

CPT/Inf (2012) 4

Report

**to the Government of
“the former Yugoslav Republic of Macedonia”
on the visit to "the former Yugoslav Republic of
Macedonia" carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 21 September to 1 October 2010

The Government of "the former Yugoslav Republic of Macedonia" has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2012) 5.

Strasbourg, 25 January 2012

Note:

In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

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Copy of the letter transmitting the CPT's report

Mr Vladimir Ristovski
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of
“the former Yugoslav Republic of Macedonia”
to the Council of Europe
13, rue André Jung
67000 Strasbourg

Strasbourg, 29 March 2011

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of “the former Yugoslav Republic of Macedonia” drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to “the former Yugoslav Republic of Macedonia” from 21 September to 1 October 2010. The report was adopted by the CPT at its 74th meeting, held from 7 to 11 March 2011.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the national authorities to provide within **six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the authorities of “the former Yugoslav Republic of Macedonia” to provide, in that response, reactions and replies to the comments and requests for information.

As regards the request for information and recommendation in paragraphs 25 and 27, the Committee requests that a response be provided within **three months**. Further, your attention is drawn to paragraph 58, in which the Committee requests to receive details of the occupancy numbers for each of the accommodation blocks in Idrizovo Prison, on an ongoing quarterly basis (starting from 30 June 2011).

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours sincerely,

Lətif Hüseynov
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

Copy: Ms. Olgica Vasilevska, Head of Council of Europe, OSCE and Multilateral Affairs
Department, Ministry of Foreign Affairs

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to “the former Yugoslav Republic of Macedonia” from 21 September to 1 October 2010. The visit was organised within the framework of the CPT’s programme of periodic visits for 2010; it was the Committee’s ninth visit to the country.

2. The visit was carried out by the following members of the CPT:

- Mauro PALMA, Head of delegation and President of the CPT
- Georg HØYER
- Isolde KIEBER
- Jim McMANUS
- Olivera VULIĆ
- Branka ZOBEC HRASTAR.

They were supported by the following members of the CPT’s Secretariat:

- Hugh CHETWYND (Head of Division)
- Caterina BOLOGNESE

and were assisted by:

- Veronica PIMENOFF, Expert for psychiatry at Helsinki Administrative Court (Finland)
- Fatos KICA (interpreter)
- Natalija KUNOVSKA-Cingarska (interpreter)
- Vladimir Ognjanovski (interpreter)
- Petrit Saracini (interpreter)
- Jasna Šoptrajanova-Vrteva (interpreter).

B. Establishments visited

3. The delegation visited the following places:

Establishments under the authority of the Ministry of Interior

- Centar Police Station, Skopje
- Bit Pazar Police Station, Skopje
- Gazi Baba Police Station, Skopje
- Gevgelija Police Station
- Gostivar Police Station
- Kavadarci Police Station
- Kumanovo Police Station
- Tetovo Police Station
- Veles Police Station

Establishments under the authority of the Ministry of Justice

- Idrizovo Prison
- Skopje Remand Prison
- Štip Prison
- Tetovo Prison (remand section)
- “Tetovo” Educational-Correctional Institution in Skopje Prison

The delegation also paid a targeted visit to Gevgelija Prison to examine certain files.

Institutions under the authority of the Ministry of Health

- Demir Hisar Psychiatric Hospital
- Negorci Psychiatric Hospital
- Skopje Psychiatric Hospital
- Closed Ward for Prisoners at Skopje Clinical Centre

Institutions under the authority of the Ministry of Labour and Social Policy

- Demir Kapija Special Institution for mentally disabled persons

Institution under the authority of the Ministry of Education

- University Institute of Forensic Medicine

C. Consultations held by the delegation

4. In the course of the visit, the delegation held consultations with Gordana JANKULOVSKA, Minister of the Interior, Mihajlo MANEVSKI, Minister of Justice, Bujar OSMANI, Minister of Health and Dzelal BAJRAMI, Minister of Labour and Social Policy. It also met Lidija GAVRILOSKA, Director of the Directorate for the Execution of Sanctions, as well as other senior officials from relevant Ministries. In addition, discussions were held with the Ombudsman, Ihxet MEMETI, and Deputy Ombudsman, Nevenka KRUSHAROVSKA.

Discussions were held with members of non-governmental and international organisations active in areas of concern to the CPT.

A list of the national authorities and organisations met by the delegation is set out in Appendix II to this report.

D. Cooperation between the CPT and the national authorities

5. The cooperation provided by the national authorities in facilitating the visit was very good, both at the central and local levels. Information about a possible visit by the Committee, and the delegation's mandate and powers, had been provided to places used for holding persons deprived of their liberty; consequently, the delegation had rapid access to the establishments it wished to visit, to the documentation it wanted to consult and to individuals with whom it wished to talk. In particular, the delegation would like to thank the CPT liaison officers for the assistance provided during the visit.

Regrettably, the CPT's delegation found that many of the recommendations contained in the Committee's previous visit reports, in particular as concerns prisons and psychiatric institutions, had still not been implemented. In certain cases, the national authorities had informed the CPT that action had been taken, whereas the findings on the ground showed that the situation had not improved; for example, as regards offering all prisoners on remand at least one hour of outdoor exercise every day. The CPT has stressed on many occasions that the principle of cooperation under Article 3 of the Convention requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. If no action is taken in the light of this report, the Committee will have no choice but to consider recourse to the procedure provided for in Article 10, paragraph 2, of the Convention¹.

¹ Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

E. Immediate observations under Article 8, paragraph 5, of the Convention

6. At the meetings which took place at the end of the visit on 30 September and 1 October 2010, the CPT's delegation made four immediate observations under Article 8, paragraph 5, of the Convention as regards the provision of outdoor exercise every day to inmates on remand, the conditions of detention in two units of Idrizovo Prison, the living conditions in two wards of Demir Hisar Psychiatric Hospital, and ill-treatment by staff and inter-patient violence in the psychiatric hospitals visited. The authorities were requested to provide by 20 October 2010 information on the action taken to:

- ensure that inmates on remand in all prisons are offered at least one hour of outdoor exercise every day, as has been repeatedly requested by the CPT in previous visit reports;
- transfer all prisoners out of the squalid conditions found in Units 2 and 5 of the closed section of Idrizovo Prison, beginning with Unit 5, until such time as the units have been rendered fit for holding prisoners;
- provide suitable alternative accommodation for patients held in the appalling conditions found in wards VII and VIII at Demir Hisar Psychiatric Hospital.

Further, the authorities were requested to provide by 15 December 2010 information on the action taken to carry out an independent inquiry into both ill-treatment of patients by staff and inter-patient violence at all three psychiatric hospitals, and to draw up an action plan to prevent ill-treatment.

7. By letters of 14 and 22 October 2010 and of 16 December 2010, the authorities informed the CPT of measures taken in response to the afore-mentioned immediate observations, and to other issues raised by the delegation at the end-of-visit talks. This information has been taken into account in the relevant sections of the present report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

8. The CPT's delegation carried out follow-up visits to the police stations in Gostivar, Kumanovo, Tetovo, Veles and in Skopje to Bit Pazar, Centar and Gazi Baba (also known as Avtokammanda). It also visited for the first time police stations in Gevgelija and Kavadarci.

9. In the course of the past few years, the CPT has noted a marked improvement in the professionalism of the police officers whom its delegations have encountered in the various police stations visited. The system-wide reforms that were initiated in 2004, including the adoption of a Police Law in November 2006, appear to be bearing fruit². Considerable investment has been made in the recruitment and training of police officers and in establishing an oversight mechanism within the Ministry of Interior on the actions of the police (see paragraphs 14 and 15). These reforms are to be welcomed. Nevertheless, the findings of the 2010 visit demonstrate that there can be no let up in the process of transforming mentalities within the police in order to eradicate the problem of ill-treatment.

2. Ill-treatment

10. The CPT has noted that the number of allegations of ill-treatment by law enforcement officials, as well as the severity of such allegations, has diminished since previous visits. Nonetheless, in the course of the 2010 visit, a significant number of persons interviewed by the delegation alleged that they had been ill-treated by police officers, primarily civilian crime inspectors and members of the mobile Alfa teams in Skopje. The alleged ill-treatment consisted of punches and kicks to the body and head as well as the use of batons. In most instances, the alleged ill-treatment is said to have taken place in the offices of the crime inspectors in police stations (and appeared to be related to attempts to extort confessions from the suspects) or during transfer from the place of arrest to a police station. Further, a number of allegations were made of detained persons being handcuffed to radiators or benches for prolonged periods, including during interviews, and of threats to use of force if the detained persons did not confess or sign a statement.

² See also CPT/Inf (2001) 20, paragraph 8; CPT/Inf (2006) 36, paragraphs 11 and 12; and CPT/Inf (2008) 5, paragraph 11.

11. The time of alleged ill-treatment pre-dated the delegation's visit by several weeks and any lesions which might have been caused would almost certainly have healed in the meantime. Further, as the medical screening of newly arrived prisoners is still not being carried out rigorously³, the files in the prisons visited were of little value for assessing treatment received at the time of police custody. Nevertheless, the delegation corroborated several of the allegations of ill-treatment through individual interviews with inmates in separate cells and through its findings from visits to certain police stations. By way of example, reference is made to the following two cases:

i) On 26 April 2010, two men, travelling with two young women, were apprehended in their car by plain-clothed police officers on the outskirts of Gostivar. One of the men alleged that he was punched, kicked and received blows from the butt of a pistol to his face after having been arrested but before he was brought to the police station. The daily log book at Gostivar Police Station showed that the two men arrived at the station at 10.15 p.m. However, no detention order was drawn up and no report on the apprehension of the individuals was compiled, apparently at the insistence of the Head of the Criminal Police of Gostivar. At 11 p.m., when the new head of shift at the police station assumed his duties, he filed an official note (n. 30.9.1 – 2677) highlighting that the detention order had not been filled out and that the detained persons had not been provided with the right of access to a lawyer or to a doctor. He also stated that “the commanding officer should take the necessary measures in the future to ensure respect for the Rulebook in terms of operational procedure”.

The official note also stated that at 11.05 p.m. one of the detained persons was sent to the Gostivar Medical Centre “due to the visible injuries obtained in the region of the head, i.e. the face”. The medical file at Skopje Remand Prison of the person concerned notes that on 28 April 2010 he entered the establishment with the following injuries: bruising to the face and jawbone, and a fracture of the nose (“contusio faciei et mandibulae, Fractura ossis nasalis”). The person concerned also alleged to the delegation that three of his teeth were broken during the beating. Further, he claimed that one of the persons who allegedly took part in his apprehension and beating, and who was also present when he was interviewed, was not a police officer but the father of one of the young women who had been in his car at the time of the arrest. This claim was corroborated by other sources.

ii) A person who was apprehended in the street in Skopje, on 15 March 2010, by members of the Alfa mobile police unit alleged that he received kicks to the head and body after he had been handcuffed and was lying prostrate on the ground. He further alleged that he was punched in the face during the journey to Centar Police Station and while being interviewed, and that on several occasions cold water was thrown in his face to keep him awake. A doctor visited him at the police station and recorded “injuries on the left side of his brow, on his forehead, in the right side and on his nose”. Further, his medical file upon admission to Skopje Remand Prison notes “Dg: haematoma reg. oculi sinistri. Beaten by police”.⁴

The CPT recommends that the national authorities carry out investigations into the allegations of ill-treatment in the above-mentioned cases. As regards case (i), the investigation should include an examination of whether there was a deliberate attempt to circumvent the safeguards in place for persons deprived of their liberty as well as the question of the alleged role of a civilian in a police operation.

³ See also paragraphs 67 and 68 of the report.

⁴ It should be noted that a full body examination was not carried out upon admission to prison.

12. The information gathered in the course of the 2010 visit highlights the necessity for continued determined action by the authorities to address the issue of ill-treatment by the police. The rule of law entails not only the adoption of the appropriate legal norms but also taking the necessary steps to ensure their application. There should periodically be an instruction from the Chief of Police explicitly reminding police officers that infringements of the law will result in criminal and disciplinary sanctions. This message of zero tolerance of ill-treatment of detained persons should be backed up at the political level (e.g. the Minister of Interior).

The CPT recommends that the national authorities strenuously reiterate the above message of zero tolerance of ill-treatment of persons deprived of their liberty and reinforce it with a statement at the appropriate political level.

Further, as stated in previous reports, it is essential that police officers view ill-treatment as an unprofessional means of carrying out their duties, as well as being a criminal act. In this respect, **the national authorities should ensure that an investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their line-management responsibilities. Further, they should pursue their policy of strict selection criteria at the time of recruitment and the provision of adequate professional training, both initial and in-service.**

13. As stressed in previous reports, it is imperative that prosecutors and judges take appropriate action when there are indications that ill-treatment by the police may have occurred. Yet, it would appear that no action has been taken by the relevant authorities to ensure implementation of the Committee's recommendation that, whenever persons brought before a prosecutor or judge allege ill-treatment by law enforcement officials, the prosecutor/judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated.

In the course of the 2010 visit, the CPT's delegation again received several allegations that prosecutors and judges did not act upon claims of ill-treatment when they were brought to their attention.

The CPT recommends, once again, that the relevant authorities ensure that prosecutors and judges take appropriate action when they receive information indicative of ill-treatment.

14. In the reports on previous visits, the CPT has been critical of the system of accountability for law enforcement officials in cases of alleged ill-treatment⁵; the conclusion was that even when detained persons manifest visible injuries or do indicate to an investigating judge and/or prosecutor that they have been ill-treated, there is no guarantee that any effective investigation would be set in motion.

The CPT recalls that if police ill-treatment remains unchallenged by the criminal justice system, such conduct can easily become an accepted feature of police practice. It is therefore crucial that the authorities responsible for the carrying out of preliminary investigations and criminal proceedings take effective action when any information indicative of possible ill-treatment comes to light.

⁵ See the reports on the visits of July and November 2002, July 2004, May 2006 and June/July 2008 (www.cpt.coe.int/en/states/mkd.htm).

The criteria which an investigation into cases of alleged ill-treatment must meet in order to be qualified as “effective” have been established through an abundant case-law of the European Court of Human Rights, and were already highlighted in previous visit reports⁶. In particular, the investigation should be *thorough*, it should be conducted in a *prompt* and *expeditious* manner, and the bodies responsible for carrying out the investigation should be *independent* of those implicated in the events. Genuine endeavours by the competent authorities to meet these requirements and uphold the rule of law will have an important dissuasive effect on those minded to ill-treat persons deprived of their liberty.

15. The CPT has taken due note that the Sector for Internal Control and Professional Standards (SVKS) has been reinforced in the past few years in terms of the resources devoted to it (currently 40 staff members with plans to increase the complement to 60), and as regards its status within the Ministry of Interior; an assistant Minister now heads the sector and reports directly to the Minister.

The CPT acknowledges the investment made by the authorities to improve the effectiveness of the Sector through increasing the professionalism of the staff. However, despite a more systematic approach towards investigations and the duty to investigate any event within 24 hours, it would seem that the results remain limited. In 2009, of 79 complaints concerning disproportionate or unlawful use of physical force by police officers, six were considered grounded and two resulted in a criminal investigation being launched. In the first eight months of 2010, out of 35 cases four were considered grounded and have led to the imposition of disciplinary sanctions, but the SVKS did not know the nature of the penalties. It was acknowledged that the Sector had no influence as regards the disciplinary sanctions, which remained in the hands of the superiors of the police officer in question. The CPT remains concerned that the outcome of the work of the Sector does not appear to be having a dissuasive effect on the actions of those police officers minded to ill-treat detained persons.

The CPT would appreciate the comments of the national authorities on the effectiveness of the SVKS, in the light of the above remarks. Further, it would like to receive a full breakdown of the disciplinary and/or criminal sanctions imposed on law enforcement officials for the years 2008 to 2010 in respect of ill-treatment, including a summary of the ill-treatment of which they were accused.

⁶ See in particular CPT/Inf (2006) 36, paragraphs 31 to 37 and CPT/Inf (2008) 5, paragraphs 34 to 36.

16. Further, the previous criticism by the CPT relating to the lack of structural independence of the Sector remains pertinent. This issue is of particular importance when allegations of ill-treatment or improper action by law enforcement officials are made in the context of high profile operations. For example, in its report on the July 2008 visit, the CPT recommended that an independent investigation be carried out into the allegations of ill-treatment made in the context of operation “Mountain Storm”, which took place on 7 November 2007 in the village of Brodec. The national authorities stated in their response to the CPT’s report that the SVKS “has performed detailed investigation regarding the operation, thus has estimated that it is a professionally planned, professionally performed and the goals for which is planned are achieved, and the means of force and firearms are used according to the legal regulations”⁷. Such a response is inadequate in the face of the detailed allegations made by the persons detained in the operation, the widespread circulation of photographic evidence of injuries indicative of ill-treatment (as well as the recording of one person being ill-treated in a police station) and the medical documentation relating to the hospitalisation of certain of the arrested persons.

It should be clearly understood that the CPT is not calling into question the conduct of the operation in the village of Brodec. However, it is extremely concerned that those persons arrested in the course of the operation may well have been subjected to ill-treatment by law enforcement officials in the hours following their apprehension, during transport to Skopje and in the police station in Skopje. The extent of their injuries meant that they had to be hospitalised. Regrettably, upon admission to Skopje Remand Prison their injuries were not noted down despite being visible, and their allegations of ill-treatment were only recorded once their case had been publicised on the internet.

The CPT reiterates its recommendation that an independent body is entrusted to carry out a new and effective investigation into the allegations that persons detained in the course of Operation Mountain Storm were ill-treated during their transport to Skopje and while being held in police stations in Skopje. It wishes to be provided in due course with a copy of the investigative acts and of the formal conclusion of that investigation.

3. Safeguards against ill-treatment

17. The CPT continues to be concerned about the inadequate application in practice of the formal provisions regarding safeguards against ill-treatment – namely, the right of those concerned to inform a close relative or another third party of their choice of their situation; the right of access to a lawyer; and the right of access to a doctor. Further, it would appear that persons deprived of their liberty by law enforcement officials are not always informed without delay of all their rights, including those mentioned above.

⁷ See CPT/Inf (2008) 32, page 21.

18. As regards the right of access to a lawyer, the CPT's delegation found that the situation had not evolved since previous visits. Yet again, in spite of the clear obligation in law⁸ to grant access to a lawyer as from the outset of deprivation of liberty, this rarely occurred. Only a few detained persons met by the delegation said that they had been granted access to a lawyer while in police custody; and most of these persons claimed that access had been delayed until the end of the preliminary investigation (i.e. up to 24 hours after their apprehension). The vast majority of persons met stated that they had not had an opportunity to consult with a lawyer, in private, prior to appearing in court. And many persons complained that the duty lawyer provided for the court hearing did nothing more than sit in silence throughout the proceedings.

The custody records in the police stations visited bore out the fact that the vast majority of apprehended persons did not have access to a lawyer. For example, at Gazi Baba Police Station in Skopje, only 44 of 752 detained persons were provided with access to a lawyer (i.e. less than 6%) during the first eight months of 2010. Similar percentages were in evidence at Bit Pazar and Centar Police Stations. Police officers in all but one station visited by the delegation stated that a lawyer would only be called if a detained person had the means to pay for one; the exception was Veles Police Station, which had a list of ex officio lawyers that could be called by detained persons.

The CPT recalls that it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons taken into custody to have access to a lawyer during this period is a fundamental safeguard against ill-treatment⁹.

The CPT again calls upon the national authorities to take action without delay to ensure that the right of access to a lawyer for all persons deprived of their liberty by law enforcement officials is rendered fully effective in practice, as from the very outset of deprivation of liberty.

19. The right of persons in police custody to have access to a doctor continues to be problematic. In the course of the visit, several persons who alleged ill-treatment by law enforcement officials stated that they had not been offered the opportunity to contact a doctor. Records in the police stations visited lend credence to these claims. The "right to medical assistance" contained in Article 34 of the Law on Police, which entered into force on 11 November 2007, appears not to be effective.

⁸ See amended Law of Criminal Procedure (Official Gazette of the Republic of Macedonia No. 74/04), Article 74, amending paragraph 5 of the existing Article 188. "When in police custody a person deprived of freedom asks assistance from a lawyer, the authorized officer of the Ministry of the Interior shall enable the person to call a defence counsel or defence counsel shall be provided, and the authorized officers shall delay the undertaking of all actions until the defence counsel has appeared, or up to two hours from the moment the defence counsel has been informed."

⁹ See also CPT/Inf (2008) 5, paragraph 20.

The CPT reiterates its recommendation that national authorities supplement the above-mentioned general legal provision with specific instructions on this matter, stipulating *inter alia* that:

- **a doctor must be called or a person taken to a medical facility without delay if a detained person requests a medical examination;**
- **a person taken into police custody has the right to be examined, if he or she so wishes, by a doctor of his or her own choice, in addition to any medical examination carried out by a doctor called by the police authorities** (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his own expense); if considered necessary in the interests of the investigation, the doctor of a detained person's choice could be accompanied by a medical officer appointed by the police;
- **all medical examinations of persons in police custody, whether carried out on police premises or in a health care facility, are to take place out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers;**
- **the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, should be recorded in writing by the doctor and made available to the detained person and upon request to his or her lawyer.**

20. In the course of the visit, the CPT's delegation came across the case of two unaccompanied foreign minors who had been held in Centar Police Station in Skopje for eight hours before being driven to the border and expelled from the country. Prior to their deportation, the minors were not given access to a lawyer or legal guardian, nor were they seen by a doctor. Further, the minors were not screened with a view to ensuring that they was no risk of inhuman or degrading treatment should they be sent back to their country of origin, nor were they presented before a judicial authority to challenge the legality of the expulsion order. The practice of expulsion of unaccompanied minors should be stopped immediately as it exposes minors to a risk of ill-treatment and exploitation.

The CPT considers that following the principle of the "best interests of the child", as formulated in Article 3 of the United Nations Convention on the Rights of the Child, the detention of unaccompanied children is rarely justified and, in the Committee's view, can certainly not be motivated solely by the absence of residence status. When, exceptionally, a child is detained, the deprivation of liberty should be for the shortest possible period of time; all efforts should be made to allow the immediate release of unaccompanied children from a detention facility and their placement in more appropriate care. Further, unaccompanied children deprived of their liberty should be provided with prompt and free access to legal and other appropriate assistance, including the assignment of a guardian or legal representative. An assessment should be made of the child's particular vulnerabilities, including from the standpoints of age, health, psychosocial factors and other protection needs, including those deriving from violence, trafficking or trauma.

The CPT recommends that the national authorities put in place clear guidelines for law enforcement officials on how to deal with unaccompanied foreign minors, and that the appropriate support structures be established.

Likewise, all juveniles detained in a police station should not make any statement or sign any document related to the offence of which they are suspected without the benefit of a lawyer and ideally another trusted adult being present. Such a presence should be obligatory every time a juvenile is deprived of his or her liberty. Regrettably, this was not the case for several children detained in Gostivar Police Station in June 2010. **The CPT recommends that the necessary steps be taken to ensure that such a situation does not occur again.**

21. The CPT's delegation learned that, at Kumanovo Police Station, detained persons were not physically brought before the judge when the question whether to remand a detainee in custody or to release him was considered. Instead, the procedure was conducted over the telephone, with the judge apparently asking certain questions relating to the arrest and physical condition of the detained person before deciding whether to prolong the detention or release the suspect. This is not lawful under national law¹⁰ and is of great concern to the Committee, as the physical presentation of suspects to the judge is another key safeguard against ill-treatment.

The CPT recommends that the national authorities take immediate steps to ensure that all persons detained by the police are brought into the direct physical presence of the judge responsible for deciding the question of the possible extension of their detention or their release.

4. Material conditions

22. At the time of the visit, most of the detention facilities in the police stations seen by the delegation were in the process of being renovated (Bit Pazar, Centar, Gevgelija, Gostivar and Tetovo). At Gazi Baba Police Station in Skopje, the four basement detention cells were in a poor state of repair and malodorous, with a pervasive smell of urine. They had no access to natural light, ventilation was poor and they possessed no call bells. Four new cells offering better conditions of detention had been constructed on the ground floor of the station but it was not known when they would be brought into service.

At Veles Police Station, the four operational basement cells were all clean but three of them were very small (4.5 m²); these cells should not be used for overnight detention. None of the four cells had access to natural light and artificial lighting was limited. Further, the cells did not possess call bells. Similar deficiencies were evident in the five cells at both Kavadarci and Kumanovo Police Stations. Further, at Kavadarci Police Station, cell no.1 (measuring less than 4m²) should not be used to hold a person for longer than a few hours.

¹⁰ It is also not in compliance with Article 5, paragraph 3, of the European Convention on Human Rights (see Grand Chamber judgment of 12 May 2005 in the case of *Öcalan v. Turkey*).

At Gostivar Police Station, a two-cell detention area was in the process of being constructed. In the meantime, detained persons were kept in a waiting room in the police station. At Tetovo Police Station, the new detention area was in a small building separated from the main police station and was expected to become operational in the near future. Regrettably, the three cells (and the staff room) had almost no access to natural light, were damp and ventilation was poor. Further, the light fittings above the cell doors were both dangerous and inappropriate for use in a detention cell.

The CPT recommends that the national authorities take the necessary steps to remedy the above-mentioned deficiencies and to review the use made of cells, in the light of the above remarks. Further, it would like to receive details on the refurbishments carried out in the detention areas of the police stations visited.

5. University Institute of Forensic Medicine

23. The CPT's delegation again visited the University Institute of Forensic Medicine in Skopje, which falls under the supervision of the Ministry of Education, in order to follow up certain deaths in custody.

The delegation was informed that, despite the Institute possessing international accreditation in respect of its procedures and laboratories, judicial authorities do not always request the Institute to perform forensic examinations in relation to a death in custody. Instead, private doctors with no forensic training can be asked to perform such tasks. The delegation was also informed that a new institute under the Public Prosecutor's Office would be established to carry out forensic medical testing and autopsies. The reason for such a development was not clear. However, the CPT is concerned that the new proposed institute will lack the appearance of independence and that the quality of forensic work will be diminished given the rigorous demands of international accreditation.

In addition, the CPT is concerned that forensic autopsies were not being ordered in all cases where deaths had occurred in an establishment where persons are held in custody, contrary to the recommendations of the European Council of Legal Medicine and of the Council of Europe¹¹.

The Committee would like to receive the comments of the authorities in respect of these matters. Further, it wishes to be informed of the reasons why the Public Prosecutor's Office intends to set up its own forensic medicine service.

¹¹ See Recommendation Rec(99)3 of the Committee of Ministers of the Council of Europe to member states on the harmonisation of medico-legal autopsy rules.

B. Prison establishments

1. Preliminary remarks

a. reform of the prison system

24. In its previous reports, the CPT highlighted a number of serious concerns as regards the situation in prisons visited; notably, ill-treatment by prison officers of inmates, the abusive use of means of restraint, deplorable material conditions, the absence of any regime, the lack of managerial capacity and alleged widespread corruption among staff, inadequate provision of health care and the lack of any supervision of the prisons. Further, it emphasised the importance of the authorities developing a professional managerial career path within the prison administration, based exclusively upon the competencies required for managing an evolving system.

The 2010 visit by the CPT was an opportunity to examine the progress made in the main prison establishments in the country to address the concerns raised by the Committee.

25. The Minister of Justice provided the CPT's delegation with information on the improvements made to Idrizovo, Skopje and Štip Prisons. He also updated it on the various plans to build new prisons and renovate existing ones, with the support of the recently approved Council of Europe Development Bank loan of 46 million Euros and another 6 million Euros pledged by the authorities.

The strategic plan for prisons, updated and adopted by the Government on 27 April 2010, comprises three main components:

- improving the conditions of detention in existing prisons and enlarging the capacity of the prison estate through building a new establishment in Kumanovo with an expected capacity for 250 inmates, enlarging Skopje Prison and completely re-building Idrizovo Prison; the construction of the facilities should be completed by the end of 2014;
- investing in the training and recruitment of prison staff;
- developing and implementing a plan for the re-socialisation of sentenced prisoners, including the development of standard operating procedures for risk-assessing inmates, developing a number of treatment programmes for different categories of prisoner and enhancing the educational and vocational activities that prisoners can attend.

These developments are positive and **the CPT wishes to be kept fully informed about the implementation of the above-mentioned projects.**

26. That said, the findings of the 2010 visit demonstrated that fundamental change in a number of areas is still required in respect of the prison system. The development of a professional management approach within prisons has been raised by the CPT in the past but has still not been addressed by the authorities to date. Further, insufficient action has been taken to ensure that each prison establishment is properly staffed, or as regards the categorisation of prisoners, the development of a purposeful regime for prisoners, the institution of an effective system of reporting and supervision, the provision of adequate health care and appropriate material conditions, etc. Further, the CPT's delegation formed a strong impression that the largest establishment, Idrizovo Prison, was being run on the basis of collusion between staff and convicted inmates (see paragraph 36).

The CPT also remains concerned that current legal provisions are not being implemented (such as the right to two hours of outdoor exercise every day for remand prisoners as laid down in the 2004 Criminal Procedure Code), despite the Committee having drawn the attention of the authorities to such problems on several occasions¹². And at Skopje Prison, internal house rules for remand prisoners had still not been drawn up.

27. The considerable investment that is to be made by the national authorities to provide decent conditions of detention may be undermined if concerted action is not taken to tackle the systemic deficiencies referred to above. The CPT's delegation observed for itself how recently renovated or constructed prison wings were rapidly deteriorating due to a combination of poor management, insufficient maintenance, lack of activities, poor hygiene and overcrowding. The CPT considers that the strategic plan developed by the Ministry of Justice should be the subject of a critical reassessment, with a view to mapping out, with identifiable objectives, the steps needed to develop a professional management capability in prisons and to ensure that prison staff are both properly trained and sufficient in number. Discussions should also be had with other relevant ministries and bodies when devising the range of educational and vocational activities to be performed in prison and in guaranteeing that health care in prison meets the principles of equivalence of care and independence of the service.

The CPT recommends that the national authorities urgently review the strategic plan on prisons, in the light of the above remarks and, where necessary, seek outside assistance. In particular, expert advice should be sought in relation to the development of a professional management approach within prisons and the question of addressing staff development needs (see also paragraphs 43 and 44).

28. The prison population has increased by some 25% to 2,505 inmates¹³ (2,158 sentenced prisoners and 347 persons on remand) in the four years since the periodic visit in May 2006, for an overall official capacity of some 2,000. During this time, additional capacity has been created with the construction of a new wing at Skopje Remand Prison and of a closed section at Štip Prison. However, overcrowding persisted in these establishments and remained a chronic problem in Idrizovo Prison.

¹² See CPT/Inf (2008) 5, paragraphs 43 and 70, and CPT/Inf (2008) 31, paragraph 11.

¹³ Prison Population rate of 122 per 100,000 of national population, based on an estimated national population of 2.05 million (from Eurostat Yearbook of September 2010).

The proposed prison building project referred to in paragraph 25 above will no doubt alleviate the current problems of overcrowding within the prison system. Nevertheless, it is unlikely to represent a lasting solution to the challenge of an increasing prison population. In line with the Council of Europe's Committee of Ministers Recommendations Rec (2000) 22 on improving the implementation of the European Rules on community sanctions and measures and Rec (2010)1 on the Council of Europe Probation Rules as well as other relevant recommendations¹⁴, policies which promote the use of alternatives to custody and limit the number of persons being sent to prison are also required. **The CPT recommends that the national authorities actively pursue multi-faceted policies designed to put an end to overcrowding in prisons.**

b. prisons visited

29. In the course of the 2010 visit, the CPT's delegation carried out follow-up visits to Idrizovo Prison and Skopje Remand Prison, and visited Štip Prison for the first time since it had been converted into a closed-type establishment. It also carried out targeted visits to the remand section of Tetovo Prison and to the closed unit in the State Hospital in Skopje, and visited Gevgelija Prison to examine certain files.

30. *Idrizovo Prison* started functioning as a prison in 1953. It is situated to the south-east of Skopje on a site of 160 hectares of arable land. The prison accommodates male recidivists serving sentences of more than six months and other persons sentenced to more than two years. It also holds all sentenced foreign prisoners, all sentenced female prisoners and female juveniles sentenced to an educational-correctional institution. At the time of the 2010 visit, the prison was accommodating 1,214 sentenced inmates for an official capacity of 850 male and 50 female prisoners.

Skopje Prison, located at Šutka in one of the northern neighbourhoods of Skopje, has an official capacity of 126 sentenced prisoners but at the time of the visit accommodated 186, including 54 in the closed section who were serving sentences of up to three years. Skopje Prison also has the largest remand section in the country and all persons accused of a crime which carries a penalty of 10 years or more of imprisonment are transferred to Skopje to be held on remand. The recent addition of a two-storey unit (D and G wings), built down the middle of the former large exercise area dividing the two existing wings, has increased the official capacity of the remand section to 310¹⁵. At the time of the visit, there were 271 inmates on remand, including 12 females, one female juvenile and one male juvenile.

Štip Prison, located on 30 hectares of arable land just outside the town of Štip, had recently been renovated. The prison consisted of a closed section (for persons sentenced up to 15 years' imprisonment) and a semi-open section, with an official capacity of 74 and 126, respectively. At the time of the visit, both sections were full.

Tetovo Prison, located in the centre of Tetovo, was holding 66 sentenced prisoners and 23 persons on remand, for an official capacity of 65 and 28, respectively.

¹⁴ Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation; Recommendation Rec (2003) 22 on conditional release (parole); and Recommendation Rec (2006) 13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse

¹⁵ The normal capacity is calculated at 282 places (A wing, 18 beds; B wing, 58 beds; C wing, 64 beds, G wing, 52 places and D wing, 90 places), with an option to add 10 and 18 beds, respectively, to D and G wings.

2. Ill-treatment

31. The CPT's delegation received a number of credible allegations of ill-treatment of prisoners by staff in Idrizovo and Štip Prisons. The alleged ill-treatment mainly consisted of being beaten with truncheons as well as being kicked and punched. For example, in *Idrizovo Prison* the delegation received several allegations that the beating of prisoners by staff continued to occur in the office on the ground floor of the closed part of the prison, prior to being placed in solitary confinement¹⁶.

A recent case of ill-treatment of several prisoners apparently occurred on 21 August 2010, following the escape of two prisoners via the bathroom of the "school" unit. Four inmates were allegedly taken to the officers' room and beaten with rubber truncheons and sticks because they had not informed the officers of the escape. They were subsequently placed in solitary confinement. Two days later a prison doctor noted down that one inmate "complained of being beaten as suspected of assisting escape; on his back haematomas 15 cm and 20 cm. Truncheon? Haematoma on left arm". The doctor also noted swelling on the back of the neck and the inmate was sent to hospital to be x-rayed. This particular case was being looked at by the Ombudsman's Office, but no official investigation had been opened at the time of the visit. **The CPT recommends that such an investigation be carried out.**

At *Štip Prison*, several allegations of physical ill-treatment and verbal abuse were received from prisoners in relation to one particular shift of officers, the head of which apparently incited harsh behaviour towards inmates. One inmate alleged that on 18 September 2010 two prison officers entered his solitary confinement cell and delivered several blows with their batons to his body. The apparent reason for this ill-treatment was that the inmate had some time earlier absconded from the prison during the officers' shift. The senior management of the establishment acknowledged that the shift of prison officers in question was problematic but assured the delegation that action would be taken. **The CPT wishes to receive full details of the measures taken on this matter.**

32. The CPT's delegation received hardly any allegations of ill-treatment of inmates by staff at *Skopje Prison*. However, it did receive further information about a case already in the public domain relating to the alleged beating of several prisoners by staff of the establishment in April 2009. Four prison officers involved, who received only light disciplinary sanctions and continued to have daily contact with inmates following the incident, are currently the subject of criminal proceedings. **The CPT would like to be informed about the outcome of those proceedings.**

¹⁶ See CPT/Inf (2008) 5, paragraph 44.

33. Although fewer allegations of ill-treatment of prisoners by staff were received in the course of the 2010 visit, the CPT remains concerned that the inadequate management and supervisory systems in place have failed, to date, to bring an end to the practice of some prison officers resorting to violence. The Committee wishes to recall that the State is under a duty to provide care for all persons deprived of their liberty in prison, and that the frontline in providing such care rests with prison officers. The authorities must not only undertake a proper investigation into allegations of ill-treatment, but also institute measures to ensure that all prison officers and managers understand why ill-treatment is unacceptable and unprofessional and that, furthermore, it will result in severe legal sanctions.

The CPT recommends that the Minister of Justice and Director of the Prison Administration deliver a clear message to all custodial staff that ill-treatment of prisoners is not acceptable. Further, all necessary steps should be taken to ensure that any ill-treatment is the subject of severe penalties.

34. The credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. For this reason it is essential that whenever there are grounds to believe that an inmate may have been ill-treated either within the prison or by law enforcement officials prior to being remanded to prison, the prison authorities should bring this matter to the attention of the General Prosecutor's Office. In this respect, a fundamental safeguard against ill-treatment and impunity is the requirement for a thorough medical examination to be conducted on prisoners following a violent incident or use of force within an establishment as well as on all newly admitted inmates.

However, in the light of the information gathered in the course of the 2010 visit, it appeared that medical staff in the prisons visited were not documenting the injuries of prisoners in detail or with the necessary precision, nor were they stating whether or not injuries observed were consistent with any allegations of ill-treatment being made by the prisoner (see also paragraph 68 below).

Further, in addition to carrying out an effective investigation into an allegation of ill-treatment, it is imperative that the sanctions imposed are adequate. Moreover, prison officers who are under investigation for possibly inflicting ill-treatment on prisoners should not continue to carry out duties which bring them into daily contact with inmates while the matter remains under investigation.

The CPT recommends that the national authorities put in place a comprehensive policy for the identification and investigation of allegations of ill-treatment. In this context, where the results of a medical examination suggest that a prisoner has suffered ill-treatment, there should be an obligation on doctors to automatically notify the prosecutor's office; any statement made by the prisoner concerned should also be transmitted.

In addition, the Committee recommends that when allegations of ill-treatment by prison staff are brought to the attention of the prison management, the staff members concerned be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation.

35. Inter-prisoner intimidation/violence remained a significant problem in Idrizovo Prison and yet the authorities were undertaking no measures to combat it. Numerous incidents of fights among prisoners occurred as various groups battled to control the trade in drugs, mobile phones, etc. Other prisoners were threatened and intimidated by such groups. Allegations were received that prison officers deliberately left the gates to certain wings in the closed section unlocked to facilitate certain groups of prisoners to collect their debts or mete out punishment to other inmates.

At Idrizovo Prison, the CPT's delegation observed the pervasive neglect by staff and management to ensure decent and safe living conditions for prisoners. Supervision of prisoners appeared to be largely delegated to privileged inmates (who even possessed the keys to the various rooms and dormitories the delegation wished to visit), and was based on informers, favours, threats and control of access to facilities and privileges. The consequence was endemic violence and intimidation. Some staff members even told the delegation that they no longer felt in control of the prison.

36. Further, in Idrizovo Prison, the delegation noted that prison officer numbers were extremely low and that not only did they lack the proper training to carry out their tasks but they were also poorly managed and did not receive the necessary support. The result of this state of affairs is that staff can be tempted to take out their frustrations on prisoners – through the deployment of violence and intimidation against weaker prisoners or following particular incidents, such as in the aftermath of an escape (which reflects badly on them); or to allow prisoners to regulate their own feuds by, for example, not intervening to prevent inter-prisoner violence.

To sum up, the delegation formed the strong impression that the prison was de facto being run on the basis of implicit collusion between staff and inmates. The effects of this collusion could be seen through the identification of three different categories of prisoner within Idrizovo Prison:

- the majority of prisoners who lived in totally unacceptable conditions and in units where it appeared staff had given up on imposing order (i.e. the unrenovated units of the closed section of the prison and to a lesser extent the “school”, admission and medical units);
- a sizeable minority of prisoners who lived in poor conditions (i.e. in the newer parts of the closed section and the protection wing);
- those privileged few prisoners who possessed custom designed cells (wooden framed beds, carpets, fish tanks, curtains, flat screen televisions, etc.) and who appeared in a position to obtain whatever they desired. Indeed, these prisoners would openly make telephone calls with their mobiles in the presence of staff.

The lack of clear and accountable rules combined with an absence of any effective managerial supervision has permitted this culture of arbitrariness, privilege and neglect to flourish.

37. The CPT has stressed in the past that the duty of care, which is owed by the prison authorities to prisoners in their charge, includes the responsibility to protect them from other prisoners who might wish to cause them harm. In particular, prison staff must be alert to signs of trouble and be both resolved and properly trained to intervene. Such a capacity to intervene will of course depend *inter alia* on an adequate staff/prisoner ratio (see also paragraph 37 below). In addition, the prison system as a whole must develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together.

Further, prison staff are unlikely to be able to protect prisoners if they fear for their own safety or if they lack effective management support. Tackling effectively the problems posed by inter-prisoner violence entails the availability of sufficient numbers of staff and ensuring that staff receive the requisite initial and advanced training throughout their careers. The implementation of an individualised risk and needs assessment of prisoners is also required.

The CPT recommends that the authorities devise a national strategy to combat inter-prisoner violence; part of this strategy will have to include investing far more resources in recruiting additional staff and promoting their professionalism. In addition, steps must be taken to improve the quality of supervision and decision-taking in Idrizovo Prison.

3. Staffing

38. The CPT has repeatedly emphasised that the climate in a prison is largely dependent on the quality and resources of its personnel. Ensuring a positive climate requires a professional team of staff, who must be present in adequate numbers at any given time in detention areas and in facilities used by prisoners for activities. Prison officers should be able to deal with prisoners in a decent and humane manner while paying attention to matters of security and good order. The development of constructive and positive relations between prison staff and prisoners will not only reduce the risk of ill-treatment but also enhance control and security. In turn, it will render the work of prison staff far more rewarding.

There must be enough staff to correctly supervise the activities of prisoners and support each other in the performance of their duties; further, management must be prepared to back up staff fully in the exercise of their authority. An overall low staff complement which diminishes the possibilities of direct contact with prisoners will certainly impede the development of positive relations; more generally, it will generate an insecure environment for both staff and prisoners.

The problems highlighted above in respect to ill-treatment issues are integrally linked to the poor management capacity, insufficient numbers of prison staff and the lack of training and support provided to them.

39. The delegation observed that an inadequate complement of prison officers continues to constitute a problem in the prisons visited, and was particularly acute at Idrizovo Prison.

At Skopje Prison, the complement of 92 prison officers was divided into four shifts, each of which worked 12 hours at a time (either a day or a night shift). However, the number of officers in any shift was usually far lower than 23 due to absences, sick leave and the usual practice of several officers having to carry out escort duties, as the dedicated escort team of 12 persons was insufficient to cope with the demand. On the day of the visit, there were 20 prison officers on duty, including the chief officer and one officer in a watch tower, for a population of 271 remand inmates and 54 sentenced prisoners (as well as 132 prisoners in the open section of the establishment).

At Štip Prison, there were 51 prison officers divided into four shifts, and on the day of the visit 10 prison officers were on duty for a prison population of 200.

At Idrizovo Prison, the staffing complement had apparently been reduced by 26 since 2008 (despite no reduction in the prison population), and the overall number of prison officers stood at 181. Each of the four shifts supposedly comprised 45 officers but, in practice, a given shift consisted of roughly 35 officers for a prison population of 1,214. More specifically, for the 650 prisoners accommodated in the closed sections of the prison, there were only nine officers on duty. Given these circumstances, it is not surprising that the impression of collusion between prison officers and inmates was particularly evident in these parts of Idrizovo Prison. Prison officers needed the support of stronger groups of prisoners if they were to maintain a modicum of order within the prison. However, in forging such an alliance prison officers were forsaking their duty of care to all inmates, undermining their legitimacy and opening the door to corrupt practices.

40. The CPT recognises that the national authorities have taken certain steps to redress the low staffing levels in prisons; for example, the Government approved the creation of a further 40 posts at its session of 7 September 2010, which were intended to be filled as from the beginning of 2011. Nevertheless, while these moves are to be welcomed, much more is required in order to make all prisons, and especially Idrizovo Prison, safe and secure for staff and prisoners. In addition, the authorities need to invest resources in ensuring that the right persons are recruited to work in prisons, that they are properly trained to carry out the tasks entrusted to them (see below) and that they work in decent conditions (including being provided with a prison uniform and appropriate staff facilities).

The CPT calls upon the national authorities urgently to review the current staffing levels throughout the prison system, starting with Idrizovo Prison and, subsequently, to inform the Committee about the concrete action taken. The number of prison officers employed must be sufficient to guarantee staff safety and the physical and mental integrity of inmates.

41. Moreover, management did little to alleviate the daily pressures faced by prison officers through ensuring an efficient deployment of prison officers. In prison, many more activities take place during the day – meals, washing, outdoor exercise, escorts to infirmary, visits, activities, etc. – than during the night. Yet, in all the prisons visited each shift, whether day or night, contained the same number of prison officers¹⁷.

The CPT recommends, once again, that a more efficient deployment of staff be introduced to reflect the actual level of activity within a prison during a 24 hour period.

¹⁷ Interestingly, by letter of 22 October 2010, the Director of Prison Administration informed the CPT that in order to offer inmates on remand the legal minimum of outdoor exercise every day the staffing schedule at Tetovo Prison had been reorganised to enable more prison officers to be on duty during the day and fewer at night (see paragraph 48 below).

42. The inadequate number of staff applies not only to frontline prison officers but also to other categories of prison staff. At Idrizovo Prison, there were too few educators for the number of prisoners and not all of them possessed the requisite qualifications. It is also noteworthy that the CPT's delegation received numerous complaints from both inmates and prison officers that the educators who were in post did not proactively engage with prisoners. Further, many inmates alleged that educators usually sought a reward whenever they were asked to make a recommendation about home leave or another prison-related matter.

The 2006 Law on Execution of Sanctions assigns a key role to the educator, given the law's emphasis upon an individual's rehabilitation and resettlement; this requires a close assessment and supervision of each prisoner by qualified professionals throughout their sentence, the development of helping relationships and progressive re-education into law-abiding mores. Hence, it is essential that a sufficient number of properly qualified educators be employed in each prison and that they be properly supervised by management.

At the time of the visit there were only two Albanian speaking educators employed at Idrizovo Prison when some 515 prisoners were classified as Albanian (some of whom did not speak Macedonian). This not only meant that these prisoners were not provided with the necessary professional support throughout their sentence, but also lent credence to claims of discrimination. Likewise, the delegation was informed that none of the educators was a Rom although there were 175 inmates classified as Rom.

The CPT recommends that the number of educators be increased at Idrizovo Prison and that a significant proportion of the newly-appointed educators should speak Albanian. Further, an educator capable of addressing the specific concerns of the Rom inmate population should also be appointed.

43. Along with increasing the number of staff, it is essential that a greater emphasis be placed upon ensuring that staff are provided with the appropriate knowledge and skills to carry out their tasks along the lines indicated in paragraph 35 above. This requires not only an initial training course for all staff but also regular in-service training to allow both updated and new skills to be learned. Training should be viewed as a life-long process and, in addition to being oriented to meeting the demands of the new legislation, must be practical and problem-based, not merely theoretical. Clearly, the ad hoc training seminars organised to date cannot be considered as sufficient. In this context, the CPT's delegation was informed that a comprehensive training package for prison officers would be initiated as from early 2011.

The CPT would like to receive information regarding the training package to be provided, both initial and in-service, to prison officers.

44. Regrettably, the development of a professional management approach within the prison system has still not been addressed by the authorities. At present, there is no career development, no job security and no planning among the senior prison managers. Prison directors are not appointed to their posts solely on the basis of their competence, nor are prison directors provided with the necessary management training to ensure that they are able to run their prisons effectively and plan for the future. Such a state of affairs undermines any attempt to reform the prison system. Indeed, it runs contrary to the provisions of the European Prison Rules which emphasise the importance of having a director in each prison who has been carefully selected for his or her ability to carry out “what is one of the most complex tasks in public service”, which includes bringing a sense of purpose, leadership and vision to the post.¹⁸

In the CPT’s view, as long as the government of the country continues to maintain a political approach towards the appointment of Directors and deputy Directors of prisons, it will not be possible to develop a professional prison management system for the 21st century.

The CPT recommends that the national authorities introduce a professional management career path within the prison system and that Directors and senior managers be provided with the relevant management training to fulfil their tasks competently.

45. Once again, at Idrizovo Prison, the delegation received allegations from most of the prisoners with whom it spoke about the involvement of staff in the traffic in mobile phones, drugs and other illicit goods. The existence of a widespread belief among prisoners that anything can be bought inevitably undermines attempts to create order within a prison and to develop positive staff-prisoner relations.

The Ministry of Justice informed the delegation that in 2009 an action plan had been adopted to combat corruption, including security checks on all visitors and prison staff entering a prison. However, at Idrizovo Prison such checks were not being systematically applied. Further, the fact that certain inmates openly used mobile phones in the presence of prison staff lends credence to the corruption allegations and to the complaints of several staff members that prisoners were increasingly in control of the prison.

The CPT calls upon the national authorities to take urgent measures to improve the screening of all persons entering and leaving prison.

¹⁸

See Rule 84 of the European Prison Rules (2006) and the commentary on this rule.

4. Conditions of detention

a. regime

46. The CPT recalls that the aim should be to ensure that all prisoners, including those on remand, spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association. Proactive measures by the authorities are required, otherwise the prison system is likely to become an even greater breeding ground for criminality. As prisoners look forward to release into the community they need to be prepared for that life, to possess a degree of self-worth and to feel capable of leading a life away from crime. A regime which provides for varied activities is a vital component in the preparation for release, as well as being beneficial for the running of the prison.

47. Regrettably, in the *remand sections of Skopje and Tetovo Prisons*, the regime offered to inmates remained stuck in the repressive past. Inmates were confined to their cells for 23 hours or more every day, for periods up to two years. No activities of any sort were offered to inmates nor were they permitted television in their cells; at Skopje Prison, one cell had been turned into an exercise room with a couple of fitness bikes and a table tennis table¹⁹ – however, the conditions in the room were poor (in particular as regards hygiene), access was limited and a half-an-hour slot meant foregoing any outdoor exercise for that day.

Prison management was apparently constricted in its efforts to provide more out-of-cell time by the requirement of investigative judges to keep separate all inmates associated with the same case, even after the persons concerned had spent several months in remand custody²⁰. The CPT must stress that in addition to the regular reviews of the necessity of continuing remand custody, the judicial authorities should also examine the necessity of maintaining any other restrictions they might have put in place.

The CPT calls upon the national authorities to take the necessary steps to provide educational, cultural and sports activities for remand prisoners with a view to enabling them to spend a reasonable part of the day outside their cells.

The CPT also recalls the general principle that restrictions on prisoners should only be applied when this is strictly necessary for the maintenance of good order or the administration of justice, and for the shortest period of time necessary for this purpose.

48. In respect of access to outdoor exercise, inmates on remand at Skopje Prison were receiving anything between 15 and 60 minutes of access per day to one of eight outdoor yards, on six days a week; outdoor exercise was not provided on the day that inmates could take a shower, nor was it offered if inmates chose to attend the exercise room.

¹⁹ At the time of the visit, it could not be used as there were no table tennis balls.

²⁰ For example, a group of some 36 medical professionals charged with fraud, many of whom had been in detention for six months at the time of the delegation's visit, had to be kept separated (i.e. each one allocated a different cell and prevented from associating with one another during outdoor exercise). Yet they had all been kept together in the same police cells when they were arrested, permitted to associate together when in court and allowed to retain the same lawyers.

At Tetovo Prison, access to outdoor exercise for inmates on remand usually lasted less than one hour, never took place on weekends and every second week it was only offered on three days. Such a state of affairs is totally unacceptable, especially as the CPT has already raised this matter with the authorities on several occasions in the past.

The delegation invoked Article 8, paragraph 5, of the Convention, and requested that the authorities ensure that inmates on remand in all prisons are offered at least one hour of outdoor exercise every day. By letter of 22 October 2010, the Director of Prison Administration informed the CPT that an order had been given to “the Governors of all prisons underlining that the right of remand inmates to stay in the open air during the day must be respected in line with the Law on Criminal Procedure and the European Prison Rules.” Further, an inspection of Tetovo Prison by the Prison Administration found that measures had been taken to enable inmates to be offered two hours of outdoor exercise every day.

The CPT wishes to receive confirmation that inmates being held in the remand sections of prisons, including at Skopje and Tetovo Prisons, are offered the legal minimum of outdoor exercise every day.

49. The regime on offer to sentenced prisoners in *Idrizovo Prison* has not improved since previous visits²¹. Only a small minority of prisoners were occupied in the workshops, where health and safety conditions remain deplorable. The vast majority of prisoners spent the day in idleness, with no purposeful activities offered. Prisoners in the closed sections of the prison were confined to their wing for most of the day and many complained that they were not even offered one hour of outdoor exercise every day. Inmates in the administrative segregation wing (primarily prisoners on protection) could only circulate in the narrow corridor outside their rooms, and never went outside; further, these inmates received no support from staff to address their considerable problems.

Sentenced prisoners in the *closed units of Skopje and Štip Prisons* were offered no activities at all – access to a common television was the sole distraction. Again, the role of educators appeared to be a mystery to all prisoners met by the delegation. By contrast, a number of activities were available to prisoners in the semi-open unit of Štip Prison, notably working on the prison farm; nevertheless, it was accepted that more purposeful activities were required.

50. The gap between law and practice is clear. The 2006 Law on Execution of Sanctions clearly states that prisoners should be provided with work and sport and leisure activities, and that they should be offered “at least two hours daily outside the closed premises”. Further, the suitability for the progression of prisoners to institutions or units within an establishment of a more open type is assessed “depending upon the results of their education, behaviour, participation in work.” The law provides a framework for achieving the rehabilitation and reintegration of a prisoner into society, which is the declared aim of imprisonment in the country.

²¹ See CPT/Inf (2008) 5, paragraph 71, in relation to the report on the 2006 visit.

However, this aim is not being met in any of the prisons visited. At present, the vast majority of prisoners are left to languish in their cells or wings as they progress through their sentence, with the focus of their aspirations placed on the system of leave. Until such time as a full and purposeful regime is introduced, imprisonment will only serve to ensure that prisoners at the end of their incarceration are less capable to cope in the outside law abiding community and even more dependent on the criminal sub-culture.

The CPT calls upon the national authorities to take the necessary measures to ensure that all prisoners in Idrizovo Prison and the closed and semi-open sections of Skopje and Štip Prisons are offered activities of a purposeful and diverse nature, in order to comply with the basic aims of imprisonment. It also wishes to receive confirmation that all prisoners in the closed sections of Idrizovo, Skopje and Štip Prisons are offered a minimum of two hours of outdoor exercise every day, as stipulated in the Law.

51. The CPT has stressed in the past that the custody and care of children and young adults deprived of their liberty is a particularly challenging task, and that staff called upon to fulfil that task should be carefully selected. Further, it has pointed out that a lack of purposeful activity is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation.

In the course of the 2010 visit to the remand section of Skopje Prison, the delegation met a juvenile who had been in detention in the establishment for two years, spending 23 hours or more of every day confined to his cell. Moreover, for the previous six months the juvenile had been in a cell on his own and had not even been given the opportunity to associate with other inmates when offered outdoor exercise. He was to all intents and purposes in solitary confinement. Such a state of affairs should not be allowed to repeat itself.

The CPT's basic position is that juveniles who have to be deprived of their liberty should be held in facilities specially designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with young persons. When, exceptionally, they are held in an institution for adults, juveniles should always be accommodated separately from adults, in a distinct unit. However, the Committee acknowledges that in situations such as the one encountered above in Skopje Prison, there can be strong arguments in favour of juveniles associating with selected adults (on the strict condition that there is appropriate supervision by staff).

The CPT recommends that the national authorities take specific steps to ensure that juvenile inmates are offered educational and recreational activities, which take into account the specific needs of their age group. Physical education should form a major part of that programme. Further, juveniles should never be placed in a situation of de facto solitary confinement.

The Committee would also like to receive details of the number of juveniles (male and female) currently being held in Skopje Prison and the arrangements in place to offer them a purposeful regime.

b. material conditions

52. The material conditions in the remand section of *Skopje Prison* vary among the three wings. The new two-storey wing, with a design capacity of 134, provides cellular accommodation of a sufficient size (e.g. 18m² for four persons), with adequate access to natural light and artificial lighting, and which is suitably equipped, including the provision of personal lockers. However, the cells were stuffy, hygiene was poor and the call bells did not work. In addition, there were complaints about the lack of heating in the cells and the cells were already showing signs of wear and tear after only several months of use (dampness of the walls, floor skirting boards coming apart, broken toilet screens).

The situation in the rest of the remand section remained poor. The cells on B wing had been whitewashed and cleaned but the deficiencies noted in the past persist, such as the pervasive dampness in the cells, little natural light, inadequate artificial lighting, minimal ventilation, call bells that did not function and very poor hygiene. The overcrowding has been alleviated by the opening of the new wing but conditions in many of the cells remained cramped (e.g. four persons in a cells of 11.5m²), a shortcoming exacerbated by the fact that inmates spent 23 hours or more locked in their cell every day. Further, the delegation was told by many inmates who had entered the prison in recent months that they had had to spend several days or more sleeping on a mattress on the floor. The cells in C wing were in an even more dilapidated state than those on B wing, and had not even benefited from a whitewashing of the walls or new mattresses.

Further, the delegation's own observations confirmed that inmates were not provided with the necessary cleaning products to maintain their cells in an appropriate state of hygiene. Prisoners should not have to wash their eating utensils or themselves from a tap running into the toilet, and they should have daily access to warm water.

The CPT recommends that a concerted effort be made to reduce the occupancy rate in the remand section of Skopje Prison with a view to ensuring that all prisoners accommodated in multi-occupancy cells each have at least the equivalent of 4m² of space. Further, every inmate must be provided with his/her own bed. Moreover, it is essential that the cells in C wing be rapidly renovated, including new mattresses and bedding, and that a rolling programme of maintenance and refurbishment of all cells be instituted (call bells, screens for the toilet, repair of leaking ceilings, etc.). In addition, all prisoners should be provided with appropriate quantities of hygiene products and have daily access to warm water, and cells should be adequately heated. They should also be permitted to wear a wrist watch

The CPT would also like to know why prisoners on remand were not allowed a television or mirror in their cells.

53. There have been no improvements in the remand cells of *Tetovo Prison* despite repeated recommendations by the CPT dating back to 2002²². At the time of the 2010 visit, 23 persons were being held in 11 cells. Six of the cells were a mere 5.2 m², were equipped with one set of bunk-beds, a small plastic table and included a toilet area (1 m²). Access to natural light was minimal and artificial lighting was insufficient for the purpose of reading. At the time of the visit, two inmates were crammed into each of these cells. The situation was no better in the two larger cells (9.8m²), each equipped with two sets of bunk-beds; even the four newer cells (8m²) suffered from deficiencies such as limited access to natural light.

None of the cells possessed shelving units or lockers, nor were they equipped with functioning call bells. Televisions and mirrors were not permitted in the cells. Further, inmates complained that they were not provided with the necessary cleaning products to keep their cells in an appropriate state of hygiene, and that they were forced to sit in an uncomfortable position on the bottom bunk-bed whenever they wanted to read or eat, as the cells possessed no stools or chairs.

The CPT considers that cells of less than 6m² should not, in principle, be used as overnight accommodation for one prisoner. Certainly, placing two prisoners in such a confined space is not acceptable. To avoid a situation of de facto solitary confinement whereby an inmate might spend up to six months or more locked up 23 hours a day on his own in one of the small cells in the remand section, the authorities might envisage converting the six small cells into three larger ones.

The CPT calls upon the national authorities to take the necessary steps to remedy the deficiencies observed at Tetovo Prison, taking due account of the above remarks. As regards more particularly cell occupancy rates, the norm of at least 4m² of living space per prisoner in multi-occupancy cells should be met.

54. The living conditions in *Idrizovo Prison* were severely criticised by the CPT in its report on the 2006 visit, and in subsequent visit reports. Notwithstanding some progress in certain parts of the establishment, the situation as a whole remained unacceptable at the time of the 2010 visit, and in certain wings the conditions could be described as amounting to inhuman and degrading treatment.

The single storey so-called geriatric unit had been renovated to an acceptable standard, although the six rooms were somewhat overcrowded and attention should be paid to maintaining the facilities in a decent state. The semi-open unit had also been completely renovated, with new beds and mattresses installed in each room. While the improvements are to be welcomed, it is regrettable that no common association rooms for prisoners were provided. Further, placing up to 112 prisoners in such a confined space will place a considerable pressure on the fabric of the building, especially given that much of the renovated work appeared rather fragile, as was evident when the delegation visited the unit two days after the first inmates (106) were transferred to the unit.

²²

See CPT/Inf (2004) 29, paragraph 46 and, more recently, CPT/Inf (2008) 22, paragraph 36.

55. The closed section of the prison was described in detail in the report on the 2006 visit²³; the renovated wings (A and C) showed further signs of wear and tear, but would be acceptable²⁴ if the poor hygiene and overcrowding were addressed. However, as concerns the unrenovated B wing (units 2, 5 and 8) prisoners continued to be held in deplorable living conditions, crammed together in a dilapidated, unsafe and unhygienic environment.

Crossing over the spatial divide into the unrenovated building (B wing), the delegation was met with a foul stench of rotting food and human waste. The whole structure was in a state of decay with windows broken or missing, walls and floors crumbling, dampness prevalent and common areas dirty. The mattresses were worn and infested with insects, with many prisoners showing visible signs of bites on their bodies; cockroaches swarmed and scuttled out of cupboards in their hundreds. Prisoners complained that the single radiator per dormitory only functioned for two hours a day. The toilet and wash areas were in an appalling state; no artificial lighting, broken windows, no running water, blocked toilets and a mound of rotting food and other detritus covered the washroom floor. Waste water was also seeping through the ceiling from the toilet areas on the floor above. Heaps of rubbish could also be seen on the ground all around the building, symptomatic of the general lack of care displayed by management.

Overcrowding was a feature in most of the dormitories, offering prisoners less than 3m² of personal space (for example, 18 persons in a dormitory of 40m²). Further, prisoners claimed that at times some people had to sleep on a mattress on the floor due to an insufficient number of beds. At the time of the visit, some ten inmates were sleeping on beds placed in the common area outside the dormitories.

The conditions in Units 2 and 5 of the unrenovated B wing were so squalid that the CPT's delegation invoked Article 8, paragraph 5, of the Convention, and requested that the authorities immediately transfer all prisoners out of these units, beginning with Unit 5, until such time as they had been rendered fit for holding persons. By letter of 22 October 2010, the Director of Prison Administration informed the CPT that Unit 5 had been closed down and the prisoners dispersed to other units of the prison, and that prisoners from Unit 2 were being gradually transferred to other prisons or units within Idrizovo, as places became available. Further, measures to eradicate the infestation in the accommodation areas of Idrizovo Prison had been taken, and the CPT was assured that additional measures to improve the conditions of detention in the establishment would be taken.

56. The CPT also has serious concerns in relation to the conditions of detention in three other units²⁵. The self-contained admission unit was in an even greater state of disrepair than that observed in 2006, with visible dampness on the walls, filthy mattresses and a general lack of hygiene. Overcrowding was acute and staff had given up attempting to impose order in the unit. An even worse state of affairs pertained in the so-called in-patient medical unit, where 104 prisoners were accommodated; dirty, dark and dank corridors, lack of running water on the second floor and limited to two hours per day on the first floor, a general absence of hygiene and an infestation of cockroaches and other insects in the accommodation rooms. The neglect of this unit by staff was evident; entry to one room entailed asking one of the inmates on the inside to unlock the door.

²³ See CPT/Inf (2008) 5, paragraph 63.

²⁴ It was within C wing that the delegation came across certain customised cells (spacious and kept in a state of impeccable cleanliness while on the same corridor a similar sized cell was accommodating 10 prisoners (22m²) as opposed to four, and was in a state of disrepair and poor hygiene.

²⁵ For a description of these units, see CPT/Inf (2008) 5, paragraphs 62 and 63.

The “school” had been renovated in the past year, but the four toilets and washroom already showed signs of dilapidation from constant use by 77 inmates, and the long narrow corridor was still gloomy, with minimal access to natural light and poor artificial lighting. As was the case in 2006, two of the accommodation rooms were reserved for privileged prisoners and provided acceptable conditions. However, the remaining dormitories were overcrowded (for example, 16 prisoners in 40m²) and hygiene was poor.

57. To sum up, despite some improvements to certain accommodation blocks, the vast majority of inmates in Idrizovo Prison continue to be held in totally unsatisfactory conditions. Further, as the CPT has previously stated, the lack of attention and care by management and staff have allowed recently renovated areas to deteriorate.

The CPT wishes to recall that the decision to deprive someone of their liberty entails a correlative duty upon the State to provide decent conditions of detention. The standard of accommodation is central to the quality of life within a place of detention, a fact that is recognised in numerous provisions of the 2006 Law on Execution of Sanctions. However, the Law is still not being implemented correctly.

The CPT acknowledges the financial constraints that have been faced by the authorities but they cannot excuse living conditions which may, in some instances, be described as inhuman and degrading. Further, the investment of considerable finances in building new prison accommodation, with the support of the Council of Europe Development Bank, will not in itself guarantee appropriate living conditions on a durable basis if not accompanied by complementary measures. Not only must minimum standards of conditions be put in place for all prisoners, as advocated by the CPT, but the authorities should also provide the necessary resources required to maintain decent conditions, through developing a professional management and supervision approach, recruiting and training adequate numbers of prison staff and pursuing efforts to avoid overcrowding in prisons.

58. In the light of the above, **the CPT calls upon the national authorities to take:**

- **immediate steps at Idrizovo Prison to devise a phased programme to reduce the occupancy levels in multi-occupancy dormitories to ensure a minimum of 4m² per prisoner;**
- **ongoing steps to render Idrizovo Prison safe and hygienic through repairing the sanitary facilities, providing sufficient detergent and hygienic products, instituting a preventive health care programme that emphasises cleanliness, replacing decrepit mattresses, furnishing clean bedding, eradicating the infestation of cockroaches and other vermin, replacing broken window panes and repairing the floors and roofs, ensuring adequate artificial lighting in all living areas, etc.**

The Committee would like to receive details of the occupancy numbers for each of the accommodation blocks in Idrizovo Prison, on an ongoing quarterly basis.

59. The material conditions at *Štip Prison* were, in general, acceptable for prisoners held in the three-storey *semi-open part* of the establishment. Given that inmates were only confined to their rooms between 10.30 p.m. and 6.30 a.m., the multi-occupancy rooms accommodating four to five prisoners were of a sufficient size, and access to natural light and ventilation was adequate. Each prisoner had his own personal locker and every floor had a common room equipped inter alia with a television. By contrast, the *closed section* of the prison, constructed in 2008, offered far less satisfactory conditions. Inmates were accommodated in 24 double and eight triple-occupancy cells, most of which measured, respectively, some 8m² and 10m². Access to natural light and ventilation were adequate, as was the artificial lighting, and each cell possessed a call system. However, conditions were cramped, especially in the triple-occupancy cells, and the cells did not possess a stool or chair; inmates were locked out of their cells in the mornings and either milled around in the narrow corridors or sat in one of the two common rooms (neither of which could accommodate more than ten persons comfortably). Further, many prisoners complained about the lack of hygiene and cleaning products, and the fact that the prison was usually very dirty with rubbish strewn everywhere.

The CPT recommends that steps be taken to reduce the occupancy levels in the closed section of Štip Prison so as to meet the requirements of at least 4m² of living space per prisoner in multi-occupancy cells. Further, it recommends that prisoners be supplied with the necessary hygiene and cleaning products, and that every effort be made to maintain the prison in a decent state.

60. Once again, numerous complaints were received concerning the food at *Idrizovo Prison*, and the delegation was able to observe for itself both the meagre portions and the inadequacy of the diet, including no fresh fruit. Inmates were not being provided with the minimum daily nutrition, despite the fact that daily menus – validated by the doctor, director and legal director of the prison – suggested otherwise. For example, on one day of the visit, lunch was meat stew, except that it contained no meat as the kitchen possessed no meat, and half the evening meal, an egg, was not provided due to non-delivery. Such a state of affairs is not only unacceptable from a nutritional point of view but could also be considered fraudulent, as the official documentation cannot be relied upon²⁶, and is a further element in the perceived corruption referred to above.

The delegation also observed that the food provided at *Štip Prison* was insufficient in both quality and quantity, despite what appeared to be a well-equipped kitchen. Further, the manner in which it was served to prisoners in the closed unit was demeaning. Prisoners had to queue up and pass their plates through a hatch of a barred gate, which was passed back after being filled with a serving from a large container.

The CPT calls upon the national authorities to ensure that all meals correspond to the minimum legal norms and to the daily menu. The quality and quantity of the food actually provided to prisoners should be routinely recorded and monitored against the official menu, and all discrepancies should be fully explained. The hygiene of the kitchen and transportation of the food to the accommodation blocks should also be regularly inspected. Further, all meals should be distributed to prisoners in a respectful manner.

²⁶

Such a state of affairs was already described in the reports on the 2006 and 2007 visits (see, for example, CPT/Inf (2008) 22, paragraph 41).

5. Health care

a. introduction

61. A prison health care service should be able to provide medical treatment and nursing care, as well as physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community (equivalence of care). Provisions in terms of medical, nursing and paramedical staff, as well as premises, installations and equipment, should be geared accordingly.

The findings of the 2010 visit demonstrate that, with the exception of Štip Prison, little progress has been made in the prisons visited to improve the provision of health care to prisoners. There remain a number of important structural deficiencies in this area.

b. staff and facilities

62. At *Idrizovo Prison*, the health care team consisted of four doctors (one of whom has been on sick-leave for over a year), four nurses and two medical technicians. During weekdays, staff worked on one of two shifts (8.30 a.m. to 4.30 p.m. or 1 p.m. to 8 p.m.) and on weekends and public holidays there was only one shift (8.30 a.m. to 4.30 p.m.). One prisoner was employed on each shift to take care of the medical files but could also be given other health care tasks. One of these two prisoners, who was accommodated in the in-patient unit, was tasked with being on-call at night-time for all prisoners in this unit, and was permitted to provide them with medication. The full-time dentist had left the prison in April 2010, since when a dentist visited the prison for a couple of hours every week or two.

The delegation received many complaints relating to access to health care and it appeared that the existing health care resources were insufficient to meet the demands of a prison population of 1,214, which included a large number of prisoners with significant somatic and mental health care needs; in particular, nursing staff resources needed reinforcing. As a result, it was not surprising that prisoners were performing tasks, such as the distribution of medicines and the provision of first aid, which are properly those of a nurse. Moreover, the delegation received many complaints from prisoners about the problems of access to the health care service, and a lack of care by the medical staff. On the first day of the delegation's visit to the prison, only six inmates were recorded as having requested to see a doctor; given the size of the prison population, this lends credence to allegations of staff filtering requests to see a doctor.

Further, the material conditions of the medical facilities at Idrizovo remained inadequate and in a state of neglect and dilapidation. They need to be completely renovated and re-equipped.

63. The health care team at *Skopje Prison* comprised two doctors and two nurses. They worked in two shifts during weekdays (7.30 a.m. to 3 p.m. and 12.30 p.m. to 8 p.m.), each shift being composed of a doctor and a nurse, with the first shift generally examining remand inmates and the second one sentenced prisoners. On Saturdays, there was only one shift (7.30 a.m. to 12.30 p.m.), while on Sundays and public holidays as well as at night, when there was no coverage, recourse was made to the emergency ambulance services if the need arose. A psychiatrist (who is the head of the medical service at Idrizovo Prison) visited the prison once a week for a couple of hours. There was also a full-time dentist and dental assistant. Some 50 to 60 inmates were seen every day by the medical team.

As was the case at Idrizovo Prison, the nursing resources were clearly insufficient for a prison of the size of Skopje. Further, the medical facilities, consisting of two rooms, were insufficient for the establishment's needs and the equipment was basic.

64. At *Štip Prison*, the health care service consisted of two teams of a general practitioner and a medical technician, who worked in shifts of twelve hours (7.30 a.m. to 7.30 p.m.) on alternate days, except Sundays. Outside these hours the doctors were on call and cooperation with the Clinical Centre in the town of Štip appeared to be very good. There was also a full-time dentist and dental nurse who worked weekdays (8.30 a.m. to 4.30 p.m.), and a psychiatrist visited twice a month. On average, some 15 prisoners requested to be seen by a doctor every day.

The medical unit, housed in a new building, was reasonably well-equipped and offered satisfactory facilities.

65. **As regards Idrizovo Prison, the CPT reiterates its recommendation that a detailed needs assessment be carried out to determine the precise requirements in terms of health care staff, facilities and equipment. It is already evident that the number of qualified nurses will need to be substantially increased and to include two or more qualified mental health nurses. The results of the needs assessment should be communicated to the CPT, along with a plan for taking the necessary measures.**

Prisoners should never carry out triage functions, distribute medication, be present during consultations, have access to medical records or deliver care to other prisoners. **It recommends that the necessary steps be taken at Idrizovo Prison to replace prisoners performing such nursing duties with qualified health care staff.**

In respect of Skopje Prison, the CPT recommends the recruitment of up to four additional qualified nurses, one of whom should be a qualified mental health nurse, and that the medical facilities be upgraded.

66. In the course of the 2010 visit, it was evident to the CPT's delegation that doctors and nurses recruited to work in prison were provided with no specific training for performing health care duties in such a setting, nor did they have any contact with doctors in other prisons or receive any supervision from more experienced colleagues. It should also be noted that they are not employed directly by the Ministry of Health and have no links to a hospital in the community, which results in them being isolated from the mainstream of health care practice. A number of them showed signs of burn-out, manifesting a lack of enthusiasm and an indifference towards caring for their patients. Steps should be taken to develop a coherent health care service for prisons with best practice from one prison being replicated across the prison service, and prison health care staff being provided with the appropriate training and support, preferably with the involvement of the Ministry of Health. **The CPT recommends that the national authorities take the necessary steps to provide appropriate training and support to health care staff working in prisons, in the light of the above remarks.**

c. medical screening on admission and recording of injuries

67. The CPT is obliged to reiterate the importance of medical screening of prisoners on admission - especially at establishments which represent points of entry into the prison system. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention and the timely recording of any injuries.

Efforts have been made to ensure that all newly admitted prisoners are medically screened on the day of, or the day after, their arrival. However, at Idrizovo and Skopje Prisons, this was not always the case and, when it was performed, the screening merely consisted of a few questions about the inmate's state of health with no physical examination being carried out²⁷. By contrast, at Štip Prison, all prisoners were examined on the day of their arrival and this included a personal and family medical history and a physical examination.

The CPT once more calls upon the national authorities to ensure that every newly arrived prisoner is properly interviewed and physically examined by a medical doctor as soon as possible after his admission. Save for exceptional circumstances, that examination should be carried out on the day of admission, especially insofar as remand establishments are concerned. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor. The law should clearly reflect this requirement.

68. The CPT remains concerned that injuries upon arrival as well as those sustained in prison were often not correctly recorded, or even recorded at all in the prisons visited (see paragraph 33 above).

In this respect, the Committee recalls that the record drawn up following a medical examination of a newly admitted prisoner should contain:

²⁷

This contradicts the information provided by the national authorities to the CPT in the past. For example, by letter of 15 June 2007, the Committee was told that a system of thorough medical screening for each new inmate admitted to prison had been instituted, including documenting allegations of ill-treatment in accordance with the recommendations made by the Committee (see CPT/Inf (2008) 22, paragraph 44).

- i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment),
- ii) an account of objective medical findings based on a thorough examination, and
- iii) the doctor's conclusions in the light of i) and ii).

Further, the result of the medical examination referred to above should be made available to the prisoner concerned. In this respect, the permission of a judge should not have to be obtained for a prisoner to receive a copy of his or her medical file, as is the case at present for remand prisoners.

The CPT calls upon the national authorities to take steps to ensure that the practice in all prisons is brought into line with the above considerations (reference should also be made to the first recommendation contained in paragraph 34 above).

d. medical confidentiality

69. The CPT is pleased to note that prison officers were not present during medical examinations in Štip Prison. However, at Idrizovo and Skopje Prisons, such examinations routinely took place in the presence of non-medical staff.

While special security measures may be required during the medical examination of a prisoner when health care staff perceive a threat in a particular case, there can be no justification for prison officers being *systematically* present during such examinations; their presence is detrimental for the establishment of trust and of a proper doctor - patient relationship and is usually unnecessary from a security standpoint. Moreover, the presence of security staff may well deter prisoners from providing accounts of the origins of any injuries they have sustained.

In addition, it is essential that the principle of confidentiality applies equally to medical files, the keeping of which should be the doctor's responsibility. When not being consulted, such files should be locked away in a place to which neither prison staff nor prisoners have access. The situation at Skopje and Štip Prisons showed that confidentiality of medical data was, on the whole, respected; however, at Idrizovo Prison, the confidentiality of such data was not guaranteed.

70. **The CPT calls upon the national authorities to take steps to ensure that medical confidentiality is fully guaranteed in all prison establishments. This implies that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.**

Further, **the CPT recommends that the national authorities take additional steps to ensure that the confidentiality of medical data is respected.**

e. preventive health care and transmissible diseases

71. In the light of the findings of the CPT's delegation, particularly at Idrizovo Prison, it is important to recall that the task of prison health care services should not be limited to treating sick patients. In the absence of a specialised service, it is also their responsibility - in conjunction with the competent authorities - to supervise catering arrangements (quality, quantity, preparation and distribution of food) and conditions of hygiene (cleanliness of clothing and bedding; access to running water; sanitary installations) as well as the heating, lighting and ventilation of cells. Work and outdoor exercise arrangements should also be taken into consideration. Prison medical services should also be concerned about mental hygiene, i.e. with preventing the harmful psychological effects of certain aspects of detention. Insalubrity, overcrowding, prolonged isolation and inactivity may necessitate either medical assistance for individual prisoners and/or general medical action vis-à-vis the responsible authority. Despite repeated recommendations by the CPT, health care services in the prisons visited have still not taken on the above-mentioned responsibilities.

Further, as the CPT stated in its report on the 2006 visit, a prison health care service ought to ensure that educational information about transmissible diseases (in particular hepatitis, AIDS, tuberculosis, dermatological infections) is regularly circulated, both to prisoners and to prison staff. In only Štip Prison was there some provision of information to the prisoners or staff on this issue. The Committee also considers that prison staff should be provided with ongoing training in the preventive measures to be taken and the attitudes to be adopted regarding hepatitis C and HIV-positivity, and given appropriate instructions concerning non-discrimination and confidentiality.

In this respect, at Idrizovo Prison, the delegation observed that prison staff and inmates had little understanding about the most prevalent disease in the establishment, hepatitis C, and that no measures were taken by health care staff to raise awareness of the risk factors associated with its transmission, or to provide advice for at-risk groups (needle sharing, tattooing, etc.). A similar state of affairs was observed in Skopje and Štip Prisons.

The CPT reiterates its recommendation that the national authorities ensure that prison health care services take a proactive role towards preventive health care in prisons. This should include instituting a health information programme in all prisons about transmissible diseases, and providing prison staff with specific training on the issue of transmissible diseases.

72. As mentioned above, there was no clear policy in place on how to tackle hepatitis C. Prison authorities possessed no information or statistics on the number of inmates with hepatitis C and no testing was available to prisoners. Further, for those inmates who were found to have a hepatitis C infection, the cost of treatment²⁸ was considered prohibitive by the prison authorities²⁹.

²⁸ Pegylated interferon therapy combined with the antiviral drug Ribavirin.

²⁹ It should be noted that access to such treatment in the community was also limited due to the cost.

Given the prevalence of hepatitis C in the prisons visited by the CPT's delegation and the danger it poses to the health of all staff and inmates in prison establishments, it is imperative that the authorities address the matter urgently. The Ministry of Health should, if it has not already done so, devise a strategy for tackling this growing phenomenon and, together with the Ministry of Justice, ensure that the appropriate resources are devoted to treating infected prisoners and combating its spread.

The CPT recommends that the national authorities take the necessary steps to address the issue of hepatitis C in prisons, in the light of the above remarks.

73. The CPT would also like to be informed whether the Skopje Institute for Lung Diseases and Tuberculosis visited Idrizovo Prison in 2010 to perform screening for tuberculosis on prisoners. If so, it would like to receive details on the number of inmates who underwent the screening and the results. **The Committee looks forward to receiving the above-mentioned information.**

f. drug related issues

74. The CPT recognises that providing support to persons who have drug related problems is far from straightforward, particularly in a prison setting. The assistance offered to such persons should be varied; detoxification programmes with substitution programmes for opiate-dependent patients should be combined with genuine psycho-socio and educational programmes. The setting up of a drug-free wing in prisons for certain categories of prisoners, inter alia those having completed treatment programmes prior to or during imprisonment or those that do not take drugs, might also be considered.

75. The CPT's delegation observed that drug misuse remains a major challenge at Idrizovo Prison, and yet too little was being done to address the rising numbers of prisoners with a substance abuse problem and the widespread availability of illicit drugs. This state of affairs continues to have negative repercussions on all aspects of prison life.

At the time of the 2010 visit, the "methadone unit" continued to provide a maintenance programme on a voluntary basis to 193 prisoners. However, methadone detoxification was not offered (whereas in Skopje Prison it was) nor was there any psycho-social support to accompany the methadone maintenance. In addition, conflicting information was provided as to the policy to be followed if a prisoner tested positive for heroin while on methadone (arguments for both increasing and decreasing the methadone dose were put forward to the delegation). The delegation noted that the non-governmental organisation HOPS (Healthy Options Project Skopje) was providing counselling five days a week to prisoners with drug abuse problems. Further, drug-free wings were intended to be created when Idrizovo Prison is re-built within the next few years.

76. The CPT has noted that Idrizovo Prison is now classified as a regional centre for the treatment of addicts under the Law on combating drugs and other psychotropic substances. However, its delegation did not see any evidence of a comprehensive strategy being put in place to provide assistance to prisoners with drug-related problems in that establishment or any other prison visited in 2010. In the CPT's view, the priority at Idrizovo Prison should be to prevent hepatitis C infections through an active harm reduction policy (see also paragraph 72 above).

The CPT recommends that the national authorities take immediate steps to combat the spread of hepatitis C and to introduce a harm reduction policy.

g. deaths in custody

77. The Committee remains concerned that deaths in custody are not systematically the subject of an investigation, in order to establish the cause of death, identify possible criminal and/or disciplinary responsibility and ascertain whether there are lessons to be learned for the future as regards operating procedures.

At the time of the visit, the CPT's delegation was informed of four recent deaths in custody, none of which had been the subject of an investigation. Three of the deaths were said to be suicides (two in Idrizovo Prison and one in Štip Prison).

The circumstances surrounding the death of the inmate at Gevgelija Prison, which occurred in August 2010, were more obscure. The nineteen-year-old man concerned was arrested and held overnight in Kavadarci Police Station and transferred to Gevgelija Prison on 30 July 2010. Two days later, on 1 August 2010, he was found unconscious in his cell at 7 a.m. and was immediately transferred to Gevgelija Hospital. At 8.50 a.m. he was transferred by ambulance to Skopje but was declared dead upon arrival at Skopje University Hospital. A number of outstanding issues remain to be answered concerning this death, such as: was the person provided with Naloxone (an antidote to opiate intoxication) at Gevgelija Hospital before being transferred to Skopje given that he was known to be a drug addict and on methadone maintenance; why was it necessary to transfer the patient to Skopje (a journey of three to four hours); why was the person not medically screened during the two days he was held in Gevgelija Prison; how did the person obtain the wound on his forehead. The CPT's delegation stressed the importance of carrying out an investigation into this case when it met with the national authorities at the end of the visit.

The CPT recommends that the authorities institute a practice of carrying out thorough inquiries into every death in custody, which in each case should include an autopsy (see also paragraph 23 above).

As regards more particularly the death in Gevgelija Prison, the Committee would like to receive, in due course, the outcome of any inquiry (including the autopsy report). It would also like to receive updated information on the investigation into the death of Mr T. in Tetovo Prison in June 2008³⁰.

³⁰ See CPT/Inf (2008) 31, paragraph 28.

h. Closed Ward for Prisoners at Skopje Clinical Centre

78. The Closed Ward is under the administration of Idrizovo Prison but accommodates inmates from throughout the prison system who need to undergo treatment at the hospital. The CPT was pleased to note that the ward had been totally refurbished since its previous visit in 2006. It now consisted of seven rooms with a bed capacity of 17 and material conditions were satisfactory; at the time of the visit, it was holding six patients.

79. The staffing of the unit was assured by two prison officers and an inmate with rudimentary first aid skills; the inmate was responsible for the distribution of medication. No trained health care personnel were present on an ongoing basis in the unit. Somatic patients were taken to the relevant hospital ward while psychiatric patients were visited by a doctor. Medical confidentiality was not respected, as a prison officer was usually present during any consultations. Moreover, medical files were accessible to non-medical personnel, as well as to the prisoner working on the ward. It should also be noted that patients were routinely handcuffed whenever they were taken out of the unit to another hospital ward.

Within the closed ward, the doors of the rooms were unlocked from 10 a.m. to 9.30 p.m. and patients could associate in the corridor; however, no outdoor exercise was offered.

80. The CPT reiterates its recommendation that a nurse be employed in the unit. Further, steps should be taken to guarantee medical confidentiality and ensure that all patients are offered at least the minimum legal requirement of outdoor exercise every day. As for patients transferred to a hospital ward, they should only be handcuffed on the basis of an individual risk assessment.

6. Other issues

a. reception and admission procedures

81. In addition to medical screening on arrival, the reception and admission procedures as a whole have an important role to play; performed properly, they can identify at least certain of those inmates at risk of self-harm and relieve some of the anxiety experienced by all newly arrived prisoners. Regrettably, in none of the prisons visited were there any rigorous admission procedures whereby all new prisoners would undergo a cell-share risk assessment (conducted with care and professionalism) before being allocated to a cell and should be provided with toiletries, bedding and a hot meal. Nor was there any induction programme to acquaint prisoners with the regime and running of the prison, or to ensure that they had been able to contact their family. The Committee considers that such basic procedures on admission are vital in assisting inmates entering the criminal justice system to adjust to prison life.

82. Prisoners entering *Idrizovo Prison* were initially placed in the admission unit, which contains six dormitories, all of which were overcrowded (16 persons in 42 m²) with the exception of the room accommodating the four “passmen” (prisoners who possessed keys to various parts of the unit and controlled access to them by other inmates). In addition, the building was dilapidated, with poor hygiene and inadequate heating. Further, no activities were offered at all, not even access to television. However, they could walk outside during daylight hours within the enclosed yard.

At *Štip Prison*, newly admitted inmates were placed in cells used for solitary confinement where they spent 30 days, sometimes sharing the cell with prisoners undergoing a disciplinary punishment; during this period, they only left their cells for one hour of outdoor exercise every day.

In neither of these two prisons is any attempt made to develop a sentence plan for each prisoner or to assess their needs. Many prisoners told the delegation that they were not even informed about the rules of the establishment but had to learn about them from other inmates.

At *Skopje Prison*, a similar state of affairs existed for sentenced prisoners held in the closed section of the establishment. As for persons on remand, the admission and reception procedures were bureaucratic in nature and did not aim to assist an inmate in adjusting to prison; there was no cell-share risk assessment nor was any information provided to inmates about the regime of the establishment. Persons were allocated to any cell with an available space. In this context, consideration might be given to using one or more of the six unoccupied cells refurbished in 2007 for war crimes suspects³¹ for the purpose of reception and admission procedures for all newly admitted inmates.

The CPT recommends that the national authorities introduce proper admission procedures as well as an induction process for all prisoners being admitted to a prison, with a priority placed on those establishments which are points of entry to the prison system. Further, steps should be taken to address the above-mentioned deficiencies in the admission unit of Idrizovo Prison.

83. The CPT is also concerned by the fact that, according to law, sentenced prisoners are not allowed to have access to visits, phone calls or parcels for 30 days following their arrival in an establishment.³² This represents a prolonged period to be cut off from the outside world, particularly in the case of prisoners experiencing their first hours, days and weeks in prison. Further, being deprived of support from their families, new prisoners could be quickly enticed into the prison economy (especially given the need to supplement the poor prison food), and find themselves indebted at the beginning of their sentence. This was particularly noticeable at Idrizovo Prison. The authorities should amend the law to permit contact with the outside world during the period of admission; if the current system is maintained, it is incumbent on prison management to ensure that prisoners do not enter into debt at the outset of their sentence. **The CPT recommends that the national authorities take the necessary steps to ensure that sentenced prisoners are not deprived of contact with the outside world during the first 30 days of their imprisonment.**

³¹ These cells have never been occupied since being refurbished. See also CPT/Inf (2008) 22, paragraph 35.

³² According to Article 98 of the Law on Execution of Criminal Sanctions the 30 day period should be used for “personality assessment and for determining the treatment” of the prisoner.

b. discipline

84. The delegation found that living conditions in the segregation unit in *Idrizovo Prison* had not improved and that few of the recommendations made in previous reports have been addressed³³. For instance, persons placed in solitary confinement were still not being offered a minimum of one hour of outdoor exercise every day nor did they have access to a shower while located in the segregation unit.

At *Štip Prison*, the segregation wing consisted of ten cells on the ground floor of the closed unit. However, due to the lack of cell space in the prison, several of these cells were also accommodating persons who had recently been admitted to the prison as well as other prisoners who were not undergoing a disciplinary sanction. The CPT considers that it is not appropriate to accommodate newly admitted prisoners together with those undergoing a sanction. In respect of the ten disciplinary cells, the delegation requested that two of them be taken out of use as prisoner accommodation as they measured a mere 4m² and that the four cells of 6m² should not be used to accommodate more than one prisoner. By letter of 22 October 2010, the Director of Prison Administration informed the CPT that the requisite action had been taken by the Governor of Štip Prison to comply with the delegation's request.

The CPT recommends that the national authorities take the necessary steps to ensure that all prisoners undergoing a disciplinary punishment of solitary confinement are offered one hour of outdoor exercise every day and are given access to a shower at least twice a week³⁴. Further, persons newly admitted to prison should not be held together with those inmates undergoing a sanction of solitary confinement.

85. The disciplinary procedure is supposed to involve an educator writing up a report based on the evidence, the prisoner(s) in question being invited to make a written statement, a doctor providing "a fit for punishment" note and a meeting of all the parties and the shift commander at which the verdict and sanction were pronounced.

For the month of August 2010 at *Idrizovo Prison*, there were 97 hearings which resulted in 90 inmates being sent to solitary confinement for periods ranging from 5 to 15 days and two persons receiving 30 days³⁵. Prisoners met by the delegation said that the formal hearing did not always take place and an examination of the files showed that the educator did not always make a written report.

As regards *Štip Prison*, figures for the first nine months of 2010 showed that of 167 disciplinary cases, 104 resulted in solitary confinement, out of which 84 were for the maximum initial period of 15 days. In respect of the disciplinary procedure, as outlined above, it was apparently followed. However, the CPT's delegation noted that no account was being taken of the individual circumstances of a prisoner when deciding on the length of solitary confinement for a breach of discipline; instead, an automatic tariff was being applied. Such a practice is contrary to Article 179 of the 2006 Law on Execution of Sanctions.

³³ See, for example, CPT/Inf (2008) 5, paragraphs 98 to 101 in relation to the visit carried out in May 2006.

³⁴ See revised European Prison Rules (Rule 19.4).

³⁵ Article 180, paragraphs 3 and 4, of the Law on Execution of Criminal Sanctions provides for solitary confinement of 30 days for repeated disciplinary offences or for the "commission of a serious disciplinary violation punishable with a prison sentence of up to one year".

The CPT reiterates its recommendation that the national authorities guarantee a fair hearing, in accordance with the law, for all persons accused of disciplinary offences.

In addition, the CPT recommends that prisoners facing disciplinary charges be formally guaranteed the following additional rights, which are not explicitly provided for in the current legislation:

- **to be informed in writing of the charges against them and to be given sufficient time to prepare their defence;**
- **to call witnesses on their own behalf and to cross-examine evidence given against them;**
- **to remain seated during adjudications and to have facilities to take notes;**
- **to appeal to an independent authority against any sanctions imposed;**
- **to receive a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues for lodging an appeal.**

Further, the disciplinary procedures should be explained in a clear language in the relevant House Rules.

86. The Committee also wishes to stress that medical practitioners working in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. On the other hand, prison doctors should be very attentive to the situation of prisoners placed in disciplinary cells (or any other prisoner held under conditions of solitary confinement), as is provided for in the 2006 Law on Execution of Sanctions.

The CPT recommends that the role of prison doctors in relation to disciplinary matters be reviewed. In so doing, regard should be had to the revised European Prison Rules and the comments made on this subject by the CPT in its 15th General Report³⁶.

c. contacts with the outside world

87. The CPT attaches considerable importance to the maintenance of good contact with the outside world for all persons deprived of their liberty. The guiding principle should be to promote contact with the outside world as often as possible; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature³⁷.

In spite of repeated recommendations by the Committee, little action appears to have been taken to promote good contacts with the outside world, in particular as concerns visits.

Visits to inmates on remand are still restricted to two closed visits per month for a duration of 15 minutes or less, subject to the permission of the investigating judge. The CPT fully understands that closed visiting arrangements may be necessary in some cases; however, this should not constitute the rule.

³⁶ See CPT/Inf (2005) 17, paragraph 53.

³⁷ See also European Prison Rule 24.2.

The conditions under which the visits took place at Skopje Prison remain totally unacceptable. The visits room (24m²) is divided down its length by a floor to ceiling partition, the top half of which is a Perspex screen. Up to 10 inmates were placed shoulder to shoulder on one side of this partition communicating with two or three visitors each on the other side via several small pierced holes in the screen; the resulting cacophony can easily be imagined.

For sentenced prisoners, the visiting conditions at both Idrizovo and Štip Prisons were acceptable; however, prisoners were still only permitted to receive one visit of one hour per month.

The CPT calls upon the national authorities to review the arrangements for visits, with a view to:

- **increasing the amount of visiting time offered to both remand and sentenced prisoners, preferably to at least one hour every week;**
- **ensuring that prisoners and their families can conduct visits with dignity and respect of privacy (i.e. with appropriate seating arrangements and in an environment which does not require raised voices for communication); as far as possible, both remand and sentenced prisoners should be able to receive visits under reasonably open conditions.**

d. complaints and inspections

88. The CPT has repeatedly emphasised the importance of effective complaints and inspection procedures as basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority. In addition to addressing the individual case involved, the CPT considers that a careful analysis of complaints can be a useful tool in identifying issues to be addressed at a general level.

89. As for inspections, none of the supervisory bodies (Ministry of Justice inspectorate, Court supervision) appeared to be exercising their supervisory tasks with due diligence. Inmates on remand continued to be scathing about the perfunctory visits performed by judges once a week. Prisoners in all the institutions visited stated that they had never had a discussion with any visitor or judge out of sight and/or hearing of prison staff in the manner in which the CPT delegations operated. Further, the State Commission, which is supposed to conduct visits to prison establishments with a view to supervising the application of the 2006 Law on Execution of Sanctions, had still not been established at the time of the 2010 visit.

90. The CPT understands that the Ombudsman Institution will initiate regular visits to prisons now that it has been formally appointed the National Preventive Mechanism, following ratification of the Optional Protocol to the United Nations Convention against Torture, once it is provided with the necessary funds.

The CPT reiterates its recommendation that the authorities take the necessary steps to ensure that the various supervisory mechanisms operate in a professional, transparent and independent manner, taking due account of the precepts outlined by the Committee in its previous visit reports³⁸.

Further, it trusts that the Ombudsman Institution will be provided with the appropriate funds to fulfil its task as the National Preventive Mechanism.

³⁸

See CPT/Inf (2008) 5, paragraph 104.

C. Psychiatric institutions

1. Preliminary remarks

91. The CPT's delegation visited all three of the country's psychiatric hospitals; whereas Demir Hisar and Skopje Psychiatric Hospitals have been visited by the CPT in the past³⁹, it was the Committee's first visit to Negorci Psychiatric Hospital.

In the period since the CPT's visit to Demir Hisar Psychiatric Hospital in 2006⁴⁰, the inpatient population had reduced from 414 to 362 (243 men and 119 women). Ward X, for male forensic patients, was destroyed in a fire 10 months prior to the visit and had been taken out of service. As a result, the hospital's 50 forensic male patients were temporarily accommodated in Ward VI⁴¹, which had been previously taken out of service. Twenty-one admissions to the hospital had been involuntary civil placements in 2009⁴².

Negorci Psychiatric Hospital, situated in the countryside on the outskirts of the village of Negorci, near the south-eastern border town of Gevgelija, serves the East of the country. The hospital was established in 1972 in former military barracks. Its six wards were located in several one or two-storey buildings, the oldest of which was built in 1948. With an official capacity of 220, the hospital accommodated 200 patients at the time of the visit, of whom 27 were forensic (24 men and 3 women). One patient was the subject of involuntary civil placement. At least one person's legal status was as yet unclear (see paragraph 121).

Skopje Psychiatric Hospital⁴³, serving the north-west of the country, has an official inpatient capacity of 465; it accommodated 367 patients at the time of the visit. The delegation carried out a targeted visit, focusing on the forensic patients, i.e. the 28 male patients in the forensic ward and four female patients located on another ward for female patients. The delegation also examined the safeguards surrounding involuntary placement at the hospital. Apart from forensic placements, only two patients were classified as involuntary at the time of the visit.

92. Current reforms and investments in the healthcare sector in "the former Yugoslav Republic of Macedonia" include a new Law on the Rights of Patients (2008), and a €75 million Council of Europe Development Bank loan, three to five million of which was earmarked for the psychiatric hospitals. **The CPT would like to receive detailed information on how - in particular as regards structural work and maintenance - and within which timeframe, the funds allocated for psychiatric hospitals are being spent.**

³⁹ Demir Hisar Psychiatric Hospital was visited in 1998 (with a focus on the forensic ward) and in 2006; Skopje Psychiatric Hospital was visited in 2002 (with a focus on the two wards for patients with acute conditions).

⁴⁰ For a description of the hospital, see CPT/Inf (2008) 5, at paragraph 128.

⁴¹ See paragraph 99 as well as the 2006 visit report (CPT/Inf (2008) 5), at paragraphs 132 to 138.

⁴² As compared to the 402 voluntary admissions and 32 forensic placements in the course of the same year. These figures, provided by the hospital authorities, refer to total admissions, i.e. including readmissions.

⁴³ For a general description of the establishment, see the report on the visit in 2002 (CPT/Inf (2004) 29), at paragraph 59.

De-institutionalisation efforts noted on previous CPT visits continue, albeit slowly. Outpatient psychiatric care and care in the community still need to be further developed in order to prevent avoidable institutional placements and with a view to making suitable alternative community care arrangements for a greater number of long-term inmates. Approximately 70 long-term inmates have not been diagnosed with any psychiatric condition whatsoever (nor is a psychiatric evaluation pending)⁴⁴; yet, they had been placed, and remained, within psychiatric healthcare institutions, on which they rely for their basic necessities. The CPT welcomes the health authorities' proposal to ensure that persons whose placement has no psychiatric basis – or no longer has such basis – are discharged from psychiatric institutions; where necessary, appropriate support from the social services should be provided leading up to, and following, such persons' discharge. **The Committee would like to be informed of progress in this regard.**

93. The Ministry of Health has informed the CPT, on 16 December 2010, that as part of its strategy on combating interpersonal violence in psychiatric hospitals, it wishes to relinquish responsibility for providing forensic psychiatric care, and proposes that the patients concerned be provided such care in an institution under the responsibility of the Ministry of Justice (see also paragraph 96). In particular, the strategy paper (page 3) states that such an approach "responds to the recommendations of the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for separation of the convicts who are subjected to the court order".

The CPT would like to point out that, in its view, persons requiring psychiatric assessment and/or treatment, whatever their legal status, should be assessed and/or treated in a medical facility. During past visits, the Committee has made clear the need for prisoners to be assessed and, if necessary, to receive psychiatric treatment, in a psychiatric hospital⁴⁵. The CPT has not recommended that the responsibility for the treatment of mentally disordered offenders should be transferred to the Ministry of Justice. In general, the Committee would not favour responsibility for forensic psychiatric care being transferred to the criminal justice system. Indeed, such a transfer of responsibility would entail a substantial risk that security concerns typical of an establishment managed within the criminal justice system would take priority over medical concerns, and that the adequacy and independence of care provided would be undermined.

The Committee would like to receive the comments of the relevant authorities on this matter.

⁴⁴ See Ministry of Health strategy to combat inter-personal violence in psychiatric institutions (received 16 December 2010).

⁴⁵ See, e.g. the report on the CPT's visits in 2006 (CPT (2008) 5, paragraph 77) and in 2007 (CPT (2008) 22, paragraph 43).

2. Ill-treatment

94. In the course of the visit, the CPT's delegation received consistent allegations of ill-treatment of patients by staff, as well as of inter-patient violence, in particular at Demir Hisar Psychiatric Hospital. The delegation made on-the-spot observations and gathered medical, documentary and other material which substantiated the allegations.

95. At Demir Hisar Psychiatric Hospital, many patients interviewed on the wards for chronic illnesses stated that they had suffered some form of physical or verbal abuse from staff. On the forensic ward, the delegation heard numerous allegations of ill-treatment by staff, including by the perimeter security staff. The ill-treatment alleged included the use of wooden sticks and metal rods; and the delegation found sticks and similar potential makeshift weapons in staff offices.

Many patients at Demir Hisar forensic ward also alleged that they had been physically abused by other patients and they feared for their personal safety, and that staff did not intervene to prevent violence between patients, preferring to withdraw from such situations for their own protection. In this context, it was apparent to the delegation that staff were not in control of the forensic ward, with orderlies frequently withdrawing to their office, leaving patients unattended. Many patients also alleged that theft of money and mobile phones was very common. The delegation noted that many possessed such items on the ward, yet there was no safe place in which to store them.

The delegation noted that staff numbers on the forensic ward were very low and that staff lacked both the proper training and the necessary support to carry out their tasks. In the CPT's view, it is hardly surprising, in such a situation, that staff might be tempted to take out their frustrations on patients – through the deployment of violence and intimidation – or to allow patients to settle their differences by, for example, not intervening to prevent inter-patient violence.

96. At Nergorci Psychiatric Hospital, a relatively relaxed and positive atmosphere prevailed generally throughout the establishment. However, a number of patients in several wards reported to the delegation certain incidents of ill-treatment by staff and of inter-patient violence.

At Skopje Psychiatric Hospital, several patients on the forensic ward spoke well of their treatment by staff. However, a number of patients in the forensic ward alleged that orderlies at times hit patients or slapped them in the face when they did not comply. Further, many reports were received of theft-related violence among patients.

97. In the light of the state of affairs outlined above, the delegation invoked Article 8, paragraph 5, of the Convention at the end-of-visit talks with the authorities. It requested (i) that an independent inquiry be carried out into the alleged ill-treatment of patients by staff, and inter-patient violence, at all three psychiatric hospitals, and that (ii) the authorities draw up an action plan to prevent ill-treatment.

98. On 16 December 2010, the authorities transmitted to the CPT the report of a commission⁴⁶ composed of six experts in the field of psychiatry, who inspected the three psychiatric hospitals in November and December 2010. The commission's report touches upon a wide range of issues on which it recommends steps for improvement; however, it makes no reference whatsoever to ill-treatment of patients by staff or to inter-patient violence. Needless to say, this inspection report is not an adequate response to the delegation's request. **The CPT recommends that a focused, independent analysis of the phenomena of ill-treatment of patients by staff and inter-patient violence in psychiatric hospitals be carried out without further delay.**

99. The CPT was provided, also on 16 December 2010, with the Ministry of Health's four-year strategy (2011 to 2014) on combating inter-personal violence in psychiatric hospitals. This strategy includes plans to analyse and tackle the problem of ill-treatment and inter-patient violence in the three psychiatric hospitals and to introduce a system for reporting and documenting ill-treatment, as well as effective complaints procedures. Financing for implementation of the strategy would derive from a combination of state, foreign, NGO and other resources.

100. **The CPT calls upon the relevant authorities to ensure that appropriate measures are taken to put an end to ill-treatment and inter-patient violence at psychiatric hospitals, and to promote a safe environment.** As was outlined in the 2006 visit report⁴⁷, measures to combat ill-treatment must centre around (i) **zero tolerance of ill-treatment of patients by staff, including adequate sanctions when ill-treatment emerges,** (ii) **improved staffing levels and professionalism;** and (iii) **a safe and independent system for complaints and inspections.** In the Committee's view, the above-mentioned action plan is weak in addressing these precepts.

The CPT further recommends that sticks and similar potential makeshift weapons be removed from hospital premises forthwith.

3. Patients' living conditions

101. The material conditions at both Demir Hisar and Negorci Psychiatric Hospitals were, with some exceptions, poor.

102. At *Demir Hisar*, none of the seven wards in the two older buildings for women and men provided satisfactory accommodation for patients; the wards were extremely dilapidated, poorly maintained, dirty and reeked of urine. In particular, Wards VII (chronic female) and VIII (geriatric female) were filthy, malodorous, and the sanitary facilities in an execrable state, with faeces on the floor and with clogged, dysfunctional plumbing. As a result, not only bedridden, but also mobile patients were obliged to use bedpans, which were emptied by patients. More generally, it was impossible for patients to attend to their personal hygiene needs.

⁴⁶ Established by the Minister of Health on 25 October 2010.

⁴⁷ See the report on the visit in 2006 (CPT/Inf (2008) 5) at paragraph 131.

Conditions in the wards for male patients were similarly abysmal, with poor artificial lighting and several toilets blocked at the time of the visit. This was also the case for Ward VI which, as already indicated, had been brought back into service in order to accommodate patients after the fire that had destroyed the forensic ward. This ward had been closed down after the CPT's 2006 visit, but it had been reopened unaltered.

On the other hand, the wards for acute admissions and for substance-dependent patients offered reasonably good material conditions, in terms of the state of repair and decor of the buildings and facilities.

In sum, material conditions at Demir Hisar had further deteriorated since the CPT's 2006 visit⁴⁸, and, in the CPT's view, the conditions in most of the Hospital's wards could be considered as amounting to inhuman or degrading treatment.

103. The wards at *Negorci* were generally very dilapidated; Ward F offered particularly poor conditions, with some of the rooms being severely overcrowded (due to ongoing renovations elsewhere), having no artificial lighting and containing mounds of dirty rags. The hospital also lacked indoor communal areas for patients, which meant that patients would be effectively confined to their rooms during the winter. However, the wards for acute admissions offered reasonably good material conditions; further, concrete refurbishment plans had begun to be implemented at the establishment, and the poor conditions in the wards were somewhat alleviated by the fact that most patients had access during the day to the pleasant hospital grounds.

104. Conditions at the forensic ward at *Negorci* and *Skopje Psychiatric Hospitals* were overcrowded, with living space per patient amounting to less than 3 m². Further, patients' beds and bedding were generally in a poor state.

105. The delegation observed that on several wards at *Demir Hisar*, a majority of patients wore pyjamas during the day as they had no other clothing, despite the CPT having repeatedly pointed out the potential benefits of personal daytime clothing for patients' sense of individual autonomy⁴⁹. Conversely, at *Negorci Psychiatric Hospital*, patients were obliged to sleep in their clothing as they had no pyjamas.

106. Some lockers were available at *Negorci*, although it was not clear how many patients had effective access to their own lockable space. By contrast, virtually no lockers were available at *Demir Hisar*. Such a situation, apart from undermining patients' sense of autonomy, fosters insecurity.

107. At the end of the visit the delegation invoked Article 8, paragraph 5, of the Convention, and requested that the authorities immediately provide suitable alternative accommodation for patients in wards VII and VIII at *Demir Hisar Psychiatric Hospital*, and that all substandard wards at *Negorci* and *Demir Hisar Psychiatric Hospitals* be refurbished without further delay.

⁴⁸ See CPT/Inf (2008) 5, paragraphs 132 to 138.

⁴⁹ See CPT/Inf (2008) 5, paragraph 137.

By letter of 15 October 2010, the competent authorities informed the CPT that “Patients from the VII and VIII ward have been transferred to the III ward, while male patients from the III ward have been transferred to other wards”, and the “transfer of these patients has not caused overcrowdedness in the other wards” and “the wards’ reconstruction started on 7 October 2010”.

On 16 December 2010, the CPT was further informed that, at Demir Hisar, “general reconstruction of two chronic wards, which were identified by the CPT as especially critical, was done” and, at Negorci, several wards had also been renovated and the construction of a new one was ongoing⁵⁰.

108. The Committee takes note of the action taken by the competent authorities in response to the delegation's immediate observation. **It would like to receive detailed information regarding the refurbishment work undertaken thus far at both Demir Hisar and Negorci Psychiatric Hospitals.**

The Committee recommends that the competent authorities pursue vigorously efforts to improve living conditions at Demir Hisar, Negorci and Skopje Psychiatric Hospitals, in the light of the remarks made in paragraphs 102 to 107. In particular, they should ensure that:

- **hygiene throughout the hospitals is of a standard worthy of health-care institutions;**
- **all patients have ready access to decent sanitary facilities;**
- **living space per patient is of an adequate level;**
- **patients have access to indoor communal areas during the winter;**
- **the state of repair and decoration of the accommodation wards is significantly improved;**
- **each patient possesses both adequate, preferably individualised, day-time clothing, including for winter, as well as pyjamas for the night; and**
- **each patient has access to a personal, lockable space or, alternatively, an effective means is devised for the safekeeping of personal items.**

109. Few activities were on offer to patients at Demir Hisar and Negorci Psychiatric Hospitals, with most patients evidently idle. A number of patients at Negorci were occupied in farming, welding and cleaning duties according to the needs of the establishment. **The CPT would like to receive information on the numbers of patients occupied in work at both establishments, as well as their working hours and the remuneration they receive, if any, for such work.**

110. The delegation was pleased to note that at Negorci Psychiatric Hospital, most patients, including those in the forensic ward, had free access to outdoor exercise every day. Patients on the acute wards also had daily access, albeit on a more limited basis. By contrast, the CPT is concerned about the restricted access to outdoor exercise for patients at Skopje and Demir Hisar Psychiatric Hospitals. In particular, patients in the forensic wards in respect of whom a court decision on forensic placement was pending were not granted any outdoor exercise. Further, patients at all three hospitals did not have effective access to outdoor exercise during winter months if - as was the case for many - they did not possess suitably warm clothing and footwear.

The CPT recommends that all patients, including forensic patients under examination, be offered effective access to outdoor exercise on a daily basis throughout the year.

⁵⁰ See the inspection commission report, at page 3.

4. Treatment, care and staffing

111. The quality of treatment at Demir Hisar Psychiatric Hospital had not improved since the CPT's visit in 2006⁵¹. Pharmacotherapy remained the mainstay of treatment and there was still no sign of individualised treatment plans being drawn up. The situation was somewhat more positive at Negorci Psychiatric Hospital, where group psychological therapy was provided to most patients. Patients in the forensic ward were participating in psycho educative groups and courses addressing aggressive behaviour. However, individual treatment plans were scant at best. Further, in neither establishment were patients' files well kept, in terms of recording or filing. At Skopje forensic ward, some occupational therapy was on offer, and all patients were offered group therapy by a psychologist and a social worker. In neither of the forensic wards at Demir Hisar or Skopje was treatment on offer for addressing offending behaviour.

112. Psychiatric treatment should be based on an individualised approach based on comprehensive individual treatment plans and rehabilitative activities. Patients should be offered a range of therapeutic options and long-term patients, in particular, should be involved in rehabilitative psycho-social activities, in order to prepare them for independent life or return to their families; occupational therapy should be an integral part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improvement of self-image.

The CPT recommends that the authorities take the necessary steps to ensure that the treatment for psychiatric patients at all three hospitals visited meets the above requirements. More specifically:

- **individual psychiatric treatment plans should be drawn up together with the patient concerned and should set targets and clearly defined time-frames for their achievement; and**
- **treatment plans should be subject to regular reviews.**

In respect of the forensic wards in all three hospitals, the Committee recommends that specific programmes be introduced on addressing offending behaviour.

113. At both Demir Hisar and Negorci Psychiatric Hospitals, the management and staff pointed to the very low staffing levels, combined with insufficient staff training, and the financial crisis as the primary obstacles to ensuring an adequate level of care and treatment for patients. Staff numbers at both establishments indeed fell well below acceptable standards. At Demir Hisar, there were 17 doctors, 97 nurses and 37 orderlies. At Negorci, staff comprised 9 doctors (four neuro-psychiatrists and five psychiatrists), 36 nurses, two psychologists and 26 orderlies. This shortage was also underscored by the commission mandated by the Minister of Health to inspect the three psychiatric hospitals following the CPT's visit. Further, the delegation noted that orderlies, who had the most contact with patients, could take up their duties without having undergone initial training; nor did they receive any organised, in-service training.

⁵¹ See CPT/Inf (2008) 5, paragraph 139.

The CPT cannot overemphasize the importance of ensuring that adequate staff numbers are employed in every psychiatric institution and of promoting staff professionalism among all staff categories; staff form the cornerstone of the prevention of ill-treatment within such institutions. **The Committee reiterates its recommendation⁵² that the relevant authorities ensure adequate staff numbers at all three psychiatric hospitals; further, the professionalism of all staff should be promoted through the effective implementation of appropriate policies on recruitment, initial and ongoing training, as well as discipline.**

114. Access to adequate dental hygiene or treatment was problematic at both Demir Hisar and Negorci hospitals, and the delegation noted that few, if any, patients used their own toothbrush. The number of patients seen by the full-time dentist at Demir Hisar had risen since the CPT's previous visit, but it still amounted to an equivalent of merely one patient per day. This is far too little for the needs of patients. **The CPT recommends that resolute action be taken to ensure that all patients in psychiatric institutions benefit from adequate dental care, including preventive/conservative care.**

5. Means of restraint

115. The delegation examined the use of restraints at the institutions visited. The CPT is pleased to note that the delegation did not – as it had at Demir Hisar in 2006 - come across the use of chains to restrain patients in any of the psychiatric hospitals visited. Further, guidelines on the use of restraints had been introduced in all three establishments visited.

However, in all three establishments, consistent accounts were received of excessive use of restraints, both in terms of the appropriateness and the length of the measure. For example, several allegations were received at Demir Hisar of the use of restraints, including handcuffs, by security staff, as an informal punishment for patients who were returned to the hospital after having absconded. Such treatment, if confirmed, would be unacceptable. Further, it appeared that patients were restrained for longer periods than those recorded in the registers. For instance, according to the records at Negorci Psychiatric Hospital, 10 incidents of restraint occurred in 2009 and 21 in 2010, none for longer than two hours. Yet numerous interviews with patients as well as with staff indicated that restraints were frequently applied for longer than two hours.

Staff interviewed by the delegation had not received training on how to apply the guidelines on restraints. Further, patients were usually restrained in the presence of other patients and were not, in general, the subject of continuous supervision by staff. It is also of concern that, at Skopje Psychiatric Hospital, the delegation received consistent allegations that patients were called upon to help staff apply mechanical restraints.

Appropriate mechanical restraint devices (i.e. purpose-made padded leather straps) were in use at both Demir Hisar and Skopje Psychiatric Hospitals. However, handcuffs had allegedly also been used by security staff at Demir Hisar. Further, rags or strips of sheets were applied at Negorci Psychiatric Hospital, which were dirty and unsafe, as they could restrict or block blood circulation to hands and feet, particularly if restrained patients struggled to break free from them.

⁵²

See CPT/Inf (2008) 5, paragraph 144.

Further, in none of the institutions was appropriate supervision and monitoring in place of the use of restraints. Indeed, it was very difficult to glean precise information on each incident from an examination of the various records. Important information, such as the time of the start and the end of the measure, and the reasons for its application, was often missing from the restraint form. At Demir Hisar, a central register of restraints did exist; however, it contained only some of the instances of restraint for which records were found on the wards. No such central restraints register existed at Negorci or Skopje Psychiatric Hospitals. Finally, no national supervision or monitoring of the use of restraints, external to the hospitals, was in place; nor did the above-mentioned guidelines adopted in each of the three establishments follow a prescribed national policy on the use of restraints.

116. In the light of the delegation's observations during the visit, **the CPT recommends that the national authorities carry out an extensive review of the use of restraints in psychiatric hospitals and, in so doing, take account of the Committee's standards in this area⁵³. The CPT would like to receive a comprehensive account of the results of this review, and of the action taken to reduce the use of restraints.**

117. The delegation also noted that patients were frequently physically or chemically restrained by law enforcement and/or emergency health-care services in the context of their transfer for admission to a psychiatric hospital. The delegation witnessed the arrival of one patient at Skopje Psychiatric Hospital by police van, handcuffed behind his back, although he posed no resistance whatsoever to the authorities. **The Committee recommends that the relevant authorities ensure that, in the context of a person's transfer to a psychiatric hospital, any use of restraints is subject to an individual risk assessment.**

6. Deaths of patients

118. The delegation was informed by the director at Demir Hisar that no autopsy was performed when a death occurred at the hospital. It should be noted that 30 patients had died in 2009 and 24 in 2010 (at the time of the visit, in late September). By contrast, at Negorci Psychiatric Hospital, where the number of deaths was much lower (one case in 2009 and four cases in 2010), the director informed the delegation that each death was the subject of an autopsy.

119. At Demir Hisar Psychiatric Hospital, the delegation examined several files concerning patients who had died in 2009 and 2010. The delegation noted, in particular, the case of Ž. S., a 40-year-old woman who died of pneumonia on 13 August 2010.

⁵³

See the substantive section of the CPT's 16th General Report, CPT/Inf (2006) 35.

The patient's file indicated that during the last 56 hours of her life she had been subjected to five periods of restraint, ranging between two and 11 hours' duration, for a total of 26 and a half hours. The records also showed that a combination of neuroleptic, antiepileptic, antibiotic, antipyretic and pain relief medication were administered, and that the patient received glucose and saline solutions by intravenous drip. Although the file indicates that the patient was referred for admission to the General Hospital in Bitola, the transfer never took place. In accordance with the practice already indicated, no autopsy was carried out.

In the CPT's view, the circumstances of this case would certainly have warranted an autopsy, in particular in order to ascertain whether the prolonged application of restraints to the patient, perhaps also in combination with neuroleptic medication, may have had a bearing on her death. **The Committee would like to receive any clarification that the authorities can provide concerning the above-mentioned death at Demir Hisar Psychiatric Hospital.**

120. In the CPT's view, just as is the case with other closed institutions, when a patient interned in a psychiatric hospital dies, an autopsy should follow, unless a medical authority independent of the hospital decides that an autopsy is unnecessary⁵⁴. **The Committee recommends that this approach be adopted and rigorously applied in all psychiatric establishments. More generally, the Committee recommends that the authorities institute a practice of carrying out a thorough inquiry into every death of a patient, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures.**

7. Safeguards and complaints procedures

a. the initial placement decision

121. The legal framework governing involuntary placement has remained unchanged since the CPT's visit in 2006, and the procedural deficiencies identified in the report on that visit have not been rectified. Thus, patients did not appear in person and were not heard by a judge deciding on the initial placement decision, nor did they receive legal assistance in the context of the placement decision; no time-limit was imposed for issuing a psychiatric evaluation in view of the placement decision; and the independence of the expert assessment was not ensured⁵⁵. The CPT notes that, at the time of the visit in 2010, very few patients at Negorci and Skopje Psychiatric Hospitals were officially the subject of an involuntary 'civil' placement, whereas involuntary admissions were more frequent at Demir Hisar⁵⁶.

⁵⁴ See paragraphs 23, 77 and 141, as well as Recommendation Rec(99)3 of the Committee of Ministers of the Council of Europe to member states on the harmonisation of medico-legal autopsy rules.

⁵⁵ See CPT/Inf (2008) 5, at paragraphs 148 and 154, as well as the Government's response (CPT/Inf (2008) 6), at page 13.

⁵⁶ See paragraph 93. That said, the number of involuntary admissions at Demir Hisar was lower than in 2006: Ibid paragraph 148.

Courts were generally rather slow in issuing placement decisions in Skopje, where decisions could take between two and six months to be issued - well after the patient concerned had received treatment (while being de facto deprived of liberty) and been discharged from the establishment. Such delays rendered ineffective the procedural safeguards surrounding involuntary placements. A tendency was observed, especially at Demir Hisar and Negorci, for patients to be declared voluntary even when they had not willingly consented to stay in the establishment. The exceedingly low numbers of patients formally declared as involuntary, as compared to the considerable number of persons escorted to hospital by the police (e.g. around 50% of admissions at Negorci), and frequently in handcuffs, is clear evidence of this state of affairs. Moreover, during the visit the delegation received consistent allegations of pressure used to obtain consent, of consent signed two weeks after admission or of consent provided by persons who were manifestly incapable of providing such consent, e.g. persons in a psychotic state. The admission papers of formally voluntary patients were frequently incomplete and included the signatures of witnesses who were not allowed to act as witnesses according to the Mental Health Act. Patients consenting to placement were also requested at Demir Hisar and Skopje Psychiatric Hospitals to waive their right to leave the institution. Further, the requests of formally voluntary patients to leave the establishment have been denied by the doctor or the director, without such an event initiating an involuntary placement procedure. For example, at Negorci Psychiatric Hospital, the delegation met a person who had been staying at the hospital for one month, had persistently refused to sign a consent form and had repeatedly demanded to be discharged. However, she was neither allowed to leave the hospital nor had any action been taken to initiate an involuntary placement procedure.

The CPT recommends that the authorities take the necessary steps to ensure that proper involuntary placement procedures are followed, and in good time, whenever genuine informed consent to placement is not, or cannot be, obtained, or whenever a patient subsequently revokes his or her consent to placement. The Committee further reiterates its recommendations⁵⁷ on the strengthening - and the effective enjoyment - of procedural safeguards surrounding the initial placement decision (hearing of the patient in person; legal assistance; time-limit for issuing of the placement decision; and independence of the expert assessment).

b. forensic psychiatric placements

122. Three categories of patients may be placed in the forensic wards of the three hospitals visited. Compulsory treatment may be ordered for domestic violence pursuant to family law; persons found criminally responsible could have their sentence converted to a stay in hospital; finally, sentenced persons could, after having served part of their sentence in prison, be placed in a psychiatric hospital for treatment for the remainder of their sentence.

As regards the safeguards surrounding such placement, the delegation noted that, at Negorci Psychiatric Hospital, patients were not shown (let alone provided copies of) correspondence with the competent court relating to their case. Further, the competent court for reviewing the placement had not been identified in respect of many patients at Skopje Psychiatric Hospital. Not surprisingly, the law providing for six-monthly court reviews was not being respected. **The CPT recommends that the relevant authorities ensure that these deficiencies are rectified.**

⁵⁷ See CPT/Inf (2008) 5, paragraph 148.

c. safeguards during placement

123. No progress had been made since the CPT's previous visit in order to place patients in a position to give their free and informed consent to treatment, as opposed to the separate issue of their consent to placement. Further, contrary to the information provided to the delegation by the Ministry of Health during the talks at the outset of the visit, no introductory brochure was issued to patients and their families on admission to any of the establishments. Indeed, the delegation noted that no information setting up the establishment's routine and patients' rights was available to patients or guardians, in whatever form. The CPT would like to point out that it has been requesting since 2002 that information on patients' rights be made available.

The CPT reiterates its recommendations on these two fundamental issues⁵⁸.

124. In the course of the visit, patients complained to members of the delegation about a variety of issues, yet not a single complaint from a patient had been formally lodged at Demir Hisar or Negorci Psychiatric Hospitals in 2010. By letter of 16 December 2010, the CPT was informed that seven complaints have been lodged in 2010 at Skopje Psychiatric Hospital by patients or their families. **The CPT would like to receive comprehensive information regarding the nature and outcome of those complaints.**

At Demir Hisar patients had not been told the purpose of the complaints boxes which had been installed not long before the visit. Further, many patients who were unable to complain in writing were unaware of their right to complain in person to the hospital's director. The delegation was also informed that no independent body looked into complaints that might be lodged at any of the three establishments; the *Commissions for Mental Health in the Community* have still not been established, four years after the entry into force of the Law on Mental Health; nor have independent legal officers been established at each hospital in accordance with the 2008 Law on Patients' Rights. In short, the illusory complaint mechanisms, combined with poor record-keeping, undermined patients' ability to challenge effectively the way they are treated. **The CPT reiterates its recommendation⁵⁹ that the authorities ensure that effective complaints procedures are put in place which allow patients to lodge complaints on a confidential basis with an independent body.**

125. Inspection powers have now been entrusted to the Ombudsman Institution, by virtue of its new National Preventive Mechanism function (see also paragraph 92). Nevertheless, at the time of the visit the funds necessary to carry out inspections to psychiatric hospitals had not yet been attributed to the Institution. Further, the Commissions on Mental Health in the Community, once established, also have a mandate to carry out independent inspections.

The CPT recommends that the authorities take the necessary steps to ensure that a legally established independent authority has the power and necessary means to carry out frequent and unannounced visits to psychiatric hospitals. Such a body should, in particular, be authorised to speak privately with patients and have access to all relevant documentation.

⁵⁸ See CPT/Inf (2008) 5, paragraphs 149 and 150.

⁵⁹ See CPT/Inf (2008) 5, paragraph 151.

d. guardianship

126. Legal capacity was not clear in respect of all patients at the three establishments. In particular, the hospitals were not in a position to provide the delegation with clear information as to the number of patients under guardianship. The CPT is also concerned that hospital staff could be appointed as guardians to patients placed in the same establishment, and that the only type of guardianship afforded was blanket guardianship. Further, involuntary patients were not regularly assessed, despite the obligation for monthly reviews provided for under the Mental Health Act. At Negorci Psychiatric Hospital, however, a review of patients' status had begun, and guardianship had indeed been lifted in 40 cases.

The CPT recommends that the legal status of patients placed in psychiatric hospitals urgently be reviewed, in accordance with the Mental Health Act and in the light of the foregoing remarks.

D. Demir Kapija Special Institution for mentally disabled persons

1. Preliminary remarks

127. The CPT carried out a follow-up visit to the Special Institution for mentally disabled persons in Demir Kapija. Reports on the CPT's previous visits to Demir Kapija contain a general description of this establishment⁶⁰, which falls under the responsibility of the Ministry of Labour and Social Policy.

128. Since the previous visit in 2006, reforms in the social care sector have continued. A 2008 to 2018 deinstitutionalisation strategy was adopted. The authorities informed the delegation that it was foreseen, in the long term, that Demir Kapija would eventually only accommodate up to 130 residents who suffer from the most severe forms of mental retardation. Thus, at the time of the visit, the Institution's population had reduced by 73 (since the visit in 2006), to 264 residents (of whom 139 were male and 125 female), and there were two to three admissions per year.

In addition, a revised Law on Social Protection entered into force in 2009, giving new impetus to the strengthening of safeguards for beneficiaries of the social services. As regards residents of the Institution, this has simplified access to outside health-care services and prompted a review of each resident's legal status (see paragraph 144).

2. Ill-treatment

129. The delegation received no allegations of recent instances of ill-treatment of residents by staff. On the contrary, the delegation observed relaxed, positive relations between staff and residents; some staff members, in particular, appeared to be caring and affectionate in their interaction with residents. Further, although both staff and residents spoke of the occasionally aggressive behaviour of certain residents on the C wards, the formerly palpable level of tension and violence was no longer in evidence.

130. In the report on the visit in 2006, the CPT referred to the case of Imran Ibraimovski, who had died at the Institution in October 2004 of bronchopneumonia as a consequence of a fractured rib and a bruised lung, inflicted by a blunt force⁶¹. By letters of 7 May 2007 and 25 March 2008, the CPT had reiterated its concern at the lack of follow-up to the death, in particular the authorities' denial that the death was violent, and the discontinuation of investigations.

⁶⁰ See the reports on the CPT's visit in 2002 (CPT/Inf (2004) 29), at paragraph 60, and in 2006 (CPT/Inf (2008) 5), at paragraphs 156 and 162 to 166.

⁶¹ See the report on the autopsy carried out on 5 October 2004: "The inflammation is a direct consequence of the injury of the left side of the chest, on which a blunt force was inflicted and which resulted in a fracture of the 8th rib and contusion of the lung". See also CPT/Inf (2008) 5, paragraph 159, and CPT/Inf (2008) 22, paragraph 7.

In its response⁶², the Ministry of Labour and Social Policy stated that it had asked the Public Prosecutor's Office to intercede with the competent Prosecutor's Office in Kavadarci with a view to providing a satisfactory answer to the Committee concerning the case. The authorities further stated that they would inform the CPT, as soon as possible, about the concrete measures and activities that would be taken by the Ministry in cooperation with the Prosecutor's Office. No further information was received by the Committee.

However, in the course of the 2010 visit, the Ministry of Labour and Social Care informed the delegation that the competent court had informed it that the case was closed and could not be reopened. The Ministry added that any further queries in this regard should be addressed to the Ministry of Justice.

The CPT continues to be concerned about the outcome of this case as well as about other deaths at the Institution to which no follow-up has been given. In particular, a young bedridden resident, who died in 2010, had sustained two fractures, but the origin or circumstances in which those fractures were sustained were not indicated in his medical file. Further, as no autopsy had been requested, no further information was available in the file which could shed any light on the patient's injuries or his death (see also paragraph 141). **The CPT would like to receive from the relevant authorities a written response to its letter of 25 March 2008, in particular as regards the reasons why, given the cause of the death of I. I., no investigative proceedings were instituted.**

3. Residents' living conditions

131. As regards material conditions, since the CPT's visit in 2006, a number of structural refurbishments had been undertaken in the C Wards and Ward B1 of the Health Department (the block consisting of three interconnected buildings A, B and C), as well as in the medical consultation rooms.

In particular, the very serious shortcomings identified during past visits to the C wards, as regards the condition of the flooring, sanitation and bedding, had been adequately addressed. The metal bars outside of the windows had also been removed, and some efforts made to decorate the wards. Further, the overcrowding previously observed in these wards was no longer in evidence. As for the refurbishment of Ward B1, it had made for a more pleasant environment. The Committee welcomes these improvements.

Nevertheless, material conditions remained, on the whole, poor and hygiene standards low at the Institution. There was a pervasive smell of urine throughout the establishment, and the odour was especially strong in the A wards. Further, the delegation was informed that the Institution had no budget for maintenance work. Conditions were poorest in the A wards, where the fabric, sanitation and decor left much to be desired. In Ward A3, for example, the walls were dilapidated, the toilets broken, and there was no decoration or visual stimulation whatsoever. During the visit, the delegation learned that restructuring work in the A wards was about to begin. **The CPT requests updated information on progress in the renovation of the A wards.**

⁶² See CPT/Inf (2008) 23.

The so-called “New Building”, which accommodated 67 of the less dependent residents, also showed many signs of disrepair, including a leaking roof and a broken lift; the latter shortcoming is of particular concern as the bedrooms of the majority of wheelchair-dependent residents were on the upper floor.

The CPT recommends that the authorities treat regular structural maintenance at the Institution as a priority. Further, efforts should be made to ensure adequate ventilation and hygiene throughout the establishment.

132. The delegation observed that, in a few instances, e.g. in blocks A and B, rooms were mixed-gender. In the CPT’s view, particular precautions are required to ensure that residents are not subjected to inappropriate interaction with other residents which threaten their privacy; residents of each gender should have their own protected bedrooms and sanitary areas. **The CPT recommends that the competent authorities take steps in the light of the above remarks.**

133. Both staff and residents mentioned to the delegation a significant improvement in recent years in the quality and quantity of food provided to the Institution’s residents. Nevertheless, the intake of food was not being monitored. It should be noted, in this context, that a number of residents appeared to the delegation to be undernourished (see also paragraph 142). Further, food was not being distributed hygienically among mobile residents. The delegation observed patients helping themselves to food repeatedly from the large communal pot, with used, unwashed utensils. Although the food distribution took place under staff supervision, staff members did not intervene when they witnessed unhygienic practices whereby communal food would be contaminated with faecal matter. **The CPT recommends that the feeding habits of mobile residents be monitored for compliance with minimum standards of hygiene, and that residents receive appropriate training on eating skills and hygiene habits.**

134. Regular activities on offer to residents at the Institution consisted of classes (e.g. drawing, music, games) with a special needs teacher (*defectologist*), in which around 10 residents at the New Building took part. The Institution had organised a football excursion and a swimming vacation, in which a group of residents had taken part. However, the delegation observed that the majority of the Institution’s residents spent the day in idleness and indoors. In general, the delegation observed very little active engagement of residents by staff. Most of the residents who would have needed assistance or benefited from encouragement to spend time outdoors - where they could enjoy fresh air - remained inside even on a fine day. In sum, the activities regime at the Institution was impoverished.

The CPT recommends that a full and varied programme of activities be offered to residents at the Institution, the aim being to engage with every resident and provide stimulation appropriate to each resident’s needs.

4. Treatment and staffing

135. An on-call general practitioner attended promptly, when necessary, to provide emergency medical care to residents.

136. However, the residents' ongoing health-care needs were not being adequately met. In terms of staffing, there was no regularly employed doctor at the establishment and the nursing complement of 10 permanent and nine contractual nurses was low. One particularly worrying consequence of this was that only one nurse was on duty during night shifts.

Further, a dentist attended twice a month for dental extractions only. The twice-monthly and emergency on-call neuropsychiatry provision was clearly insufficient for residents' needs. One special needs teacher ("defectologist") was employed on a permanent, and three on a temporary, basis. Orderlies numbered 50 permanent and 38 temporary employees. Finally, a multidisciplinary team equipped an organised, through regular meetings, to assess and care for residents' ongoing health-care needs, was absent.

137. Many staff members interviewed expressed their concern at the lack of ongoing training, and the delegation noted that no training was on offer enabling staff to make a proactive and effective contribution to residents' rehabilitation or on subjects such as the use of manual restraint techniques.

138. The provision of one full time physiotherapist, with no nurse or auxiliary in attendance, was also insufficient. The physiotherapy office and treatment room were not adequately equipped. Many bedridden patients had serious contractures probably caused by a lack of physiotherapy from an early age. These residents required assistance at mealtimes, and the delegation found that the feeding of bedridden residents was all too quick. At the time of the visit, one patient suffered from infected decubitus.

139. **The CPT recommends that the authorities take urgent action to ensure that residents' long-term health needs are adequately met. In particular, the authorities should ensure that:**

- **the equivalent of at least one full-time doctor is regularly employed at the Institution;**
- **the nursing complement is significantly increased;**
- **adequate dental care is provided, including preventative/conservative care;**
- **the neuro-psychiatry provision is significantly increased;**
- **adequate provision is made for residents' physiotherapy needs; and**
- **staff receive the initial and ongoing training they need in order to fulfil their duties.**

140. On admission to the establishment, residents were not undergoing a thorough assessment, nor were individual treatment and rehabilitation plans or periodic assessments carried out. Clearly, these elements are essential if de-institutionalisation is to be effectively pursued.

The Committee recommends that health-care provision for the Institution's residents be integrated and coordinated by a multi-disciplinary health-care team, responsible, in particular, for ensuring that:

- **each resident is carefully assessed on admission to the establishment, as regards his or her somatic status (including a description of the status of muscles and joints), dental status, motor skills, mental skills, basic skills, rehabilitation skills and language skills;**
- **an individual treatment and rehabilitation plan is drawn up in respect of each resident, including treatment and rehabilitation goals, methods, estimated time, persons/mentors responsible, and regular reviews at reasonable intervals.**

141. The above-mentioned deficiencies were mirrored in the lack of entries in medical files. Patients' records were not kept in a manner compliant with minimum standards. Entries were infrequent and were not systematic, treatment plans were lacking and major incidents including injuries were reported scantily or not at all (see e.g. the case described at paragraph 130, subparagraph 3).

The CPT recommends that the necessary steps be taken to ensure that patients' files are rigorously maintained.

Further, just as is the case for other institutions in which persons may be deprived of their liberty by a public authority, when a resident at a social care institution dies, an autopsy should follow, unless a medical authority independent of the institution indicates that an autopsy is unnecessary⁶³. **The Committee recommends that this approach be adopted and rigorously applied at Demir Kapija Special Institution. More generally, the CPT recommends that the authorities institute a practice of carrying out a thorough inquiry into every death of a resident, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures.**

142. Bedridden residents appeared to the delegation to be underweight. However, the Institution's residents were still not being regularly weighed. **The CPT reiterates its recommendation⁶⁴ that:**

- **weighing scales (also appropriate for bedridden residents) be acquired;**
- **all residents be weighed regularly with a view to monitoring their nutritional status and, where necessary, prescribing effective nutritional intervention.**

⁶³ See paragraphs 23, 77 and 120, as well as Recommendation Rec(99)3 of the Committee of Ministers of the Council of Europe to member states on the harmonisation of medico-legal autopsy rules.

⁶⁴ See CPT/Inf (2008) 5, paragraph 172.

143. Mobile adult female residents of fertile age were given contraceptive treatment by injection, without consent, prior needs and risk assessments, gynaecological examinations, or follow-up. The treatment had been more rigorously administered after one of the residents had fallen pregnant and given birth in 2010. In this connection, the CPT recalls that every resident, should in principle be given the opportunity to refuse – either in person or through his/her guardian – treatment or any other medical intervention, including contraceptive treatment. This also implies that the person concerned, as well as his/her guardian, be provided systematically with relevant information as to proposed treatment, including contraceptive treatment.

The CPT recommends that the approach towards contraceptive treatment at the Demir Kapija Institution be reviewed, in particular to ensure that it is in compliance with clinical standards and with the need for the resident's or her guardian's consent to the treatment.

5. Safeguards

144. The CPT welcomes the ongoing review of the legal capacity of residents at Demir Kapija, which had begun in 2009. At the time of the 2010 visit, the process of review had resulted in the appointment of guardians in respect of 58 of the Institution's residents. However, the delegation was informed that financial difficulties had slowed the review process and the appointment of guardians, where required, which meant that the legal basis for a number of residents' stay in the Institution remained uncertain. **The CPT recommends that the review process be completed as soon as possible.**

145. As regards the guardianship procedure, it should be noted that persons who are the subject of proceedings with a view to being deprived of their legal capacity are not given a copy of the court decision, whereas such copies are provided to the relevant guardian or Centre for Social Work. Further, once a person has had their legal capacity removed indefinitely by a court, there are no automatic reviews.⁶⁵

Moreover, the delegation was informed that the Institution was frequently obliged to remind guardians not to neglect their responsibilities towards their wards, e.g. to visit them or to scrutinise the care being offered to them.

The CPT recommends that the relevant authorities take the necessary steps to ensure that all persons who are the subject of proceedings with a view to being deprived of their legal capacity are systematically given a copy of the court decision.

Further, the CPT recommends that the relevant authorities take the necessary steps to ensure that legal guardians fulfil their duties responsibly and in the interests of their wards.

⁶⁵

The court may, upon its own motion or that of the person concerned, a family member, the relevant Centre for Social Work, a governmental or non-Governmental entity, or the Ombudsman's Institution, examine whether to revoke its decision.

146. The CPT would like to remind the relevant authorities of Recommendation Rec(99)4 of the Committee of Ministers of the Council of Europe to member States on Principles concerning the Legal Protection of Incapable Adults. This Recommendation contains 28 governing principles concerning guardianship. The CPT considers that an institute of guardianship based upon these principles would be balanced, fair and, above all, proportionate.

The CPT recommends that the national authorities incorporate the Council of Europe's Principles concerning the Legal Protection of Incapable Adults into the legal norms governing guardianship.

147. The CPT notes, once again, that written information on residents' rights continued not to be provided to residents or their guardians. **The Committee reiterates its recommendation that an introductory brochure for residents and guardians be provided at Demir Kapija Special Institution, setting out the establishment's routine and residents' rights, including about their right to lodge formal complaints and the modalities for doing so.**

APPENDIX I

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

Law enforcement agencies

Ill-treatment

recommendations

- the national authorities to carry out investigations into the allegations of ill-treatment in the cases referred to in paragraph 11. As regards case (i), the investigation should include an examination of whether there was a deliberate attempt to circumvent the safeguards in place for persons deprived of their liberty as well as the question of the alleged role of a civilian in a police operation (paragraph 11);
- the national authorities to strenuously reiterate the message of zero tolerance of ill-treatment of persons deprived of their liberty and reinforce it with a statement at the appropriate political level (paragraph 12);
- the national authorities to ensure that an investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their line-management responsibilities (paragraph 12);
- the policy of strict selection criteria at the time of recruitment and the provision of adequate professional training, both initial and in-service, to be pursued (paragraph 12);
- the relevant authorities to ensure that prosecutors and judges take appropriate action when they receive information indicative of ill-treatment (paragraph 13);
- an independent body to be entrusted to carry out a new and effective investigation into the allegations that persons detained in the course of Operation Mountain Storm were ill-treated during their transport to Skopje and while being held in police stations in Skopje (paragraph 16).

requests for information

- comments of the national authorities on the effectiveness of the Sector for Internal Control and Professional Standards (SVKS), in the light of the remarks in paragraph 15 (paragraph 15);
- a full breakdown of the disciplinary and/or criminal sanctions imposed on law enforcement officials for the years 2008 to 2010, including a summary of the ill-treatment of which they were accused (paragraph 15);

- a copy of the investigative acts and of the formal conclusion of the new investigation into the allegations that persons detained in the course of Operation Mountain Storm were ill-treated during their transport to Skopje and while being held in police stations in Skopje (paragraph 16).

Safeguards against ill-treatment

recommendations

- the national authorities to take action without delay to ensure that the right of access to a lawyer for all persons deprived of their liberty by law enforcement officials is rendered fully effective in practice, as from the very outset of deprivation of liberty (paragraph 18);
- the national authorities to supplement the general legal provision on the “right to medical assistance” with specific instructions on this matter, stipulating inter alia that:
 - a doctor must be called or a person taken to a medical facility without delay if a detained person requests a medical examination;
 - a person taken into police custody has the right to be examined, if he or she so wishes, by a doctor of his or her own choice, in addition to any medical examination carried out by a doctor called by the police authorities;
 - all medical examinations of persons in police custody, whether carried out on police premises or in a health care facility, are to take place out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers;
 - the results of every examination, as well as any relevant statements by the person in custody and the doctor’s conclusions, should be recorded in writing by the doctor and made available to the detained person and upon request to his or her lawyer (paragraph 19);
- the national authorities to put in place clear guidelines for law enforcement officials on how to deal with unaccompanied foreign minors, and that the appropriate support structures to be established (paragraph 20);
- the national authorities to take the necessary steps to ensure the presence of a lawyer and, ideally, another trusted adult every time a juvenile deprived of his or her liberty is requested to make any statement or sign any document related to the offence of which he or she is suspected (paragraph 20);
- immediate steps to be taken to ensure that all persons detained by the police are brought into the direct physical presence of the judge responsible for deciding the question of the possible extension of their detention or their release (paragraph 21).

Material conditions

recommendations

- the necessary steps to be taken to remedy the deficiencies in the police stations visited and to review the use made of cells, in the light of the remarks made in paragraph 22 (paragraph 22).

requests for information

- details on the refurbishments carried out in the detention areas of the police stations visited (paragraph 22).

University Institute of Forensic Medicine

- requests for information
- the comments of the authorities on the matters raised in paragraph 23, in particular on why forensic autopsies are not ordered in all cases where deaths occur in an establishment where persons are held in custody (paragraph 23);
- the reasons why the Public Prosecutor's Office intends to set up its own forensic medicine service (paragraph 23).

Prison establishments

Preliminary remarks

recommendations

- the national authorities to urgently review the strategic plan on prisons, in the light of the remarks in paragraph 27 and, where necessary, seek outside assistance. In particular, expert advice should be sought in relation to the development of a professional management approach within prisons and the question of addressing staff development needs (paragraph 27);
- the national authorities to actively pursue multi-faceted policies designed to put an end to overcrowding in prisons (paragraph 28).

requests for information

- full information about the implementation of the various projects included in the strategic plan for prisons (paragraph 25).

Ill-treatment

recommendations

- an official investigation to be opened into the case of alleged ill-treatment of several prisoners at Idrizovo Prison on 21 August 2010 (paragraph 31);
- the Minister of Justice and Director of the Prison Administration to deliver a clear message to all custodial staff that ill-treatment of prisoners is not acceptable. Further, all necessary steps to be taken to ensure that any ill-treatment is the subject of severe penalties (paragraph 33);
- the national authorities to put in place a comprehensive policy for the identification and investigation of allegations of ill-treatment. In this context, where the results of a medical examination suggest that a prisoner has suffered ill-treatment, there should be an obligation on doctors to automatically notify the prosecutor's office; any statement made by the prisoner concerned should also be transmitted (paragraph 34);
- when allegations of ill-treatment by prison staff are brought to the attention of the prison management, the staff members concerned to be transferred to duties not requiring day-to-day contact with prisoners, pending the results of the investigation (paragraph 34);
- the authorities to devise a national strategy to combat inter-prisoner violence; part of this strategy will have to include investing far more resources in recruiting additional staff and promoting their professionalism. In addition, steps to be taken to improve the quality of supervision and decision-taking in Idrizovo Prison (paragraph 37).

requests for information

- full details of the measures taken in relation to several allegations of physical ill-treatment and verbal abuse of prisoners by one particular shift of officers at Štip Prison (paragraph 31);
- the outcome of the criminal proceedings currently underway against staff at Skopje Prison following the alleged beating of several prisoners in April 2009 (paragraph 32).

Staffing

recommendations

- the national authorities to urgently review the current staffing levels throughout the prison system, starting with Idrizovo Prison and, subsequently, to inform the Committee about the concrete action taken. The number of prison officers employed must be sufficient to guarantee staff safety and the physical and mental integrity of inmates (paragraph 40);
- a more efficient deployment of staff to be introduced to reflect the actual level of activity within a prison during a 24 hour period (paragraph 41);

- the number of educators to be increased at Idrizovo Prison and a significant proportion of the newly-appointed educators to speak Albanian (paragraph 42);
- an educator capable of addressing the specific concerns of the Rom inmate population to be appointed (paragraph 42);
- the national authorities to introduce a professional management career path within the prison system, and Directors and senior managers to be provided with the relevant management training to fulfil their tasks competently (paragraph 44);
- urgent measures to be taken to improve the screening of all persons entering and leaving prison (paragraph 45).

requests for information

- on the training package to be provided, both initial and in-service, to prison officers (paragraph 43).

Conditions of detention

recommendations

- the national authorities to take the necessary steps to provide educational, cultural and sports activities for remand prisoners with a view to enabling them to spend a reasonable part of the day outside their cells (paragraph 47);
- the national authorities to take the necessary measures to ensure that all prisoners in Idrizovo Prison and the closed and semi-open sections of Skopje and Štip Prisons are offered activities of a purposeful and diverse nature, in order to comply with the basic aims of imprisonment (paragraph 50);
- the national authorities to take specific steps to ensure that juvenile inmates are offered educational and recreational activities, which take into account the specific needs of their age group. Physical education should form a major part of that programme. Further, juveniles should never be placed in a situation of de facto solitary confinement (paragraph 51);
- a concerted effort to be made to reduce the occupancy rate in the remand section of Skopje Prison with a view to ensuring that all prisoners accommodated in multi-occupancy cells each have at least the equivalent of 4m² of space. Further, every inmate must be provided with his/her own bed. Moreover, it is essential that the cells in C wing be rapidly renovated, including new mattresses and bedding, and that a rolling programme of maintenance and refurbishment of all cells be instituted (call bells, screens for the toilet, repair of leaking ceilings, etc.). In addition, all prisoners should be provided with appropriate quantities of hygiene products and have daily access to warm water and cells should be adequately heated. They should also be permitted to wear a wrist watch (paragraph 52);

- the national authorities to take the necessary steps to remedy the deficiencies observed at Tetovo Prison, taking due account of the remarks in paragraph 53. As regards more particularly cell occupancy rates, the norm of at least 4m² of living space per prisoner in multi-occupancy cells should be met (paragraph 53);
- the national authorities to take:
 - immediate steps at Idrizovo Prison to devise a phased programme to reduce the occupancy levels in multi-occupancy dormitories to ensure a minimum of 4m² per prisoner;
 - ongoing steps to render Idrizovo Prison safe and hygienic through repairing the sanitary facilities, providing sufficient detergent and hygienic products, instituting a preventive health care programme that emphasises cleanliness, replacing decrepit mattresses, furnishing clean bedding, eradicating the infestation of cockroaches and other vermin, replacing broken window panes and repairing the floors and roofs, ensuring adequate artificial lighting in all living areas, etc.
(paragraph 58);
- steps to be taken to reduce the occupancy levels in the closed section of Štip Prison so as to meet the requirements of at least 4m² of living space per prisoner in multi-occupancy cells. Further, prisoners to be supplied with the necessary hygiene and cleaning products, and every effort to be made to maintain the prison in a decent state (paragraph 59);
- the national authorities to ensure that all meals correspond to the minimum legal norms and to the daily menu. The quality and quantity of the food actually provided to prisoners should be routinely recorded and monitored against the official menu, and all discrepancies should be fully explained. The hygiene of the kitchen and transportation of the food to the accommodation blocks should also be regularly inspected. Further, all meals should be distributed to prisoners in a respectful manner (paragraph 60).

comments

- restrictions on prisoners should only be applied when this is strictly necessary for the maintenance of good order or the administration of justice, and for the shortest period of time necessary for this purpose (paragraph 47).

requests for information

- confirmation that inmates being held in the remand sections of prisons, including at Skopje and Tetovo Prisons, are offered the legal minimum of outdoor exercise every day (paragraph 48);
- confirmation that all prisoners in the closed sections of Idrizovo, Skopje and Štip Prisons are offered a minimum of two hours of outdoor exercise every day, as stipulated in the Law (paragraph 50);
- details of the number of juveniles (male and female) currently being held in Skopje Prison and the arrangements in place to offer them a purposeful regime (paragraph 51);

- the reason why prisoners on remand are not allowed a television or mirror in their cells (paragraph 52);
- details of the occupancy numbers for each of the accommodation blocks in Idrizovo Prison, on an ongoing quarterly basis (paragraph 58).

Health care

recommendations

- as regards Idrizovo Prison, a detailed needs assessment to be carried out to determine the precise requirements in terms of health care staff, facilities and equipment. It is already evident that the number of qualified nurses will need to be substantially increased and to include two or more qualified mental health nurses. The results of the needs assessment should be communicated to the CPT, along with a plan for taking the necessary measures (paragraph 65);
- the necessary steps to be taken at Idrizovo Prison to replace prisoners performing nursing duties with qualified health care staff (paragraph 65);
- in respect of Skopje Prison, steps to be taken for the recruitment of up to four additional qualified nurses, one of whom should be a qualified mental health nurse, and the medical facilities to be upgraded (paragraph 65);
- the necessary steps to be taken to provide appropriate training and support to health care staff working in prisons, in the light of the remarks in paragraph 66 (paragraph 66);
- the national authorities to ensure that every newly arrived prisoner is properly interviewed and physically examined by a medical doctor as soon as possible after his admission. Save for exceptional circumstances, that examination should be carried out on the day of admission, especially insofar as remand establishments are concerned. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor. The law should clearly reflect this requirement (paragraph 67);
- the national authorities to take steps to ensure that the practice in all prisons as regards the recording of medical examinations is brought into line with the considerations outlined in paragraph 68 (paragraph 68);
- the national authorities to take steps to ensure that medical confidentiality is fully guaranteed in all prison establishments. This implies that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 70);
- the national authorities to take additional steps to ensure that the confidentiality of medical data is respected (paragraph 70);
- the national authorities to ensure that prison health care services take a proactive role towards preventive health care in prisons. This should include instituting a health information programme in all prisons about transmissible diseases, and providing prison staff with specific training on the issue of transmissible diseases (paragraph 71);

- the national authorities to take the necessary steps to address the issue of hepatitis C in prisons, in the light of the remarks in paragraph 72 (paragraph 72);
- the national authorities to take immediate steps to combat the spread of hepatitis C and to introduce a harm reduction policy (paragraph 76);
- the authorities to institute a practice of carrying out thorough inquiries into every death in custody, which in each case should include an autopsy (paragraph 77);
- a nurse to be employed in the Closed Ward for Prisoners at Skopje Clinical Centre. Further, steps to be taken to guarantee medical confidentiality and ensure that all patients are offered at least the minimum legal requirement of outdoor exercise every day. As for patients transferred to a hospital ward, they should only be handcuffed on the basis of an individual risk assessment (paragraph 80).

requests for information

- whether the Skopje Institute for Lung Diseases and Tuberculosis visited Idrizovo Prison in 2010 to perform screening for tuberculosis on prisoners and, if so, details on the number of inmates who underwent the screening and the results (paragraph 73);
- the outcome of any inquiry (including the autopsy report) into the death of an inmate in Gevgelija Prison referred to in paragraph 77 (paragraph 77);
- updated information on the investigation into the death of Mr T. in Tetovo Prison in June 2008 (see paragraph 28 of the CPT's report on the 2008 visit) (paragraph 77).

Other issues

recommendations

- the national authorities to introduce proper admission procedures as well as an induction process for all prisoners being admitted to a prison, with a priority placed on those establishments which are points of entry to the prison system (paragraph 82);
- steps to be taken to address the deficiencies in the admission unit of Idrizovo Prison referred to in paragraph 82 (paragraph 82);
- the national authorities to take the necessary steps to ensure that sentenced prisoners are not deprived of contact with the outside world during the first 30 days of their imprisonment (paragraph 83);
- the national authorities to take the necessary steps to ensure that all prisoners undergoing a disciplinary punishment of solitary confinement are offered one hour of outdoor exercise every day and are given access to a shower at least twice a week (paragraph 84);

- persons newly admitted to prison not to be held together with those inmates undergoing a sanction of solitary confinement (paragraph 84);
- the national authorities to guarantee a fair hearing, in accordance with the law, for all persons accused of disciplinary offences (paragraph 84);
- prisoners facing disciplinary charges to be formally guaranteed the following additional rights, which are not explicitly provided for in the current legislation:
 - to be informed in writing of the charges against them and to be given sufficient time to prepare their defence;
 - to call witnesses on their own behalf and to cross-examine evidence given against them;
 - to remain seated during adjudications and to have facilities to take notes;
 - to appeal to an independent authority against any sanctions imposed;
 - to receive a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues for lodging an appeal(paragraph 85);
- disciplinary procedures to be explained in a clear language in the relevant House Rules (paragraph 85);
- the role of prison doctors in relation to disciplinary matters to be reviewed. In so doing, regard should be had to the revised European Prison Rules and the comments made on this subject by the CPT in its 15th General Report (paragraph 86);
- the national authorities to review the arrangements for visits, with a view to:
 - increasing the amount of visiting time offered to both remand and sentenced prisoners, preferably to at least one hour every week;
 - ensuring that prisoners and their families can conduct visits with dignity and respect of privacy (i.e. with appropriate seating arrangements and in an environment which does not require raised voices for communication); as far as possible, both remand and sentenced prisoners should be able to receive visits under reasonably open conditions(paragraph 87);
- the authorities to take the necessary steps to ensure that the various supervisory mechanisms operate in a professional, transparent and independent manner, taking due account of the precepts outlined by the Committee in its previous visit reports (paragraph 90).

comments

- the CPT trusts that the Ombudsman Institution will be provided with the appropriate funds to fulfil its task as the National Preventive Mechanism (paragraph 90).

Psychiatric institutions

Preliminary remarks

requests for information

- how - in particular as regards structural work and maintenance - and within which timeframe, the funds allocated for psychiatric hospitals from a Council of Europe Development Bank loan are being spent (paragraph 92);
- progress in regard to the health authorities' proposal to ensure that persons whose placement has no psychiatric basis – or no longer has such basis – are discharged from psychiatric institutions (paragraph 92);
- comments on the issue of the authority to have responsibility for providing forensic psychiatric care (paragraph 93).

III-treatment

recommendations

- a focused, independent analysis of the phenomena of ill-treatment of patients by staff and inter-patient violence in psychiatric hospitals to be carried out without further delay (paragraph 98);
- appropriate measures to be taken to put an end to ill-treatment and inter-patient violence at psychiatric hospitals, and to promote a safe environment. Those measures should centre around:
 - zero tolerance of ill-treatment of patients by staff, including adequate sanctions when ill-treatment emerges,
 - improved staffing levels and professionalism; and
 - a safe and independent system for complaints and inspections (paragraph 100);
- sticks and similar potential makeshift weapons to be removed from hospital premises forthwith (paragraph 100).

Patients' living conditions

recommendations

- the competent authorities to pursue vigorously efforts to improve living conditions at Demir Hisar, Negorci and Skopje Psychiatric Hospitals, in the light of the remarks in paragraphs 102 to 107. In particular, they should ensure that:
 - hygiene throughout the hospitals is of a standard worthy of health-care institutions;
 - all patients have ready access to decent sanitary facilities;
 - living space per patient is of an adequate level;
 - patients have access to indoor communal areas during the winter;
 - the state of repair and decoration of the accommodation wards is significantly improved;
 - each patient possesses both adequate, preferably individualised, day-time clothing, including for winter, as well as pyjamas for the night; and
 - each patient has access to a personal, lockable space or, alternatively, an effective means is devised for the safekeeping of personal items(paragraph 108);
- all patients, including forensic patients under examination, to be offered effective access to outdoor exercise on a daily basis throughout the year (paragraph 110).

requests for information

- regarding the refurbishment work undertaken thus far at both Demir Hisar and Negorci Psychiatric Hospitals (paragraph 108);
- the numbers of patients occupied in work at both Demir Hisar and Negorci Psychiatric Hospitals, as well as their working hours and the remuneration they receive, if any, for such work (paragraph 109).

Treatment, care and staffing

recommendations

- the necessary steps to be taken to ensure that the treatment for psychiatric patients at all three hospitals visited meets the requirements set out in paragraph 112. More specifically:
 - individual psychiatric treatment plans to be drawn up together with the patient concerned, which should set targets and clearly defined time-frames for their achievement; and
 - treatment plans to be subject to regular reviews(paragraph 112);
- specific programmes on addressing offending behaviour to be introduced in the forensic wards at Demir Hisar, Negorci and Skopje Psychiatric Hospitals (paragraph 112);
- the relevant authorities to ensure adequate staff numbers at Demir Hisar, Negorci and Skopje Psychiatric Hospitals; further, the professionalism of all staff should be promoted through the effective implementation of appropriate policies on recruitment, initial and ongoing training, as well as discipline (paragraph 113);

- resolute action to be taken to ensure that all patients in psychiatric institutions benefit from adequate dental care, including preventive/conservative care (paragraph 114).

Means of restraint

recommendations

- the national authorities to carry out an extensive review of the use of restraints in psychiatric hospitals and, in so doing, to take account of the Committee's standards in this area (paragraph 116);
- the relevant authorities to ensure that, in the context of a person's transfer to a psychiatric hospital, any use of restraints is subject to an individual risk assessment (paragraph 117).

requests for information

- a comprehensive account of the results of the review of the use of restraints in psychiatric hospitals, and of the action taken to reduce the use of restraints (paragraph 116).

Deaths of patients

recommendations

- an autopsy to be carried out whenever a patient interned in a psychiatric hospital dies, unless a medical authority independent of the hospital decides that an autopsy is unnecessary (paragraph 120);
- the authorities to institute a practice of carrying out a thorough inquiry into every death of a patient, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures (paragraph 120).

requests for information

- clarification concerning the case of Ž.S. [Žaneta Sakrumovska], a 40-year-old woman who died of pneumonia on 13 August 2010 at Demir Hisar Psychiatric Hospital (paragraph 119).

Safeguards and complaints procedures

recommendations

- the authorities to take the necessary steps to ensure that proper involuntary placement procedures are followed, and in good time, whenever genuine informed consent to placement is not, or cannot be, obtained, or whenever a patient subsequently revokes his or her consent to placement (paragraph 121);
- the procedural safeguards surrounding the initial placement decision to be strengthened (paragraph 121);

- the relevant authorities to ensure that the deficiencies referred to in paragraph 122 concerning the safeguards surrounding forensic psychiatric placements are rectified (paragraph 122);
- patients to be placed in a position to give their free and informed consent to treatment, and information on patients' rights to be made available (paragraph 123);
- the authorities to ensure that effective complaints procedures are put in place which allow patients to lodge complaints on a confidential basis with an independent body (paragraph 124);
- the authorities to take the necessary steps to ensure that a legally established independent authority has the power and necessary means to carry out frequent and unannounced visits to psychiatric hospitals. Such a body should, in particular, be authorised to speak privately with patients and have access to all relevant documentation (paragraph 125);
- the legal status of patients placed in psychiatric hospitals to be urgently reviewed, in accordance with the Mental Health Act and in the light of the remarks in paragraph 126 (paragraph 126).

requests for information

- on the nature and outcome of the complaints lodged in 2010 at Skopje Psychiatric Hospital by patients or their families (paragraph 124).

Demir Kapija Special Institution for mentally disabled persons

III-treatment

requests for information

- a written response to the CPT's letter of 25 March 2008, in particular as regards the reasons why, given the cause of the death of Imran Ibraimovski, no investigative proceedings were instituted (paragraph 130).

Residents' living conditions

recommendations

- the authorities to treat regular structural maintenance at the Institution as a priority. Further, efforts to be made to ensure adequate ventilation and hygiene throughout the establishment (paragraph 131);
- the competent authorities to take steps to ensure that residents of each gender have their own protected bedrooms and sanitary areas (paragraph 132);
- the feeding habits of mobile residents to be monitored for compliance with minimum standards of hygiene, and residents to receive appropriate training on eating skills and hygiene habits (paragraph 133);

- a full and varied programme of activities to be offered to residents at the Institution, the aim being to engage with every resident and provide stimulation appropriate to each resident's needs (paragraph 134).

requests for information

- on progress in the renovation of the A wards (paragraph 131).

Treatment and staffing

recommendations

- the authorities to take urgent action to ensure that residents' long-term health needs are adequately met. In particular, the authorities to ensure that:
 - the equivalent of at least one full-time doctor is regularly employed at the Institution;
 - the nursing complement is significantly increased;
 - adequate dental care is provided, including preventative/conservative care;
 - the neuro-psychiatry provision is significantly increased;
 - adequate provision is made for residents' physiotherapy needs; and
 - staff receive the initial and ongoing training they need in order to fulfil their duties (paragraph 139);
- health-care provision for the Institution's residents to be integrated and coordinated by a multi-disciplinary health-care team, responsible, in particular, for ensuring that:
 - each resident is carefully assessed on admission to the establishment, as regards his or her somatic status (including a description of the status of muscles and joints), dental status, motor skills, mental skills, basic skills, rehabilitation skills and language skills;
 - an individual treatment and rehabilitation plan is drawn up in respect of each resident, including treatment and rehabilitation goals, methods, estimated time, persons/mentors responsible, and regular reviews at reasonable intervals (paragraph 140);
- the necessary steps to be taken to ensure that patients' files are rigorously maintained (paragraph 141);
- an autopsy to be carried out whenever a resident at Demir Kapija Special Institution dies, unless a medical authority independent of the institution indicates that an autopsy is unnecessary (paragraph 141);
- the authorities to institute a practice of carrying out a thorough inquiry into every death of a resident, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures (paragraph 141);
- weighing scales (also appropriate for bedridden residents) to be acquired and all residents to be weighed regularly with a view to monitoring their nutritional status and, where necessary, prescribing effective nutritional intervention (paragraph 142);
- the approach towards contraceptive treatment at the Demir Kapija Institution to be reviewed, in particular to ensure that it is in compliance with clinical standards and with the need for the resident's or her guardian's consent to the treatment (paragraph 143).

Safeguards

recommendations

- the review of the legal capacity of residents at the Demir Kapija Institution to be completed as soon as possible (paragraph 144);
- the relevant authorities to take the necessary steps to ensure that all persons who are the subject of proceedings with a view to being deprived of their legal capacity are systematically given a copy of the court decision (paragraph 145);
- the relevant authorities to take the necessary steps to ensure that legal guardians fulfil their duties responsibly and in the interests of their wards (paragraph 145);
- the national authorities to incorporate the Council of Europe's Principles concerning the Legal Protection of Incapable Adults into the legal norms governing guardianship (paragraph 146);
- an introductory brochure for residents and guardians to be provided at Demir Kapija Special Institution, setting out the establishment's routine and residents' rights, including about their right to lodge formal complaints and the modalities for doing so (paragraph 147).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS MET BY THE CPT'S DELEGATION

A. National authorities

Ministry of Foreign Affairs

Sanja ZOGRAFSKA–KRSTESKA	Head of Council of Europe, OSCE and Multilateral Affairs Department, and CPT Liaison Officer
Ms. Olgica VASILEVSKA	Head of the Council of Europe and OSCE Unit
Simon KANEVCE	Council of Europe and OSCE Unit

Ministry of Health

Bujar OSMANI	Minister
Zoran STOJANOVSKI	Deputy Minister
Snezhana CHICHEVALIEVA	Head of Department for European Integration
Anka GEORGJEVSKA	Head of Secondary Care Sector
Sasho DIMITROVSKI	Secondary Care Sector
Idriz NEXKIPI	Director of Skopje Psychiatric Hospital

Ministry of Interior

Gordana JANKULOVSKA	Minister
Aneta STANCESKA	Assistant Minister and Head of Sector for Internal Control and Professional Standards
Lupco TODOROVSKI	Director, Bureau for Public Security
Toni STANKOVSKI	Assistant Director of Public Security and CPT Liaison Officer

Ministry of Justice

Mihajlo MANEVSKI	Minister
Lidija GAVRILOSKA	Director of the Directorate for Execution of Sanctions
Emilija JORDANOVA	Senior Associate for Alternative Measures

Ministry of Labour and Social Policy

Dzelal BAJRAMI	Minister
Adrian MUCHA	State Counselor for Social Welfare
Adrian RAMADANI	Head of Cabinet of the Minister
Slobodanka ZDRAVKOVSKA	Head of Unit for the protection and employment of people with disabilities
Snezana MIHAILOVSKA	Counselor, Unit for the Deinstitutionalization

Other authorities

Ixhet MEMETI

Nevenka KRUSHAROVSKA

Uranija PIROVSKA

Ombudsman

Deputy Ombudsman

State Adviser for International and Public Relations

B. International Organisations

Ewan FOUERE

European Union Special Representative

OSCE Spillover Monitor Mission to Skopje

C. Non-governmental Organisations

Centre for support of persons with intellectual disability - PORAKA

Civil Society Research Centre

Macedonian Helsinki Committee