy some with budget money.

The center had a small yard with access to a sports field. Apart from a wooden shelter at the yard, there was no other shade. On the day of the visit it was very sunny and hot, the temperature was above 30°C. All the prisoners had found shelter in the shade, including the two members of the staff. Everybody was just sitting and not doing anything. The space was limited and several people had to stand up. The members of the delegation asked why there was no bigger shelter. The answer of the Director was that there was no money to do it.

The delegation managed to talk to several boys. They mentioned a number of problems. First, they complained of the bad material conditions, small space and lack of cupboards. The second complaint concerned the food, which they thought was not tasty and was the same all the time. Third, boys complained that adult prisoners coming to this part of prison (soccer field or TV room) provoked them.

The IHF delegation was left with the impression that the relationships between the prisoners and the staff were not very good. The prisoners complained that they were not allowed to watch the European Soccer Championship. The Director confirmed this, but provided a rather vague explanation of his decision. The prisoners also complained of the behavior of some educators, who were hostile to them.

1.8.4. Food

Food in the center was consistent with religion. No pork was served. Minors were served four meals a day. Meat was served almost every day. On the day of the visit the delegates saw the lunch and the food seemed tasty and well prepared. It is prepared at the kitchen of the Shutka prison. According to the menu that was hanging on the wall, for the week of the visit, on Monday 17,705 KgJ (4,230 kilocalories) were served, on Tuesday – 20,201 KgJ (4,824 kilocalories) and on Wednesday – 16,170 KgJ (3,860 kilocalories). The caloric values seemed a bit exaggerated.

Some of the prisoners complained that the food was tasteless and that the quantity was not enough. Others, however, liked it. Prisoners whose families come to visit them received food parcels regularly. The others do not have access to food beside the one that is served.

1.8.5. Medical care

There was a medical center at the Shutka prison, serving also the Juvenile Correctional Center. It consisted of two rooms, equipped with a couch, a cupboard with medications, and a sterilizing machine. The staff consisted of one nurse and a medical doctor, who came from Tetovo twice a week. The doctor was hired by the center and the nurse - by the director of the adult prison. A neuro-psychiatrist also visited the prison occasionally to examine patients. If there was a need for specialized medical care, the juveniles were taken to an outside clinic. When a prisoner wanted to be seen by a doctor, he had to tell the security guards in the evening. The next morning he would be examined by the nurse and, if needed, he would be seen by a doctor or a specialist.

There were several drug-addicts and juveniles infected with Hepatitis C. They were not separated from the rest. The Director said that the prisoners are examined each year for TB. There were no cases of HIV or TB on the day of the delegation's visit.

1.8.6. Work in the prison

Finding employment for juveniles was a big problem, especially after the institution was moved to Shutka, where there were no equipped workshops. Vocational training in the center was more theoretical explanation than practice. The Director said that sometimes he was able to provide some work for the juveniles. Money could be given to the prisoners only under the control of educators. The Director said that soon a workshop was to be created on the premises of the Shutka prison that would serve the vocational training needs of the Juvenile Correctional Center.

1.8.7. Discipline and punishment

There were several disciplinary measures used at the center: reprimand, public reprimand and withdrawal of benefits for a period of three months. Benefits include home leave, additional visits, phone calls and parcels. The most severe disciplinary punishment is placement in a disciplinary cell. However, according to the Director, the latter has never been used because under Macedonian law it is forbidden to place juveniles in solitary confinement.¹⁰ For disciplinary purposes the prisoners could be moved to the semi-open or closed units and could lose a lot of their privileges.

The guards did not carry guns and truncheons. Use even of truncheons is prohibited. The delegation was told that guards may use physical force to break prisoners apart in cases of inter-prisoner violence.

1.8.8. Contacts with the outside world

The Director and the staff from the Educational Department insisted that the juveniles should have frequent contacts with their families and relatives. They said that they even searched for distant relatives or neighbors of the prisoners whose families do not visit them. Friends or girlfriends were not

¹⁰ This however is not true: see 1.5.7.

allowed to visit the juveniles, only if they come with the parents of the minors.

There was no limitation on visits and meetings with families. According to the Director, families and relatives could come every day and could visit their children. Usually, however, meetings took place outside of the prison and relatives were allowed to take the juveniles out for five hours every second week. There was no special room for meetings. The Director and the educators decided on who should be allowed to visit the prisoners. They were also allowed to go home for the weekend twice a month. In addition, every month the prisoners were taken outside the institution to watch a movie, a theater play or a sports event.

1.8.9. Activities

The small space and the lack of equipment in the center did not allow for much organized activities to take place. There was a primary school in the center, named Anton Makarenko and the juveniles were required to finish the 8th grade by law. School classes took place in the day room.

Based on the level of education and abilities of the juveniles, they were placed in a vocational training program. Upon successful completion, they received a diploma, which did not reveal the nature of the institution. Vocational classes were also held in the day room and there was no workshop where the students could practice.

The prisoners could play sports. Unfortunately, the sports field was used by the adult prisoners from Shutka too and they mix with the juveniles. That creates problems for the juveniles who complained to the delegation that the prisoners sometimes threatened them and abused them physically.

The juveniles also complained that every evening, even during the summer, they were not allowed to watch TV later than 8:30 or 9 p.m. After that they had to go to bed. They were even not allowed to watch a single game from the European Soccer Championship.

1.8.10. Inspections

The Juvenile Correction Center was visited by representatives of the Ministry of Justice about once a year. The other institutions that visit the prison included the court and the Center for Social Work. In addition, NGOs like the Macedonian Helsinki Committee and the media also visited the center with the permission of the government.

1.9. Recommendations on the Ministry of Justice facilities

1. The Macedonian authorities should allow for visits to all places of detention by human rights NGOs for monitoring purposes. Visits should be regular, unannounced and the organizations should be able to conduct private interviews with detainees and have access to the necessary documentation.
2. The Macedonian policy should follow the law and should ensure more diversified forms of custody and should allow for placement in individual and small-group cells and dormitories, according to prisoner's choices, which however should allow for common activities during the day and should not result to forms of custody akin to solitary confinement. Prisoners should

not be forced to accept individual or small group accommodation if they want to stay in common dormitories.

3. Programs for rehabilitation and meaningful activities for prisoners should be organized and they should be kept engaged in such activities during the day. Organizations from outside the prison system should be involved as much as possible in providing such services. Remand prisoners should be also included in organized activities.
4. Legislation and relevant rules in Macedonia should be adopted to better regulate disciplinary measures and long-term isolations, with a view of limiting the possibility for arbitrary exercise of disciplinary powers by the prison staff. The prisoners should be given the right to effectively appeal these measures to an independent authority. Limits on the amount of time that a prisoner could spend in a disciplinary cell or in isolation within one year should be introduced.
5. Medical services in the institutions of the Ministry of Justice should be integrated with the national health care system. Doctors and other medical staff should be given independent status and supervised only by medical authorities to allow the fulfillment of their duties as medical professionals.
6. All prisons in Macedonia should have an official capacity established by an act of the government. Overcrowding in those prisons in which it exists should be overcome.
7. The government of Macedonia should consider dividing the prison in Idrizovo into smaller facilities in order to improve the management, distribute the prisoners held currently there more evenly on the territory of Macedonia and create a more humane atmosphere.
8. The government of Macedonia should pay a particular attention to the incidents of excessive use of force by the security guards in the Idrizovo prison. All such incidents should be carefully investigated and processed according to the law. Official inspections in the prison should be focused on the excessive use of force by the security guards as much as possible.
9. The government of Macedonia should take urgent measures to upgrade the material conditions and the regime in the pre-trial detention units in the prisons of Bitola, Tetovo, Štip and Ohrid. The same effort should be invested into the disciplinary cells in the entire prison system of Macedonia. Sufficient space and sufficient direct access of the prisoners to natural light should be ensured in all facilities and for all forms of custody. At present holding prisoners for prolonged periods of time in the pre-trial units of the prisons of Bitola, Tetovo, Štip and Ohrid and in the disciplinary cells in these and in the other prisons amounts to inhuman and degrading treatment contrary to international standards.
10. The use of solitary confinement as a disciplinary punishment of juveniles in Macedonia should be immediately stopped as such practices constitute inhuman punishment contrary to international standards.
11. Arbitrary censorship of correspondence of the prisoners should be stopped. Correspondence should be monitored only on a case-by-case basis with a permission of an independent authority and only on the legitimate grounds provided for by the international law guaranteeing the right to privacy and due process.
12. Confidential visits and uncensored correspondence of the prisoners with their lawyers should be guaranteed at all times. Surveillance of the correspondence with the European Court of Human Rights in the Shutka prison should be stopped immediately.
13. The visit room in the Ohrid juvenile prison should be redesigned to allow for physical contacts of the juvenile prisoners with their visitors.
14. The Macedonian authorities should ensure that all prisoners, including those who are not sentenced and those undergoing disciplinary punishments, could spend at least one hour of

- suitable exercise in the open air daily.
15. The Macedonian authorities should ensure in law and in practice that all persons who are admitted to a prison are immediately examined by a qualified doctor. If there are injuries on their bodies they should be duly recorded together with their explanations. The doctor should immediately report such situations to the prison director and to other relevant authorities.
 16. The prison in Tetovo should stop admitting women, as the present conditions there do not allow for appropriate segregation and protection.
 17. The prison system in Macedonia should make a concerted effort to recruit women in the staff of all prisons.
 18. Permanent surveillance with cameras in the cells of the prisoners in the Štip prison should be discontinued.
 19. Premises for religious purposes should be built and arrangements with religious organizations should be made, so that the inmates are able to practice their religion, as no expression of interest does not equal lack of interest.
 20. Restraint and use of anti-psychotic medication in the Shutka prison should be used only for medical purposes, on an indication by a doctor and under the supervision of a doctor.
 21. The Juvenile Correctional Center should be immediately moved to its original premises in Tetovo or the present premises should be urgently upgraded and made appropriate to holding juveniles.
 22. The Macedonian authorities should take urgent measures to segregate the juvenile prisoners in Shutka from the adult prisoners as required by international standards.

2. Facilities for involuntary placement of mentally ill and mentally disabled persons

2.1. Background to the placement policy of mentally ill and mentally disabled persons in Macedonia

Involuntary placement and treatment of mentally ill persons in Macedonia can take place under two procedures – civil and criminal. The procedure for the civil commitment is regulated by the *Non-Litigation Procedure Act* and the *Law on the Protection of Health*. The procedure for the criminal commitment is regulated by the *Penal Procedure Code* and the *Law on the Execution of Sanctions*.

2.1.1. Civil commitment

Article 48 of the *Law on the Protection of Health* provides that “the persons who suffer from mental illness and who on the basis of their condition are a danger to their life or the lives of the citizens or to the material goods, will be committed for hospital treatment to a respective health organization.” This provision is somewhat strange as on the one hand, it establishes a very high standard with regard to personal danger (threat to life), but a very low standard with regard to danger to property (any threat to any material goods).

According to the *Non-Litigation Procedure Act* a person who is committed involuntarily to a health organization for treatment could be restricted in his/her contacts with the outside world. This law makes a distinction between placement in the hospital, which leads to actual detention and placement, which suggests an open regime of treatment (Article 59). No matter whether a person is brought involuntarily in the hospital or comes voluntarily but the treatment suggests actual detention, if the medical staff in the hospital are of the opinion that this person should be placed and treated in the hospital then they are obliged to report to the district court within 48 hours after the admission. The report should contain information about the person’s mental health condition, the facts that prove that condition and the names of the person who brought the patient to the hospital. The decision for the involuntary hospitalization is taken by the court. No such notification is due if the person is committed under the penal procedure or if he/she is incapacitated (Article 60).

The district court should open *ex officio* a procedure after receiving the report from the hospital. Then the court should immediately order an examination, check all referent facts for the placement in the hospital and hear the patient. The practice shows that more often the court would go to the hospital and talk to the patients there. The court is obliged to make a decision up to three days after the hearing. The decision should determine the duration of the placement and treatment. The latter cannot be longer than one year (Article 67). Together with the placement the court can decide to deprive the person placed of his/her legal capacity. The decision of the court could be appealed before the Regional court by the person placed in the psychiatric hospital or by the guardian and the relatives. If the hospital decides that upon the expiration of the court-ordered term for treatment, it should file a request for the continuation of the treatment to the district court 30 days before the term expires. The court takes a decision for prolongation after it receives the results of the medical examination and after it hears the patient.

The law does not regulate the participation of a lawyer, the rules of evidence and the procedure of the

hearing before the district court and before the court of appeal. Thus, it falls short of the due process guarantees and allows for arbitrariness and abuse.

2.1.2. Criminal commitment

A person may be committed for compulsory treatment in a health organization in Macedonia if he/she is found insane and cannot stand trial. The commitment, called in Macedonia a “security measure”, is regulated by the *Penal Procedure Code*. It takes place on the basis of a court order in the context of the criminal procedure and after a medical examination. Chapter 19 of the *Law on the Execution of Sanctions* (Article 236 – 243) regulates the execution of the security measure known as “mandatory psychiatric treatment and placement in a health institution”. Following such placement, the health institution is obliged to provide annual reports to the competent court about the current state of health of the person concerned. In the event that the institution concludes that there is no further need for such a measure, it must propose to the court that the patient concerned either be released or transferred to prison to serve the remainder of any sentence imposed.

2.2. Visit to the Demir Hisar Psychiatric Hospital

The IHF delegation visited the psychiatric hospital in Demir Hisar on 29 June 2004 and spent there four hours. It arrived late in the hospital, at around 3 p.m. and did not have a chance to speak with the Director, Dr. Zivka Andonovska. The delegation spoke with the two doctors on duty – a psychiatrist and a neuro-psychiatrist, with other staff members and with patients. The total number of staff on duty for the night shift on 29 June 2004 for all the 10 wards was 20 persons. During its visit the delegation saw the administrative building, the hospital surroundings, three wards (5th, 6th and 10th) and the kitchen. After the visit the Director supplied some additional information to the delegation.

2.2.1. General data

Demir Hisar psychiatric hospital is a regional hospital for residents of Southwestern Macedonia who are over 18 years old. The hospital is under the authority of the Ministry of Health. At the time of the visit no information was gathered on the budget of the facility, the source and regularity of financing because the Director was not in the hospital. Later, at the request of the delegation the Director provided information on the funding for maintenance of the hospital. According to this information the overall budget of the hospital for 2003 was 109,317,585 Denars (app. 1,792,091 Euro).

The capacity of the hospital was 550 beds. There were 487 patients, both men and women, admitted to the hospital on the day of the visit, 49 of whom were absent (either run away or had been taken for a vacation by their relatives). The total number of the patients present was 438.

During the visit it became clear that the Ministry of Health funded the expenditures for food, medicines, electricity, water, heating and salaries for the staff. However, it did not cover the expenses for the mentally retarded patients (who were around 90 persons) because of the presumption that the Ministry of Labour and Social Policy is obliged to cover them. The Ministry of Health did not cover the expenses of the patients in the forensic psychiatric ward either since it admits that the Ministry of Justice should be obliged to cover them. However, neither the Ministry of Justice, nor the Ministry of Labour and Social Policy allocate budget for these two groups of patients. Thus, the funding seemed to

be insufficient, especially for the food provided in the hospital.

The doctors on duty were not able to estimate the average stay of a patient in the hospital. But they stated that some of the patients come to the hospital only during the winter because they have financial problems to stay at home. Others do not have any other place where they can go after leaving the hospital.

2.2.2. Types of wards

There were 10 wards in the hospital. The table below provides information on the types of wards and the number of patients in each on the day of the visit:

1. Psychotic women's ward	45 patients, 2 on leave
2. Adolescent acute ward for young men and women	10 women, 2 women on leave, 18 men, 6 on leave
3. Chronic and sub-chronic men's ward	57 patients, 7 on leave
4. Psycho-geriatric men's ward	38 patients
5. Chronic men's ward for older patients – closed	51 patients, 4 on leave
6. Chronic men's ward for patients with psycho-organic syndrome, resistant to therapy, no hygiene habits – closed	40 patients, 2 on leave
7. Chronic women's ward for patients resistant to therapy – closed	40 patients, 1 on leave
8. Psycho-geriatric women's ward - closed	39 patients, 1 on leave
9. Alcohol users' men's ward for voluntary treatment – closed	6 patients, 2 on leave
10. Forensic psychiatric men's ward – closed	52 patients, 22 on leave
Total	438 patients, 49 on leave

There were 40 to 60 patients placed in each ward. The problem with the regime in the different wards did not become clear. According to the doctors on duty all wards were closed to some extent. But in the 5th, 6th, 7th, 8th, 9th and 10th wards the patients were not able and/or not allowed to go out of the buildings for the reason of their own safety.

2.2.3. Admission to the hospital

During the visit it did not become clear how many patients were placed in the hospital against their will. But the doctors claimed that they were not segregated in a special ward or room. Actually it looked as if the staff of the hospital did not understand well the procedures for placement and could not distinguish between voluntary and involuntary placement.

The doctors on duty said that most often the family of the person with mental disorder would address the local Center for Social Work. The Center would assess the need of placement in a hospital. If the person agrees to be treated in the hospital he/she is brought with an ambulance of the Emergency Unit or he/she goes to the hospital by him/herself.

If a patient does not want to be placed or treated in the hospital he/she is brought to the hospital by the police. Then the hospital within 48 hours is obliged to inform the district court for that. The court is obliged to visit the hospital after the admission with two experts to pass the judgment on the placement and treatment of the person in the hospital. Unlike other district courts in Macedonia the district court in Demir Hisar does that in this hospital. During the time when the patient is placed in the hospital and the court has not arrived yet to review that placement the patient is being treated with medication even against his/her will. The court decides whether a person involuntarily placed in the hospital should stay in the hospital or should be released. After this judgment, theoretically, a person can be detained in the institution for the rest of his/her life. This is so because, after the mandatory treatment is over, no matter whether the patient's condition is worse or better the court does not review it.

According to the interviewed doctors the hospital was also obliged to report to the District Court for every patient who is admitted to the psychiatric hospital for the first time.

If a patient is admitted to the hospital voluntarily but after a certain period of time he/she wants to leave it and the doctors are of the opinion that he/she might be dangerous for himself or for others, or that he/she needs treatment, they inform the family and it has to sign a document that it agrees to come and take the person from the hospital. If the patient might be "dangerous" and has no family (or the family does not want to take him/her) then the doctors would not let him/her go.

2.2.4. Living conditions and hygiene

The buildings of the hospital had central heating and running hot water (heated by boilers during the spring, summer and autumn). The material conditions varied from one ward to another, according to the doctors, in correspondence to the mental condition of the patients placed there. The most dilapidated wards were those for the patients who had mental retardation and/or were resistant to therapy (5th and 6th wards). The material environment was utterly austere and impersonal, and there were hardly any personal possessions in evidence. The average number of patients who use one toilet and one shower was 10. The toilets and the bathrooms were not adapted to be used by people with physical disabilities. Besides, most of the sinks seen during the visit did not have taps, which made their use impossible. Although the patients could have a shower once a week (some of the staff were of the opinion that it was obligatory) and the patients from the acute ward were allegedly bathed every day, the hygiene in the 5th and the 6th ward was far from being maintained well. The smell of urine in the 5th and the 6th ward was very strong although the orderly on duty claimed that they use disinfectants and the floor was hosed before the delegation entered the building. The delegation was not able to find whether the patients were given enough personal hygiene items (soap, shampoo, toothpaste, toilet paper etc.). No such means were seen either in toilets or in the rooms. Diapers were given to the patients only if/when the family brings some.

2.2.4.1. The forensic ward

According to the interviewed doctors the patients in the forensic ward were allowed to go out of the hospital to buy food. But this depended on their current mental condition and the type of the crime they were committed for. Sometimes the patients who had committed serious crimes were allowed to go to the shop accompanied by an orderly. Those who had committed minor crimes were allowed to

go shopping in the town without companion. The patients said that they were allowed to stay outside of the ward in the yard for 1 to 1,5 hours per day.

Patients in the forensic ward were accommodated in rooms, ranging in size from 15 to 22 sq. m. Most provided sufficient living space - 3 or 4 patients in 22 sq. m. The rooms were in a generally good state of repair and cleanliness and had access to natural light as well as adequate artificial lighting and ventilation. The floor in the rooms was covered with linoleum. Furnishing was of a very basic standard (beds and occasionally lockers). The bed clothing was enough in quantity and clean. The lockers for personal belongings were not enough for all patients but some of them shared one. The patients said they keep food, toothbrushes, toothpaste, towels, shaving items etc. in them. Patients wore civilian clothes.

The forensic ward had three toilets (washed with a hose) on the second floor for around 30 persons. There were two showers in the bathroom and two basins. In the same room there were three sinks that did not work since they had no taps. On the first floor there were two showers in the bathroom for the rest 20 patients.

The patients in the forensic ward were allowed to use a dayroom with a TV set and cable TV. The dayroom was poorly furnished with two benches, five chairs, a table and a wooden bunk bed. There was also a dining room on the first floor in the ward, which was also in need of repair. Both rooms were too small for all patients in the ward.

2.2.4.2. The 5th and 6th wards

The 5-th and 6-th wards were in another two-storied building. It was far more dilapidated than the forensic ward. The building was dark and cold although it was 35°C outside. The hygiene in these wards was very poor. The mattresses on some of the beds were wet. The walls and the floors were dirty and renovation was a must. There were 4-5 beds in each room and they did not look overcrowded (being around 20 sq. m. in size). All rooms had large windows (some with bars), which provided direct access to sunlight and fresh air. The bed sheets and blankets were old, dirty and insufficient for all beds. Patients stayed all day in their dirty pajamas. Such a situation is not conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process.

The bathroom, the dining room, several rooms for the staff and the room for post-mortem examination and regular examination were placed on the first floor.

The dining room was a big hall with large windows (some of which were broken), 12 tables, 48 chairs that were old and needed serious repair. There were no cloths on the tables. The hall was not clean and cozy although tidy.

One of the rooms on the first floor had five beds with bed clothing. The floor was covered with linoleum; the walls were recently renovated and covered with tiles up to 1,50 m. But the tiles were broken. The orderly on duty there said that there were 40 people living there and 15 of them were incontinent.

There were five toilets without seats, two of which without doors. Only two taps for cold water were

functioning out of around ten. There were also six basins. Hot water was available only on Wednesdays according to the orderly on duty. This was also the day for taking bath for the patients. There were two nurses and seven orderlies in the 6th ward.

2.2.5. Food

The daily food allowance in the Demir Hisar psychiatric hospital was less than 1 Euro per patient. The patients who were bedridden and the elderly patients were fed by the staff. Some of the patients with dementia were fed with infusion. According to the interviewed doctors when preparing the menu the cook and the doctors try to comply with the receipt book and the calories per meal recommended there. There was additional food for the patients who were on special diets.

Breakfast was served at 7 a.m., lunch – at 11:30 a.m. and dinner – at 6 p.m. On the day of the visit the patients had for breakfast the so-called “aivokac” – flour with water. The lunch for the day of the visit was chicken with vegetables and the dinner was to be beans.

The kitchen of the hospital was in relatively good state of repair although the cookers and the sink had been used for the last 20 years. According to the cook, patients have 3 meals every day and always some kind of meat for lunch. Food was the same for everybody, except in cases when doctors order special diet for some patients.

2.2.6. Therapy

According to the interviewed doctors ECT was not applied in the hospital because the machine was not working. The severe depression was treated only with medicines or the patients who were resistant to medicines were sent to other hospitals for application of ECT.

According to the interviewed doctors all patients receive medication and there were enough drugs for all the patients. Some of them were old and ought to be replaced with drugs from the new generation. However, only old drugs were on the so-called “positive list”¹¹ and were commonly used in entire Macedonia. If the patient or his/her family has enough money to pay for a modern drug, it could be used for treatment.

There were no new nEuroleptics in the hospital (e.g. Rispolept). The ones most often used were Haloperidol and Moditen-Depo in ampules and pills. Leponex was available in pills but not in ampules. Diasepam, Flusepam and antidepressants were also available, as well as Tegretol and Fenobarbital. According to the doctors there were enough medicines for treatment of somatic symptoms.

According to the interviewed doctors other types of therapy were also applied. These include group therapy, art, sports and occupational therapy. Groups for the group therapy consisted of 10-12 patients and sometimes family members were involved in the groups as well. The hospital had a locksmith workshop, which was used for the occupational therapy.

2.2.7. Seclusion and restraint

There were two seclusion rooms in the forensic psychiatric ward situated next to each other on the second floor of the building. The staff claimed that only one of them (6-7 sq. m) was in use. It had a bed and a mattress, bed clothing and radiator. The floor was covered with linoleum; the walls were clean. There was sufficient natural light in the room coming from a window. There was no toilette and no access to water. The other room had no bed but a mattress and a door with a hole for watching. These rooms could be entered only from a bedroom – the first on the right at the beginning of the corridor on the second floor. According to the doctors the seclusion room was used for patients who are agitated and can hurt others or themselves or when there is a suspicion that the patient could escape. The patients placed in the seclusion room were allowed to go out of it for toilet and when examined. An orderly accompanied the person. The patient was allowed also to stay in the day room and to watch TV with the rest of the patients from the ward.

According to the staff restraint could be prescribed by the head of the ward or the doctor on duty. The doctor who prescribes it usually records that on a separate sheet of paper and puts it into the patient's personal medical file. The delegation was not able to see any document of this type.

In cases of aggression the patients were fixed to the beds in their rooms with leather belts (no chains and straight jackets were used). Usually only one of the patient's hands is fixed. Only when the patient is strongly agitated they fix one of his/her hands and the opposite leg. One of the doctors declared that the duration of the fixation could not be longer than 2 days (48 hours). Such a practice however cannot have any therapeutic justification and amounts to ill treatment.

2.2.8. Inspection

Officials from the Ministry of Health were visiting the hospital at least once a year. The IHF delegation did not see any documents from these inspections. The delegation was told that the State Commission of Sanctions should visit the hospital regarding the patients in the forensic psychiatric ward. The Director later stated that no such inspections or visits had been performed till the end of July 2004.

2.2.9. Other human rights problems

The delegation heard no allegations of torture or other forms of ill treatment of patients either at the forensic psychiatric ward or at the 5th and the 6th ward at Demir Hisar hospital. Relations between staff and patients at the forensic ward were generally positive and tension-free.

The patients were allowed to call their families and friends if the head of the ward in which they stay gives permission for that. The cost of the phone calls is covered by the hospital.

The delegation did not find any traces of visits of ministers of any religion in the hospital. The doctors on duty stated that there were no religious patients in the hospital.

¹¹ Positive list is the list of drugs, which can be obtained via doctor's receipt and their price is covered by health

2.3. Visit to the Neuro-Psychiatric Hospital in Negorci

The IHF delegation visited the Neuro-Psychiatric Hospital in Negorci on 30 June 2004 and spent there four hours. It had an initial conversation with the Director, Dr. Nikola Olumcev and several staff members. Then it inspected the premises and conducted interviews with other staff members and with patients. At the end of the visit the delegation clarified some problems and expressed some of its concerns with the Director. The team received a very good cooperation of the Director and was able to conduct many interviews with patients in private. It was also able to see some documentation.

2.3.1. General data

The Neuro-Psychiatric Hospital in Negorci is a regional hospital, located near Gevgelija and serving the regions of Veles, Kavadarci, Stip and south with an overall population of 400-500 thousand inhabitants. It was established in 1970 and had a capacity of 300-350 beds. On the day of the visit it hosted 220-240 patients.

For the entire 2003 the hospital treated 589 patients, of which 399 were admitted for treatment during the year. Of them 157 were new patients with first hospitalizations. 149 patients had spent more than one year in the hospital in the beginning of 2004. Already this data indicates a big number of patients who were hospitalized years ago, were chronically ill and for whom the hospital served as an asylum as they did not have a place to go in the community. Under these circumstances it was no surprise that our query on the average stay in the hospital remained unanswered.

A little bit less than one half of the diagnoses of the newly admitted patients were schizophrenia. The hospital admitted also a significant number of drug addicts (one fourth of the newly hospitalized).

The hospital employed six doctors (two psychiatrists and four neuro-psychiatrists), 40 nurses and 20 orderlies. It also employed administrative and support staff. There were no psychologists and specialists on other types of therapy (occupational, art etc).

2.3.2. Types of wards

There were ten wards in the Negorci Neuro-Psychiatric Hospital. They included:

- An acute admission and diagnostic ward for men;
- An acute admission and diagnostic ward for women;
- Two chronic wards for men;
- Two chronic wards for women;
- A ward for men with developmental disabilities and epilepsy;
- A ward for women with developmental disabilities and epilepsy;
- Two wards for neurotic disorders and drug dependencies.

The average number of patients in each ward was 20-25. Most of the wards were located in separate buildings on the territory of the hospital and were isolated from each other.

2.3.3. Admission to the hospital

As in the other mental health institutions in Macedonia admission to the Negorci Neuro-Psychiatric Hospital was seriously flawed, especially in the case of involuntary commitment. The family or, as the Director stated “just a group of citizens”, can turn to the Municipal Center for Social Work in a case of a person who creates trouble in the family or in the community or is dangerous for him/herself. The center would assess the need of placement in a hospital. In case of a positive assessment and if the person agrees to be treated in the hospital voluntarily he/she will be brought to the hospital or will be sent there on his own. If the person does not want to be treated, then the center calls the police and he/she is brought to the hospital by police, as the Director explained, often with handcuffs. The patient is immediately assessed by a collegium of doctors and diagnosed. Then one of the doctors writes a notification to the district court in Gevgelija within 48 hours and the court is obliged to visit the hospital after the admission to pass a judgment on the involuntary hospitalization. This however does not happen in Negorci, just as in most of the other mental health institutions in Macedonia.

The criminal commitment, although with more guaranties during the initial placement, was also seriously flawed. The IHF delegation saw several patients who were committed to the hospital in the context of criminal procedures but their situation was not reassessed subsequently and some of them, according to the Director, did not exhibit any sign of mental illness and thus their hospitalization was not justified.

Of great concern for the delegation was the case of V. P. who had spent 11 years in the hospital. He had developed schizophrenia and had murdered his mother. This happened accidentally on his way out of their flat, after a quarrel when he pushed her on the stairs. She fell, hit herself and died soon afterwards. The court found P. criminally irresponsible because of insanity and imposed a measure - compulsory treatment. During the last several years the doctors from the hospital had sent several times proposals to the court stating that he was not in need of active treatment any more because of remission but each time the court had confirmed this measure. The last time when a release was proposed the court invited an external expert whose conclusion was that P. should not be released. One of his arguments was that there was no evidence that he would take regularly his medicines, because the last time he had spent 20 days at home, in August 2003, he did not do that and his condition worsened. In addition, the expert interviewed his brother and his brother's family and they did not seem willing to take care of P. and to allow him to live in their house. P. did not have a flat of his own.

The Director explained that they wrote applications to the court only in cases of persons who were hospitalized involuntarily under the civil procedure for the first time and not for the subsequent hospitalizations of the same persons, no matter whether they were voluntary or involuntary. Thus, under the circumstances he had difficulties assessing how many were the involuntary patients in his hospital. At the end he stated that they would probably be approximately 90% of all patients.

According to the Director after the admission the doctors explained to the patients their condition and what therapy they need. Then they ask them to sign a form declaring their consent to be treated. If the patients arrive with their legal representative in the hospital the doctors take the consent of the representatives. The form offered to the legal representative read as follows:

” On.....(date)(the name of the person to be treated) has been admitted to the hospital accompanied by (name of the relative or the policemen) and they agreed to leave him/her to be

treated. Signature of the relative.).“

The delegation saw such a document for T. B. whose mother left him in the hospital on 29.02.2004 and gave consent for treatment on his behalf. There was also such a document from 22 March 2003 for T. K.

The other record that the delegation saw was a notebook from one of the wards on the first page of which it was written “the patient has been acquainted with his condition, the types of therapies possible in this condition, the risks of the therapy etc. He agrees to be treated according to the proposed therapy.” Then there were the names of patients, the dates of their admissions and their signatures. But some of the patients were admitted in 1978, others in 1996, others in 2002 (the records were not in chronological order) and the doctors were not able to explain when exactly they introduced this notebook – so it was obvious that they just decided to have a book like that and they went to all patients available in their ward and made them sign the book.

2.3.4. Living conditions and hygiene

The IHF delegation visited most of the wards and could move freely inside them. The acute admission and diagnostic ward for men had rather spartan conditions. The delegation saw a room of 10 sq. m. with three patients inside. There were bars on the windows and only one cabinet for placement of personal belongings. Another room that the delegation saw was 20 sq. m. with eight beds but only five patients. There were three cabinets for personal belongings. The rooms were bare and impersonal. The dining room only had one table and a bench. The hygiene in the rooms and in the toilet was mediocre. The situation was similar in the women’s acute admission and diagnostic ward with a little bit more personalized spaces. There was a day room there with a TV set. The patients in both wards were just sitting in their rooms, not engaged in any meaningful activity. Patients were watched closely by the staff although some could go out of the ward on their own.

The ward for men with developmental disabilities and epilepsy was a real cause of concern. It was overcrowded, too dark, infested with flies and smelled of urine. Rooms and toilet facilities were in a very bad state of repair. There were faeces on the floor of several of the rooms under the beds. The patients were lying in their beds in their dirty and ragged clothes or staying in the corridor, not doing anything. The windows of the rooms were barred. One of the rooms visited by the IHF delegation was 24 sq. m. with eight beds. It had tiles on the floor, although there was little benefit of this as they were covered with a lot of dirt that was apparently not cleaned since long time. Another room was 16 sq. m. with four beds and a bared window. There were no cabinets and the entire environment was very impersonal. The floor was dirty and a horrible smell filled the air. The beds were covered with sheets, but they were very dirty. The patients in this ward were locked all the day and apparently the attention they were receiving was minimal. These were all people with severe developmental disabilities that were institutionalized since long time ago and were likely to spend the rest of their lives in institutions. By all standards the living conditions they were placed in the ward amounted to inhuman treatment.

The chronic wards, some of which the delegation saw, looked a bit better compared to the ward for persons with developmental disabilities in terms of material conditions. Nevertheless, there too the hygiene in the patients’ rooms and in the toilets was at a rather low level. In some buildings plaster was falling down and the floors were dirty. Some of the mattresses were very thin because of long usage, so the patients could feel, while lying in the bed, the bed construction. The maintenance was

limited to the basics.

In almost none of the bathrooms one could see necessities for maintenance of personal hygiene, soaps, towels. Several doors of toilettes were taken away, and/or leaned against a wall. Not only that there was no privacy for patients, but one could also get easily hurt, if the heavy doors fell down. Every bathroom/toilette was smelly, and the smell spread throughout the ward.

The wards for neurotic disorders and drug dependencies were exceptions. The living conditions there were much better than in the rest of the hospital with more personalized environment, sufficient places for placement of personal belongings and higher level of hygiene. The rooms were tidy and well maintained as were the bathrooms.

2.3.5. Food

The IHF delegation did not receive information on the daily food allowance. It could not see how a meal in the hospital looked like. The patients interviewed did not complain of the food. Some patients could receive food from their relatives. Others could buy from neighboring shops.

2.3.6. Therapy

Pharmacotherapy was the major form of treatment in the hospital. The Director mentioned also occupational therapy and group therapy but in lack of qualified and permanently engaged personnel these apparently were marginal activities.

The type of drugs used in the hospital depended very much on what was available through the 'positive list'.¹² At the time of the visit this list included only old type neuroleptics, such as Hlorpromazine and Haloperidol. The Director explained that some of the atypical neuroleptics were expected to be included in the new 'positive list' that was in preparation and was expected to enter into force since the autumn of 2004. Some patients could bring into the hospital drugs that were prescribed during their previous treatment or were bought by the relatives while they were in the hospital. Thus, the delegation saw a patient who used Rispolept (Risperidone) bought to him by his relatives. Barbiturates and benzodiazepines were also in the 'positive list' and were widely used. The list included also some anti-depressants, including SSRI and tricyclic anti-depressants, but there were not many such conditions in the Negorci hospital.

In the chronic ward the delegation saw many patients exhibiting signs of extrapyramidal side effects, a result of improper dosing of neuroleptics, in a number of patients who had spent many years in the hospital. The Director said that this was 'normal' and that the proper treatment of the extrapyramidal conditions was 'more neuroleptics'.

One of the methods of treatment the hospital applied in cases of chronic endogenous depression and other conditions was the electro convulsive therapy (ECT). In Negorci it is applied in its unmodified form, i.e. without anaesthesia and muscle relaxants. When the Director heard the concerns of the team, he said that he did not see anything wrong with the application of the unmodified ECT and that they had applied it in this form for many years and never had any accidents. The ECT was applied in a

separate room in one of the wards, which the delegation saw. The Director offered the team the consent form for application of ECT. It became clear that the form was signed not by the patient on whom ECT is applied but by the parent or the guardian. The form did not contain any information on the nature of this treatment method. The parent/guardian just had to sign that he/she was 'acquainted with the need for the application of the treatment and with its nature'.

When asked about informed consent for treatment the Director said that they usually seek such consent from the relatives or guardians, if the patient is under guardianship. No special forms were filled. A number of patients who were interviewed by the delegation understood the reason why they were in a psychiatric hospital but very few knew anything about the effects of the medication they were taking.

2.3.7. Seclusion and restraint

There were no seclusion rooms in the hospital. Some of the patients, mostly from the acute admission and diagnostic ward, were being restrained with belts in the beds of their rooms. This happened in front of the other patients. According to the Director this procedure was applied under the order and the supervision of a doctor. He said that restraint was applied always by 2-3 staff members. They put the patient in the bed and tie to the frames of the bed with belts his two legs and two arms. Then a nurse administers the injection. The restraint lasts for no more than two hours.

The cases of restraint were registered in the therapeutic lists of the patients. The hospital kept a book where the cases of restraint were registered. There were instructions given on the front page of this book on how to apply restraint. The instructions said that the doctor who applied the restraint had to write down at what time and for how long it was applied, how he did that and the names of the patient. The instructions said that the doctor who applied the restraint had to have medicines to apply, to try to make the person lie on the bed voluntarily, to try to explain to him the other possible treatments at that moment, to talk to the patient all the time, not to leave the patient without supervision while fixed, to release the patient after two hours at the most. There were four entries in this book – three from 7, 8, 9 May 2002 for T. A., who was fixed to prevent him pulling the threads of his operation spot. The fourth entry was from 10 May 2002 and was for another person. The staff claimed that they apply restraint but record the cases in separate books kept in the wards. There were no such books however in the two wards in which the delegation asked to see them.

When asked about the legal basis of seclusion or restraint the Director explained that there was no such regulation in Macedonia but that there were some in preparation.

2.3.8. Inspection

The Neuro-Psychiatric Hospital in Negorci did not receive much attention from the Macedonian authorities. Only officials from the Ministry of Health visited the hospital from time to time. The IHF delegation did not see any documents from these inspections.

¹² Positive list is the list of drugs, which can be obtained via doctor's receipt and their price is covered by health

2.3.9. Other human rights problems

One patient in the acute admission and diagnostic ward for men complained that he was forced by an orderly to take his pills and that he was beaten up by him recently. The patient had an eye haematoma of a recent origin, which he said was a result of a hit in the eye.

Some patients could walk out in the yard and some even went out of the hospital to the neighboring villages and towns, but others, e.g. those in the wards with developmental disabilities and epilepsy, spent their time locked in their wards with very few opportunities of activities and entertainment. Such a situation is not only not conducive to creating of an appropriate therapeutic environment but amounts to inhuman treatment.

2.4. Visit to the Special Institution for Mentally Disabled Persons in Demir Kapija

The IHF delegation visited the special institution for mentally disabled persons in Demir Kapija on 30 June 2004 and spent there three hours. It had an initial talk with the Director, Ms Ljuba Tegova, and with some of her staff and then visited three of the institution's wards: "health", "the new object" and the "UNICEF project". The delegation was not able to visit the "dependence" ward, which is located some kilometers away from Demir Kapija. Delegation members could talk privately with other members of the staff and with some residents. They were also able to see some of the documentation.

2.4.1. General information

The Demir Kapija social care home is an institution for permanent placement of men and women with severe forms of developmental disabilities. These include severe and profound forms of mental retardation and, to a lesser extent, disabilities caused by epilepsy and other psychiatric conditions. Many residents had also physical disabilities. This is the only such institution in Macedonia and is under the authority of the Ministry of Labor and Social Policy.

- "Health": it hosted people with the most serious conditions, including all bedridden, aggressive, incontinent and senior residents, altogether 187 persons;
- "Dependence": this ward is some kilometers away from Demir Kapija and housed 101 persons with severe and moderate mental retardation, i.e. relatively better-off residents who can, to a certain extent, take care of themselves.

In addition, in a separate building on the premises of the institution functioned the "UNICEF project", another "model" care providing unit. It involved some 20 children and was sponsored by UNICEF.

2.4.2. Staff

The delegation was left with the impression that the Director is a dynamic and caring person who had to live and struggle with the constraints imposed by the system. During the initial discussion she admitted that the specialized staff is insufficient to organize appropriate care for all the residents. This was the reason why she was forced to constantly approach foreign donors.

insurance.

The orderlies in the “health” ward, with whom the delegation spoke, did not seem to understand and were not prepared at all to attend the needs, other than the basic ones, of the residents with whom they were in a daily contact. Several of them said that their clients have only very basic needs, such as food, sleep and body comfort and that offering any rehabilitation or entertainment is useless as they are not able to understand their meaning.

The staff in the “new object” and in the “UNICEF project” had a different approach to their work and their clients. It was more individualized and centered on their complex needs. The delegation was particularly impressed by the staff in the “UNICEF project”. Although most of it was young and lacked experience, it was able to compensate this with patience and devotion.

Remuneration of the staff was a problem. The delegation heard complaints that the salaries were low and that they were disproportionate to the difficult work in the institution. The staff in the “new object” and in the “UNICEF project” works on temporary contract with no social and health insurance payments.

2.4.3. Placement

The Institution for Mentally Disabled Persons in Demir Kapija accepts persons with severe mental disabilities from all over Macedonia, who cannot live with their families or do not have families. Their placement in the institution appears to be quite informal and in violation of international standards on personal liberty and security. It starts with an initial contact of the family with the Municipal Center for Social Work. The center, on its part, files a request for placement to the Minister of Labor and Social Policy. The Minister orders an investigation into the personal and family circumstances of the person who is to be placed in the institution and upon the submission of the report from the investigation signs an agreement to place the person into a social care institution. Thus the person placed in the institution is, in effect, deprived of his/her liberty. However no court is involved at any stage of the procedure, in clear violation of Article 5 of the European Convention on Human Rights to which Macedonia is a party since 1997.

In theory, the person who is placed in the institution should have his/her legal capacity withdrawn through a court procedure, especially in view of the fact that he/she suffers from serious mental disability. The delegation was told however that this normally does not happen as the court procedure is quite expensive for both the family and the institution. It costs between 25,000 and 30,000 Denars (410 - 490 Euro). Thus, most of the residents in the Demir Kapija institution were formally not deprived of their legal capacity. There were less than 10 residents over 18 years old under guardianship. If a person without family is placed under guardianship, a social worker from the respective Municipal Center for Social Work becomes a guardian, a weird situation since he/she is hardly able to exercise any guardianship duties, especially if he/she is from municipalities that are far away from Demir Kapija. Thus, in fact almost all decisions affecting the lives of the residents are taken by other people, who are not their guardians. This is a situation of lawlessness, which requires urgent action by the Macedonian authorities to adopt an appropriate legal framework for the protection of the rights of mentally disabled persons placed in a social care institution.

Before placement the Municipal Center for Social Work undertakes categorization of the person’s disability, which is done by the local medical professionals. This certification apparently doesn’t have anything to do with the determination of needs as in most of the cases persons placed in Demir Kapija

do not have individual programs designed to attend their needs. It has rather some relevance to the social welfare benefits the residents are entitled to.

Thus, according to the social worker, the following documents are required for placement:

- Social anamnesis;
- Decision for placement;
- Certification of the category of developmental disability;
- Personal medical journal;
- Personal record of vaccinations;
- Decision for the deprivation of legal capacity.

With the exception of the latter, all the residents of the social care institution in Demir Kapija have the above documents, which constitute their personal file upon admission. This file is filled with other documents produced during their stay at the institution and is kept and maintained by the social worker.

2.4.4. Material conditions and hygiene

Material conditions and hygiene differed between the “health” ward and the two other – the “new object” and the “UNICEF project”. The “health” ward is a big building the different floors and corridors of which hosted residents with different conditions. The IHF delegation was able to visit a number of such rooms and adjacent areas. Despite the fact that the staff did its best to clean, in expectation of the visit, the hygiene, especially in the toilets, left something to be desired. The living space per person in the ordinary rooms was between 2.5 and 6 sq. m., although in many cases it was hard for the residents, especially the bedridden ones, to use any space. The typical room in the “health ward” was 20-30 sq. m., with 5-8 beds, linoleum on the floor and a TV set. There were no lockers or other places to store personal belongings. When asked about this, the chief nurse explained, “the residents are not aware what the lockers serve for”. There was an access to daylight in all the rooms although in some it was not sufficient and they looked a bit dark. The electricity was turned on and off centrally.

Most of the day rooms visited by the delegation in the “health” ward served also as sleeping rooms. There the residents who can move spend most of their day watching TV or just hanging around. E.g. a day room of 20 sq. m. with five beds would host during the day 12 residents. This will probably make it hard for the residents who sleep in that room to use their beds during the day. Many residents walked in the “health” ward in pajamas and some had their heads shaved, according to the staff, because of lice.

The delegation visited several rooms for bedridden residents. One of them was 25 sq. m. with six beds, all occupied by residents, who spend in these beds most of their life. Apart from the beds, the room had only one table and a couple of chairs. Another room of 20 sq. m. hosted 8 bedridden juveniles and, in addition to their beds, had a cupboard, a wardrobe, a TV set and a couple of chairs. The ceiling was nicely decorated, which brought some joy in the cramped situation.

“Dangerous” residents were put together in separate rooms in C2 ward, a rather unwise decision, probably taken because the institution did not have enough staff to ensure appropriate supervision in an integrated environment. The delegation visited two such rooms – one for juveniles and one for

adults. The room for “dangerous” adults was the worst room the delegation saw in the institution. It had bars on the windows and was miserably furnished – there was nothing apart from the 11 beds of the residents and a heap of clean clothes on one of the beds. Another room for “dangerous” juveniles measured 30 sq. m. and had 10 persons, all of them in pajamas, guarded by an orderly. It had a TV, a wardrobe and nine chairs in addition to the beds.

In contrast to the “health” ward, the “new object” had a rather advanced material environment, suitable for the needs of the residents accommodated there. The ward consists of six apartments, each having four bedrooms with three beds, a kitchen, a day room (which served also as a dining room) and a renovated bathroom (much cleaner than the once in the “health” ward). In addition to the apartments, the ward had several rooms for activities and entertainment. It had a sewing room, a room for physical therapy, a room for “creative activities” (painting, cutting decorative patterns from paper, producing toys) and a big hall with 72 chairs. Part of the sewing room was equipped with instruments and workbenches for carpentry but at the time of the visit this activity had not started yet.

The small building of the “UNICEF project” consisted of several day rooms, in which the children were grouped and had activities together with the attending “defectologists”. There were four groups with five children in each group. The children were placed in groups according to their “mental age”. There were seven “defectologists” and two orderlies taking care of 20 children. The rooms were small but were nicely decorated and personalized. The building also had a clean kitchen.

Compared to the material conditions in the “new object” and in the “UNICEF project” the “health” ward seemed all the more miserable.

As the institution has many incontinent residents, washing on a daily basis is a must and it was organized in a separate unit with a huge task force. Drying in the hot summer day of the visit took place at a specially designated vast area in the yard of the institution.

2.4.6. Food

Food in the institution is provided on the basis of the national standards for nutrition in state institutions. These standards establish daily caloric values of the food for three different categories of residents: those who can consume only liquid food, those who are bedridden and those who can walk on their own. The respective daily caloric values of the food for these three categories are: 1,500 cal., 2,000 cal. and 2,300 cal.

2.4.7. Medical care

Medical care in the institution was provided by the medical personnel on the staff of the institution and by several medical practitioners hired on a temporary contract basis. The institution had one physician specialized in general medicine and 11 medical nurses on staff. In addition, it had contracts with five more specialists: a psychiatrist, a pulmonologist, a pediatrician, an X-Ray specialist and a dentist. The doctors were available only during the day but they could be called during weekends and holidays. The dentist visits the institution once in two weeks or when urgently needed. The nurses work on shifts. The first day shift was of two nurses and 25 orderlies and the second day shift – only with 22 orderlies. At night there is only one nurse and 11 orderlies on duty. Hospital care, including in cases of emergency, is provided by the hospitals in Kavadarci, Veles and Skopje.

About one half of the residents on the day of the visit were on psychotropic drugs (including anti-epileptics). Around 50 of them took neuroleptics, for the most part Chlorpromazine and Haloperidol. The staff admitted that in the past frequent use of these drugs lead to extra-pyramidal side effects, such as tardive dyskinesia. The delegation saw some, although not many, residents that exhibited such symptoms. According to the staff this problem is less prevalent now that the neuroleptics are normally indicated with appropriate correctors, such as Mendilex (Akineton).

The institution buys all the medicines from its budget. None of the residents can benefit from the so-called “positive list”, i.e. the list of medicines patients can get for free. The staff said that, despite this, they have enough funds to buy the necessary medicines.

When asked whether the staff used seclusion or restraint the Director said that they normally don't and that they try to calm the agitated residents with words. Only in rare occasions they would isolate the resident and administer an injection. There is no special room for isolation in such cases however. The only isolator the institution had was a room for isolation of people who had contracted infectious diseases, such as tuberculosis. On the day of the visit the institution had three such persons who were under the care of the Skopje Institute for Lung Diseases.

The number of deaths in the institution was on a decrease for the past four years. The trend was as follows:

2002 – 13 cases (3.3% of the residents);

2003 – 10 cases (3.7% of the residents);

No autopsy was performed in any of the cases for the past four years.

2.4.8. Rehabilitation and activities

The “new object” and the “UNESCO projects” were organized to serve as “models” and they differed from the “health” ward not only in material conditions but also in the scope of activities offered to the residents. The “health” ward offered very little in terms of rehabilitation and activities. For the most part the residents were maundering about in their bedrooms or in the day rooms or watching TV. In several rooms the delegation saw residents just lying on mattresses on the floor with an orderly staying or sitting besides and not doing anything. In the rooms for “dangerous” residents the orderlies were serving as guards constantly watching around residents who were standing or sitting idle, not engaged in any meaningful activity. The “health” ward had a “creative workshop”. There one of the “defectologists” was organizing painting and producing toys and textile products (shawls, serviettes), some of which were for sale. When visited by the delegation, however, there were only two residents there and the operation was rather small-scale to be able to offer activities for a significant number of residents.

In contrast, the “new object” and the “UNICEF project” offered a variety of activities involving all their residents. Every apartment in the “new object” had an educational specialist engaged with 10-12 residents in a variety of activities related to their daily life – preparing food, cleaning, making-up the beds and the rooms, listening to music, playing games etc. In addition, residents used the facilities in the sawing room, the physical therapy and the creative workshop in shifts under the supervision of the respective specialists. The “new object” had also a theatrical group. 40 residents took part in the Special Olympic Games for people with disabilities and won medals in football and table tennis.

In a similar manner, the children in the “UNICEF project” were taken care of in groups of 4-5 by qualified educationalists. They were offered a variety of activities – games, painting, music, walk in the open air. There was some training into basic skills. The children had individual programs and the educators had to file daily reports on their development. Some children were taught to read and write. The staff, although young and inexperienced, made a very good impression on the delegation with its patience and emotional involvement with the children.

Since the institution serves as the only social care institution for people with severe developmental disabilities for the entire Macedonia, family visits are a serious problem. Families, especially from Northern Macedonia have to travel big distances and to spend a lot of money in order to visit a relative in Demir Kapija. The institution itself does not offer facilities for accommodation of families and they would find it hard to find anything in the small town. This, combined with the fact that many residents were abandoned by their families, some at a very early age, explains why family visits in the institution were so rare. According to the staff, there were only 2-3 family visits per month. Only one mother came to visit her son every week.

2.5. Recommendations on the facilities for involuntary placement of mentally ill and mentally disabled persons

1. The procedure for civil commitment to a psychiatric institution for active treatment of persons in Macedonia should be brought in line with the international standards. More specifically, it should envisage:
 - a. An appearance in person before a court under a specific procedure for determination of the legality of his/her detention shortly after the initial placement;
 - b. Participation of a lawyer already from the moment of detention and obligatory representation during the entire proceedings, including the appeals. A system of adequate legal aid should be envisaged for the patients who are not able to pay lawyers' fees;
 - c. Conducting of the court hearings for involuntary hospitalization according to the due process standards, including a possibility of the committed to appear before the court in person, to present an alternative expertise, to have sufficient time for the preparation of his/her defense and to cross-examine witnesses.
2. The civil and the criminal commitment to a psychiatric institution for active treatment should be subject to ex officio judicial review periodically and in short periods of time.
3. Placement of persons under guardianship to psychiatric institutions for active treatment or to social care institutions for disabled persons should take place through a court procedure in accordance with the due process standards.
4. The law and the practice should envisage a procedure to seek an informed consent for treatment also from the involuntary patients, as well as a procedure to evaluate the capacity of the patient to give an informed consent for treatment. Advanced directives should be incorporated in the law, as legitimate forms of expression of a specific will.
5. Treatment methods in the psychiatric institutions in Macedonia should be diversified as much as possible and should include more activities.
6. Application of unmodified ECT in the neuro-psychiatric hospital in Negorci should be discontinued. Informed written consent for the application of ECT should be sought from the

patients.

7. All means of physical restraint in the psychiatric institutions in Macedonia should be based on law and registered in a special register. Patients should not be restrained in front of other patients. Mechanical restraint and long-term restraint should be avoided.
8. A very high priority should be given to improving the living conditions of patients in the 5-th and 6-th wards in the Demir Hisar Psychiatric Hospital and, in particular, to the renovation of the section's sanitary facilities and to providing all patients with a lockable space in which to keep their belongings.
9. Macedonian authorities should take urgent measures to improve the living conditions in the wards for patients with severe developmental disabilities in the neuro-psychiatric hospital in Negorci and to offer them appropriate care.
10. The government of Macedonia should develop a program for deinstitutionalization of social care for people with developmental disabilities, including support of families and protected housing, and thus ensure the continuation and further development of the UNICEF project.
11. The capacity of the Demir Kapija institution should be reconsidered and, if there is a need for such institutions at all, they should be established more evenly on the territory of Macedonia.
12. More qualified staff should be appointed in the Demir Kapija social care institution in order to ensure appropriate specialized care for the residents in the "health" ward.
13. The material conditions in the "health" ward in the Demir Kapija social care institution should be upgraded to the standards of the "new object" and the environment for all residents should be individualized.
14. Residents of the "health" ward in the Demir Kapija social care institution should be provided lockers for personal belongings and should be offered individualized clothes (not pajamas).
15. All residents in the Demir Kapija social care institution and especially those in the "health" ward should be offered meaningful activities and rehabilitation programs.

Summary of recommendations

Recommendations on the Ministry of Justice facilities:

1. The Macedonian authorities should allow for visits to all places of detention by human rights NGOs for monitoring purposes. Visits should be regular, unannounced and the organizations should be able to conduct private interviews with detainees and have access to the necessary documentation.
2. The Macedonian policy should follow the law and should ensure more diversified forms of custody and should allow for placement in individual and small-group cells and dormitories, according to prisoner's choices, which however should allow for common activities during the day and should not result to forms of custody akin to solitary confinement. Prisoners should not be forced to accept individual or small group accommodation if they want to stay in common dormitories.
3. Programs for rehabilitation and meaningful activities for prisoners should be organized and they should be kept engaged in such activities during the day. Organizations from outside the prison system should be involved as much as possible in providing such services. Remand prisoners should be also included in organized activities.
4. Legislation and relevant rules in Macedonia should be adopted to better regulate disciplinary measures and long-term isolations, with a view of limiting the possibility for arbitrary exercise of disciplinary powers by the prison staff. The prisoners should be given the right to effectively appeal these measures to an independent authority. Limits on the amount of time that a prisoner could spend in a disciplinary cell or in isolation within one year should be introduced.
5. Medical services in the institutions of the Ministry of Justice should be integrated with the national health care system. Doctors and other medical staff should be given independent status and supervised only by medical authorities to allow the fulfillment of their duties as medical professionals.
6. All prisons in Macedonia should have an official capacity established by an act of the government. Overcrowding in those prisons in which it exists should be overcome.
7. The government of Macedonia should consider dividing the prison in Idrizovo into smaller facilities in order to improve the management, distribute the prisoners held currently there more evenly on the territory of Macedonia and create a more humane atmosphere.
8. The government of Macedonia should pay a particular attention to the incidents of excessive use of force by the security guards in the Idrizovo prison. All such incidents should be carefully investigated and processed according to the law. Official inspections in the prison should be focused on the excessive use of force by the security guards as much as possible.
9. The government of Macedonia should take urgent measures to upgrade the material conditions and the regime in the pre-trial detention units in the prisons of Bitola, Tetovo, Štip and Ohrid. The same effort should be invested into the disciplinary cells in the entire prison system of Macedonia. Sufficient space and sufficient direct access of the prisoners to natural light should be ensured in all facilities and for all forms of custody. At present holding prisoners for prolonged periods of time in the pre-trial units of the prisons of Bitola, Tetovo, Štip and Ohrid and in the disciplinary cells in these and in the other prisons amounts to inhuman and degrading treatment contrary to international standards.
10. The use of solitary confinement as a disciplinary punishment of juveniles in Macedonia

should be immediately stopped as such practices constitute inhuman punishment contrary to international standards.

11. Arbitrary censorship of correspondence of the prisoners should be stopped. Correspondence should be monitored only on a case-by-case basis with a permission of an independent authority and only on the legitimate grounds provided for by the international law guaranteeing the right to privacy and due process.
12. Confidential visits and uncensored correspondence of the prisoners with their lawyers should be guaranteed at all times. Surveillance of the correspondence with the European Court of Human Rights in the Shutka prison should be stopped immediately.
13. The visit room in the Ohrid juvenile prison should be redesigned to allow for physical contacts of the juvenile prisoners with their visitors.
14. The Macedonian authorities should ensure that all prisoners, including those who are not sentenced and those undergoing disciplinary punishments, could spend at least one hour of suitable exercise in the open air daily.
15. The Macedonian authorities should ensure in law and in practice that all persons who are admitted to a prison are immediately examined by a qualified doctor. If there are injuries on their bodies they should be duly recorded together with their explanations. The doctor should immediately report on such situations to the prison director and to other relevant authorities.
16. The prison in Tetovo should stop admitting women, as the present conditions there do not allow for appropriate segregation and protection.
17. The prison system in Macedonia should make a concerted effort to recruiting women in the staff of all prisons.
18. Permanent surveillance with cameras in the cells of the prisoners in the Štip prison should be discontinued.
19. Premises for religious purposes should be built and arrangements with religious organizations should be made, so that the inmates are able to practice their religion, as no expression of interest does not equal lack of interest.
20. Restraint and use of anti-psychotic medication in the Shutka prison should be used only for medical purposes, on an indication by a doctor and under the supervision of a doctor.
21. The Juvenile Correctional Center should be immediately moved to its original premises in Tetovo or the present premises should be urgently upgraded and made appropriate to holding juveniles.
22. The Macedonian authorities should take urgent measures to segregate the juvenile prisoners in Shutka from the adult prisoners as required by international standards.

Recommendations on the facilities for involuntary placement of mentally ill and mentally disabled persons:

1. The procedure for civil commitment to a psychiatric institution for active treatment of persons in Macedonia should be brought in line with the international standards. More specifically, it should envisage:
 - a. An appearance in person before a court under a specific procedure for determination of the legality of his/her detention shortly after the initial placement;
 - b. participation of a lawyer already from the moment of detention and obligatory representation during the entire proceedings, including the appeals. A system of adequate legal aid should be envisaged for the patients who are not able to pay lawyers' fees;

- c. conducting of the court hearings for involuntary hospitalization according to the due process standards, including a possibility of the committed to appear before the court in person, to present an alternative expertise, to have sufficient time for the preparation of his/her defense and to cross-examine witnesses.
2. The civil and the criminal commitment to a psychiatric institution for active treatment should be subject to ex officio judicial review periodically and in short periods of time.
3. Placement of persons under guardianship to psychiatric institutions for active treatment or to social care institutions for disabled persons should take place through a court procedure in accordance with the due process standards.
4. The law and the practice should envisage a procedure to seek an informed consent for treatment also from the involuntary patients, as well as a procedure to evaluate the capacity of the patient to give an informed consent for treatment. Advanced directives should be incorporated in the law, as legitimate forms of expression of a specific will.
5. Treatment methods in the psychiatric institutions in Macedonia should be diversified as much as possible and should include more activities.
6. Application of unmodified ECT in the neuro-psychiatric hospital in Negorci should be discontinued. Informed written consent for the application of ECT should be sought from the patients.
7. All means of physical restraint in the psychiatric institutions in Macedonia should be based on law and registered in a special register. Patients should not be restrained in front of other patients. Mechanical restraint and long-term restraint should be avoided.
8. A very high priority should be given to improving the living conditions of patients in the 5-th and 6-th wards in the Demir Hisar psychiatric hospital and, in particular, to the renovation of the section's sanitary facilities and to providing all patients with a lockable space in which to keep their belongings.
9. Macedonian authorities should take urgent measures to improve the living conditions in the wards for patients with severe developmental disabilities in the neuro-psychiatric hospital in Negorci and to offer them appropriate care.
10. The government of Macedonia should develop a program for deinstitutionalization of social care for people with developmental disabilities, including support of families and protected housing, and thus ensure the continuation and further development of the UNICEF project.
11. The capacity of the Demir Kapija institution should be reconsidered and, if there is a need for such institutions at all, they should be established more evenly on the territory of Macedonia.
12. More qualified staff should be appointed in the Demir Kapija social care institution in order to ensure appropriate specialized care for the residents in the "health" ward.
13. The material conditions in the "health" ward in the Demir Kapija social care institution should be upgraded to the standards of the "new object" and the environment for all residents should be individualized.
14. Residents of the "health" ward in the Demir Kapija social care institution should be provided lockers for personal belongings and should be offered individualized clothes (not pajamas).
15. All residents in the Demir Kapija social care institution and especially those in the "health" ward should be offered meaningful activities and rehabilitation programs.

Annex: List of delegation members (in alphabetical order):

Antonia Papadopoulou, Greek Helsinki Monitor
Filipina Negrievska, Macedonian Helsinki Committee
Irina Sergeeva, Moscow Helsinki Group
Krassimir Kanev, Bulgarian Helsinki Committee
Lamija Muzurovic, International Helsinki Federation for Human Rights
Lidija Dameska, Macedonian Helsinki Committee
Mirjana Najcevska, Macedonian Helsinki Committee
Natasha Novakovic, Serbian Helsinki Committee
Sasko Todorovski, Macedonian Helsinki Committee
Slavka Kukova, Bulgarian Helsinki Committee
Tamas Fezekas, Hungarian Helsinki Committee
Vanina Nikolova, Bulgarian Helsinki Committee
Vjolca Mora, Macedonian Helsinki Committee
Zbigniew Lasocik, Polish Helsinki Foundation