



CPT/Inf (2012) 5

## **Response**

**of the Government of "the former Yugoslav Republic of Macedonia" to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to "the former Yugoslav Republic of Macedonia"**

**from 21 September to 1 October 2010**

The Government of "the former Yugoslav Republic of Macedonia" has requested the publication of this response. The report of the CPT on its September/October 2010 visit to "the former Yugoslav Republic of Macedonia" is set out in document CPT/Inf (2012) 4.

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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## RESPONSE

### **of the Government of the Republic of Macedonia to the Report on the visit carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 21 September to 1 October 2010**

The Government of the Republic of Macedonia highly values the role of the CPT in promoting the implementation of obligations by the State Parties to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and is firmly committed to the implementation of the recommendations contained in the Report following the visit to the Republic of Macedonia carried out from 21 September to 1 October 2010. The comments on the CPT delegation's observations provided by the relevant institutions are given below.

#### **A. COMMENTS BY THE MINISTRY OF THE INTERIOR**

##### **Paragraph 11**

The Sector for Internal Control and Professional Standards (SVKPS) has not instituted any proceedings in respect of two referred to cases of alleged ill-treatment in Gostivar and in Skopje, which the CPT Delegation corroborated through individual interviews with inmates in separate cells and through its findings from visits to certain police stations. The Sector has received no information about such cases, nor has it received any other reports (complaints by citizens, NGO's, the media), which would have prompted an investigation into the allegations of the persons concerned. Following the receipt of the CPT Report, the staff at the Sector have been charged with full examination of the cases.

With respect to the referred to event in Gostivar on 26 April 2010, the Sector has undertaken all necessary measures and activities in order to clarify the event. Following the undertaken measures, it has been established that on 26 April 2010, at 18.30 hrs., a citizen made a mobile telephone call to his friend- a police officer, informing him that his minor daughter had been kidnapped and that certain persons from Gostivar had demanded a ransom in the amount of EUR 20,000. The person reporting the event and the police officer went to Gostivar where at a previously arranged place, they met other police officers, following which driving in four official motor vehicles they headed to Mavrovo. When they arrived at the place called Mavrovi Anovi, the person reporting the event and the police officer noticed a yellow passenger motor vehicle of the Renault 9 make, in front which there were five people, two of whom female. The police officer stopped the vehicle. The police officer, the person reporting the event and two other inspectors headed towards the people in front of the vehicle, when one of the people started running away. The person reporting the event hit one of the people remaining at the place of the event, i.e. the damaged person on the face with a metal object, while the police officer kicked the person in the head, following which the person fell on the ground. The person reporting the event continued hitting the damaged person, but was stopped by the police officer. Uniformed police officers came with an official vehicle at the place of the event, while the police officer handcuffed the damaged person and the third male person, who had remained at the place of the event. The handcuffed apprehended persons were brought at the general competence Gostivar Police Station at 22.15 hrs. and were left at a bench in a corridor of the said police station.

The head of shift, who came at work at 22.45 hrs. collected all required data about the persons apprehended and enabled the apprehended persons to exercise their right to defence lawyer and other rights. Considering that the damaged person complained of pain the facial area, on 26 April 2010, at 23.30 hrs. an official vehicle took him to the Gostivar Medical Centre, where he received medical treatment and where x-rays were made establishing fracture of the nose. Following the medical treatment, the damaged person was held at the general competence Gostivar Police Station, where on 27 April 2010, at 05.00 hrs., his defence lawyer came, advising him to defend himself by exercising the right to silence.

Considering that there were elements indicating that a punishable offence of organized crime had been perpetrated, police officers of the Department against organized crime were informed, who took over the case for further processing. Following the full examination of the case, the Department against organized crime filed criminal charges on the grounds of reasonable suspicion that with a view to gaining criminal

proceeds, seven people, among whom the damaged person, established a group for perpetration of the crime of "trafficking in minors"- a crime sanctioned under Articles 418c and 418d of the Criminal Code of the Republic of Macedonia. The involved persons placed in the vehicle two minor female persons (referred to above) and deceived them that they would take them home. Instead, they unlawfully deprived the two minor girls of their freedom and forced them to have intercourse with several persons. An investigative judge ordered remand prison for the persons charged.

On 28 April, 2010 the damaged person, along with his complete medical file from the Gostivar Medical Centre, was taken to the Skopje Prison, where upon reception the doctor established fractured nose, fracture of two teeth and bruises on the jaw, all of which was entered in the medical log. The inspection of the medical documentation did not enable establishment of the character of the injuries suffered, since 4 original x-rays of the damaged person were taken from the Skopje Prison (with a receipt document), as well as the photocopy of the medical documentation that was submitted to a forensic specialist at the Gostivar General Hospital for an expert opinion. The Gostivar General Hospital issued an expert opinion stating that the concerned person had suffered bodily injuries. Based on the results of the undertaken measures, the SVKPS established that some of the police officers undertaking official actions in the specific case, acted contrary to rules and regulations applied by the Ministry of the Interior. However, considering the long period that elapsed following the event there was absolute statute of limitations. Hence, the SVKPS could not order the obligatory measure of instituting proceedings with a Disciplinary Committee for establishment of disciplinary responsibility.

The Sector for Internal Control and Professional Standards filed a Special Report about the event to the Gostivar Basic Public Prosecutor's Office for their informing and further processing.

As regards the event taking place on 15 March 2010, in Skopje, all measures required for the clarification of the event have been undertaken and the following has been established:

On 15 March 2010, at about 16.40 hrs. in Skopje, two persons, one of whom the person interviewed, following a verbal argument, physically attacked a citizen, who was accompanied by other two persons. At one moment, one of the attackers fired several shots from a fire arm- gun at one of the persons accompanying the interviewed person, who succumbed to the injuries. Two police officers nearby the place of the event, having heard the firearm shots, came and saw the killed person and the other injured person who pointed out the attackers. Driving a passenger motor vehicle of the Skoda Octavia make, the attackers attempted to run away from the place of event. The police officers ran in front of the vehicle and shouted clearly the order "Police! Stop!". The vehicle stopped, after which the persons attempted to run away on foot resisting the apprehension, owing to which means of coercion were used (physical force and a bar), following which the resistance was overcome and the attackers were handcuffed.

A report on the use of physical force (prepared in line with Article 27 of the Regulation on the Use of Means of Coercion) was prepared regarding the use of physical force in overcoming the resistance of the persons, for which the legal conditions for apprehension without a written court order were fulfilled in line with Article 47, paragraph 1, sub-paragraph 3. The immediate superior officer, in his report, assessed the used force as justified and proportionate to the need of preventing the escape of a person following a serious crime of murder. In accordance with Article 81 of the Law on the Police when means of coercion have been used within the limits of police authorizations, the responsibility of the police officer who has applied physical force is excluded.

In connection with the apprehension, at the general competence Centar Police Station, the police officers at the said station filled in all forms (official note on the apprehension without a written court order, receipt on the handing over of the person, official note, minutes of the search of the person, confirmation of provisionally impounded items, minutes of the police custody, report on the used of means of coercion), while the apprehended persons were enabled exercise of rights under Article 34 of the Law on the Police, in which respect minutes were prepared, signed by the apprehended persons, the two lawyers and by police officers.

The receipt of the handing over of one of the persons and the minutes on the person in police custody contain the following note: "Visible injury- scratch in the area of the right eyebrow, on the left of the forehead and redness around the nose." As regards the other person, the official documents contain the note: "Visible injury -scratch in the area of the right eyebrow, on the forehead and on the left side of the face."

The minutes done on the exercise of the right to a lawyer, signed by the persons apprehended and by their lawyers, contain no remarks about the police treatment.

The official interview at the general competence Centar Police Station was conducted in the presence of lawyers, by whom the apprehended persons requested to be represented.

Following the examination of the event, the Skopje Internal Affairs Department charged one of the apprehended persons with murder, while the other person was charged with "violence." Based on the implemented procedure, the SVKPS considers that the police officers acted in accordance with the Law on the Police, the Law on Criminal Procedure, the Criminal Code, and the Rulebook on the Manner of Performance of Police Duties.

## **Paragraph 12**

With respect to the comments related to strengthening the professional capacities of the police staff, the Sector for Police and Crime Affairs has submitted a proposal to the Training Centre for organizing trainings on the treatment of persons invited for an interview at police stations, then for treatment of apprehended and persons held in police custody, as well as trainings on the procedures for police custody. It is proposed that commanders of police stations and police units and managerial officers of the crime police are covered with the training, with a view to coordinating the activities of the uniformed and civilian part of the police service. At the beginning of 2010, the Sector for Internal Control and Professional Standards acted upon the Action Plan for Prevention of Unlawful and Unprofessional Treatment by Police Officers. Thus, the Head of this Sector had working meetings with the management structures at general competence police stations (Stip, Valandovo, Kavadarci, Kratovo, Probistip, Vinica, Kocani, Tetovo, Gostivar, Negotino, Kriva Palanka, Prilep, Gevgelija, Kumanovo, Demir Hisar, Ohrid and Struga), and with the heads of the border control police stations. These meetings were focused on clearly underlining the importance of consistent respect for human rights and freedoms in exercising police authorizations, as well as of the application of the Law on Internal Affairs, the Law on the Police and secondary legislation of the Ministry of the Interior. At these meetings, the heads of these organizational units were tasked with organizing working meetings with the police staff, focusing on the importance of the duty to respect the laws and secondary legislation, as well as on the consistent respect for human rights and freedoms in police procedures. All such meetings were held. At the meetings, it was emphasized that each instance of violation of and acting contrary to rules and regulations would imply criminal and disciplinary responsibility.

Furthermore, at the beginning of August 2011, acting upon a previously defined plan, and with a view to preventing unlawful treatment by police officers, the Sector for Internal Control and Professional Standards had working visits to the Unit for fight against crime at the Skopje Internal Affairs Department - called Alfa, then to the Special Task Force and the Rapid Deployment Unit at the Department for Special Units. Thus, the managerial police officers were told about the necessity of consistent respect for human rights and freedoms, while undertaking measures within police authorizations, as defined in the Law on Internal Affairs, the Law on the Police, and the Code of Police Ethics. The managerial police officers were tasked with organizing similar meetings with the police staff.

In 2010, together with the Ombudsman's Office and NGO's, the Sector for Internal Control and Professional Standards organized two workshops on the topic of "protection of human rights while applying police authorizations", in which officers of the Unit for fight against crime -Alfa, then of the Special Task Force and of the Rapid Deployment Unit took part. One workshop was organized at the Training Centre of the Ministry of the Interior, in which a representative of the Ombudsman's Office, and representatives of the

NGO called "Coalition for Fair Trials" took part, while the other workshop took place at the premises of the Rapid Deployment Unit, organized by the SVKPS, in cooperation with the NGO called ARKA Roma Rights Forum.

### Paragraph 15

Following the adoption of the new Collective Agreement of the Ministry of the Interior (Official Gazette of the Republic of Macedonia No. 126, dated 22 September 2010) a representative of the Sector for Internal Control and Professional Standards participates in the work of the Disciplinary Committee, monitoring its work, but without a voting right. The participation of an officer of the Sector for Internal Control and Professional Standards is expected to result in more objective work of the Committee. Hence, if the representative of the Sector establishes that the procedure before the Disciplinary Committee is not conducted in line with the rules and regulations set forth under the Collective Agreement, he/she will inform the Minister of the Interior, who adopts decisions on disciplinary responsibility, upon a proposal of the Committee.

An analysis is hereby enclosed of cases in the 2008-2010 period, in which police officers were found responsible for use of physical force without any grounds and were consequently disciplinary and criminally sanctioned:

In 2008, the Sector for Internal Control and Professional Standards processed **64 complaints** by citizens alleging that police officers **used physical force against them**. Following the undertaken measures, in **four cases** it was established that in performing their police authorizations, police officers **used physical force without any grounds**, while in **24 cases** owing to lack of sufficient evidence **the allegations contained in the complaints could not be corroborated**, as necessary for this type of procedures. As regards **the four cases** of established unjustified use of physical force, in two of the cases criminal charges were filed. In the other cases, police officers have not used physical force or the use of physical force and means of coercion were justified and used as prescribed.

The event took place in December 2007 in Prilep. The police officer threatened and offended a citizen and then used physical force, thus inflicting bodily injuries upon the citizen. In February 2008, criminal charges were filed for the crime of "ill-treatment in the performance of duties". The Sector for Internal Control and Professional Standards ordered institution of disciplinary proceedings against the police officer. Upon the proposal of the Disciplinary Committee, a Decision was adopted sanctioning the concerned police officer to paying a fine.

The second event took place on 27 December 2007, in Skopje. Two police official persons used physical force and injured a person, wanted under an arrest warrant, while transporting the concerned person from one to another police station. After the examination and documenting of the case, criminal charges were filed against the two police officers for the crime of "ill-treatment in performance of duties". The Sector for Internal Control and Professional Standards ordered institution of disciplinary proceedings against the two police officers. Upon a proposal of the Disciplinary Committee, the proceedings were suspended.

In January 2008, an on-duty police officer of the Department for Securing Buildings disturbed the public peace and order in a café, attacking and thus inflicting injuries on a citizen. The relevant organizational unit filed misdemeanour charges against the police officer for violation of the public peace and order and physical attack on a citizen, while the SVKPS ordered the obligatory measure of instituting disciplinary proceedings. Upon the proposal of the Disciplinary Committee, the police officer was sanctioned with a fine.

In August in Tetovo, while driving an official vehicle in the city, a police officer noticed his relative having an argument with another citizen, after which the police officer left the vehicle and started arguing with the citizen, ultimately physically attacking the citizen, hitting him on the head two times. The Tetovo Police Station filed misdemeanour charges against the police officer for physical attack, while the SVKPS

ordered the obligatory measure of instituting disciplinary proceedings for the establishment of disciplinary responsibility. Upon the proposal of the Disciplinary Committee, the police officer was sanctioned with a fine.

In 2009, the Sector for Internal Control and Professional Standards processed **79 (64) complaints** by citizens, alleging that police officers **used physical force against them**. Following the undertaken measures, in **six cases** it was established that in performing their police authorizations, police officers **used physical force without any grounds**, while in **36 cases** owing to lack of sufficient evidence **the allegations contained in the complaints could not be corroborated**, as required. In the other cases, the police officers did not use physical force or the physical force and coercion means have been used correctly and on proper grounds. In the context of the six cases in which it was established that the use of force had been without any grounds, in two cases criminal charges were filed and three special reports were filed with Basic Public Prosecutors' Offices for their informing and further processing, while police officers who had used physical force without any justification were subject to disciplinary proceedings.

It is underlined that even in the context of cases in which evidence was lacking to establish the use of physical force, i.e. in which there were unclear indications and contradicting statements, in 6 such cases the Sector for Internal Control and Professional Standards filed special reports with the competent Public Prosecutors' Offices for their informing and further processing.

At the end of November 2008, an NGO informed the Sector about an event that had taken place on 14 October 2008 at the Tetovo Police Station. The case examination ended in the first quarter of 2009. Following the undertaken measures, it was established that a citizen wanted under an arrest warrant for serving a sentence was apprehended and kept in the police custody premises at the Tetovo Police Station, wherefrom he was transferred in prison, where the prison doctor established bodily injuries. Following the undertaken measures, it was established that physical force had been used against the damaged person, most probably during his custody or transport to the prison. Considering that the damaged person did not cooperate with the SVKPS, the Sector had no possibilities to establish the identity, i.e. which police officers had used physical force. Therefore, the entire evidence material was attached to a special report sent to the Tetovo Basic Public Prosecutor's Office.

The second event took place in November 2008, at an underground parking lot in Skopje, while the Sector was informed about the event in December the same year. The proceedings in the case were completed in the first quarter of 2009. While undertaking official actions against a citizen, three police officers used physical force as a means of coercion, following which they continued using physical force even after the cessation of the reasons giving rise to use of physical force. Following the completion of the documentation in this case, it was established that the three police officers had perpetrated the crime of "ill-treatment in the performance of duties". Therefore, a special report was filed with the Skopje Basic Public Prosecutor's Office. Due to the statute of limitations, in line with the Collective Agreement of the Ministry of the Interior, the SVKPS was not able to order institution of proceedings to establish the responsibility for violation of the working order and discipline.

On 14 June 2009, in Demir Hisar, while police officers undertook measures to clarify the case of disturbed public peace and order in a café, a police officer standing in front of the café, without any justification, and having no cause or reason, hit a citizens in the neck area. The superior officer, who assessed the use of means of coercion – physical force as having no grounds, instituted disciplinary proceedings against the concerned police officer. Upon the proposal of the Disciplinary Committee, a Decision was adopted to issue a written notice of warning to the police officer.

On 5 September 2009, at a petrol station in Skopje, three police officers of the Unit for fight against crime -Alfa, after depriving the citizen of his freedom, used means of coercion- handcuffing, following which they placed the person in the trunk of the official vehicle and kept him there closed. After this, they took the person to the Gazi Baba Police Station and turned the person over to the on-duty officer. Following the full investigation of the case, on reasonable suspicion that the three police officers have perpetrated the crime of "ill-treatment in the performance of duties" a special report was submitted to the Skopje Basic

Public Prosecutor's Office. The SVKPS ordered institution of disciplinary proceedings against the police officers. Upon the proposal of the Disciplinary Committee, a decision for suspended termination of employment contract was adopted with respect to all three police officers.

On 27 June 2009, at about 04, 00 hrs., in Stip, while undertaking official actions against disturbed public peace and order and contempt of authorized official persons, a police officer of the Stip Police Station applying physical force, i.e., blows to the head, incurred grievous bodily injury, breaking two front teeth of the citizen. The Sector for Internal Control and Professional Standards prepared a report containing an assessment of the grounds, justification and correctness of use of means of coercion, stating that force was used without any grounds or justification. Upon completing the documentation on the case, the SVKPS filed criminal charges against the police officer for the crime of "inflicting grievous bodily injury" and prescribed the compulsory measure under which the immediate superior officer was to institute proceedings with the relevant Disciplinary Committee for establishment of responsibility for violation of the working order and discipline. Upon a proposal for the Committee, a decision suspending the proceedings was adopted.

On 24 November 2009, in a restaurant in Skopje, a police officer under the influence of alcohol, applied violence against the restaurant staff and one guest. After the documentation of the case, the Skopje Internal Affairs Department filed criminal charges against the police officer for the crime of violence, while the SVKPS ordered a compulsory measure of institution of disciplinary proceedings. After the disciplinary proceedings, the police officer was fined.

In 2010, the Sector for Internal Control and Professional Standards processed **64 reported cases of allegations that police officers used physical force while performing their duties**. Following the undertaken measures, in **five cases** it was established that in performing their police authorizations, the police officers used physical force **without any grounds**, while in **20 cases** owing to lack of sufficient evidence the **allegations contained in the complaints could not be corroborated, as required in such cases**. In the context of the five cases in which it was established that physical force had been used without any grounds, in one case criminal charges were filed, in one case a special report was submitted to the Basic Public Prosecutor's Office for their informing and further processing, while disciplinary proceedings were instituted against police officers who had used physical force without any grounds.

It is underlined that even in the context of cases in which evidence was lacking to establish the use of physical force, i.e. in which there were unclear indications and contradicting statements, in 6 such cases, the Sector for Internal Control and Professional Standards filed special reports with the competent Public Prosecutors' Offices for their informing and further processing.

In one of the events taking place on 19 February 2010, in Skopje it was established that the event occurred while the officer was on duty, but it was not related to undertaken official actions. Thus, owing to a traffic related misunderstanding, the police officer physically attacked a citizen. After the case had been cleared, misdemeanour charges were filed against the police officer for physical attack, while the SVKPS ordered that the immediate superior officer institute proceedings with the competent Disciplinary Committee for establishment of responsibility for violation of the working order and discipline. Upon the Committee's proposal, a decision suspending the proceedings was adopted.

The second event took place on 18 May 2010, in the village of Bansko, near Strumica. During an action of providing police assistance for enforcement of a decision, a police officer used physical force against a citizen even after the conditions giving rise to the use of force had ceased (i.e. the violence continued even after the handcuffing). The SVKPS filed a special report with the Basic Public Prosecutors' Office for their further informing and processing, and ordered institution of disciplinary proceedings by the relevant Disciplinary Committee against the police officer for violation of the working order and discipline. Upon the proposal of the Committee, a decision was adopted suspending the proceedings.

On 4 June 2010, in front of a restaurant in a village near Gostivar, while undertaking additional traffic safety measures, a police officer ordered one of the passenger motor vehicles in the line of cars to move, slapping at the same time the driver in the vehicle. Considering that the police officer acted in

contravention of the Rules on Performance of Police Duties and the Law on the Police, the SVKPS ordered the immediate superior officer to institute disciplinary proceedings with the relevant Disciplinary Committee for establishment of responsibility for violation of the working order and discipline. Upon the proposal of the Committee, a decision was adopted punishing the police officer with a fine.

On 18 August 2010, in Skopje, opposite the Biser Shopping Mall, during a regular traffic control, a uniformed police officer witnessed a traffic violation and issued the person perpetrating the traffic violation an order to pay a fine, making also minutes of the traffic violation. The citizen started objecting and refused to sign the minutes. Following such a reaction, the police officer pulled the person by the hand, after which the person hit the door, suffering thus injuries on the face. After the investigation of the event, the SVKPS ordered the immediate superior officer to institute proceedings with the competent Disciplinary Committee for establishment of responsibility of the officer. Following the disciplinary proceedings, the police officer received a written reprimand.

During the event taking place on 23 June 2010, at the premises of the Skopje Civil Administrative Department, while performing regular police duties, a uniformed police officer was attacked by another police officer because the uniformed police officer had not allowed the other police officer to enter behind the official counters at the Civil Administrative Department, without a official staff ID card of the Ministry of the Interior. After the investigation of the case, the Skopje Internal Affairs Sector filed criminal charges for the crime of "attack on an official person performing security activities", while the SVKPS ordered the immediate superior officer to undertake the obligatory measure of instituting disciplinary proceedings with the competent Disciplinary Committee for establishment of disciplinary responsibility. Following the proceedings, the police officer was dismissed from work.

#### **Paragraph 18**

In the context of the protection of the right to a lawyer of persons apprehended or kept in police custody, the following is underlined: The reception police officer has the obligation to inform the person concerned about his/her rights. As regards the considerations about the right to a lawyer, the Sector for Police and Crime Affairs has come to similar conclusions, as stated in the Report. However, according to the legal provisions, during a police procedure the person may, but does not have to have a lawyer (it is a matter of a choice of the person concerned). In general, the relevant services encounter two categories of citizens- citizens who call their defence lawyer (in such cases there are almost no deficiencies, the defence lawyer is called and this is entered in the proper records), and citizens who do not want to be represented by a lawyer due to their inability to pay for the legal services, which is the main reason for the small percentage of persons who have asked for a lawyer during a police procedure (which is also entered in the proper records). In most cases the persons concerned do not demand a lawyer. Article 161 of the new Law on Criminal Procedure (which will enter into force in November 2012), envisages that *in the period from 20:00 hrs. to 08:00 hrs. in the morning, the person has the right to be represented by a lawyer from the list of on-duty lawyers. The list is kept by the Bar Association of the Republic of Macedonia. The fees for the on-duty defence lawyer in a police custody procedure are covered under the Budget of the Republic of Macedonia.*

#### **Paragraph 19**

In respect of the right to access to a doctor by apprehended or persons held in police custody the following is underlined: Taking into consideration the importance of ensuring the exercise of this right, under the procedure for police custody and for treatment of persons held in police custody issued by the Director of the Public Security Bureau, police officers are obliged to enable the exercise of *the right to medical assistance, which is a priority right and is to be ensured before undertaking any other activities.*

NOTE: The Sector for Police and Crime Affairs acts in accordance with the Plan No. 21.1-77, dated 6 April 2011 for professional controls of police stations of general competence, with a focus on the treatment and records kept of persons invited for an interview, of persons apprehended or kept in police custody, as well as on the maintenance of the detention facilities in police stations. Following the controls, Official Notes are prepared containing instructions for elimination of all established deficiencies. The Sector for Police and

Crime Affairs continues the activities under the said Plan with a view to ensuring greater presence and continual expert assistance. Following the CPT visit, on 13 October 2010, all heads of Internal Affairs Departments were sent instructions for elimination of all deficiencies in the procedure and in the treatment, while the next control round will be focused on controls whether these instructions have been followed.

#### **Paragraph 20**

In respect of the two foreign minors kept at the Centar Police Station, the following is underlined: On 28 September 2010, (immediately following the CPT visits on 23 September 2011) the Centar Police Station was inspected. More specifically, on 23 September 2011, at 12,30 hrs., four nationals of the Republic of Albania were apprehended, 2 of whom two were older minors (born in 1993 and in 1992), and 2 were adults. They were apprehended because of illegal stay in the Republic of Macedonia. The Unit for Illegal Migration at the Sever Regional Centre was informed about the apprehension with a communication No. 24.21.2-1129, dated 23 September 2010, and the inspectors for foreign nationals immediately took legally prescribed activities (interviewed the persons, established the identity of the persons, checked whether conditions for their return to the country of origin were fulfilled). At 20,00 hrs., with a signed transfer document, the persons were handed over to inspectors for foreign nationals from the Unit for Illegal Migration at the Sever Regional Centre for purposes of deporting the concerned persons to the Republic of Albania. Two of the persons held in custody were minors. These two minors were not appointed a guardian, because they were accompanied by two adults also from the Republic of Albania. In accordance with Article 112 of the Law on Aliens, if the *minor is not accompanied by a parent or guardian or if following the arrival in the Republic of Macedonia the minor has been left without being accompanied by a parent or a guardian and the minor is not applying for an asylum, authorized official persons of the Ministry of the Interior shall immediately inform the diplomatic or consular mission of the state whose nationality the concerned person holds in order to establish the members of his/her closest family.* Paragraph 3 of the same Article envisages that *minor foreign nationals referred to in paragraph 1 of this Article shall be appointed a guardian in accordance with the Family Law.* In this case, the minors were accompanied by adults and have been treated in accordance with the legal regulations of the Republic of Macedonia and in line with the relevant procedures.

The Sector for Police and Crime Affairs will raise the initiative for establishment of a working group which is to design specific procedures (which will be in line with the laws and secondary legislation) to be applied when a foreign national is apprehended, including when a minor is apprehended on grounds of illegal stay, in order to prevent the possibilities referred to in the Report.

#### **Paragraph 21**

As regards the Kumanovo related allegations about persons being deprived of freedom without a court order, it is underlined that according to the applicable legislative framework, authorized official persons of the Ministry of the Interior are obliged to immediately bring such person before an investigative judge. In many cases owing to the need to undertake certain police activities, such as establishment of the identity, checking the alibi of the person deprived of freedom, persons are brought to a police station, in which respect the investigative judge is immediately informed by telephone. The new Law on Criminal Procedure envisages the possibility that persons are held in custody by the justice police for purposes of undertaking the above referred to activities.

In respect of the recommendation in Part 18, the Sector for Police and Crime Affairs is following the conditions in detention facilities. The conditions in detention facilities are part of regular controls and there are always instructions issued insisting of proper maintenance of the hygiene in such facilities. Upon the request of the Sector for EU and International Cooperation related to designing proposals and ideas for program activities under the 2012 IPA instrument for the Ministry of the Interior, the Sector for Police and Crime Affairs has stated that priority is to be attached to the reconstruction of another 10 police stations (having facilities for apprehended and persons held in police custody).

## **B- COMMENTS BY THE MINISTRY OF JUSTICE**

### **Paragraph 25**

With reference to the request for full information about the implementation of various projects under the Strategic Plan for prisons, the following is underlined:

**25.1** Under the first component of the Strategic Plan of the Directorate for Execution of Sanctions, which is related to the improvement of conditions and expanding the accommodation capacities for inmates and minors, as well as to the improvement of staff offices, in the period from 2006 to 2010 there were several large scale activities, some of which are still underway, for systemic improvement of the material conditions in prisons. These activities for improvement of the conditions are undertaken also in the context of approximating with standards required for better quality conditions for serving prison sentences, as part of the conditions for the Euro-Atlantic integration of the country.

### **Tetovo Correctional-Educational Institution**

The Tetovo Correctional-Educational Institution has been transferred from the premises of the Skopje Prison to the premises of the open ward of the Idrizovo Prison, located in Veles. This ward has been made fully available to minors serving a sentence of placement in a correctional-educational institution. The total capacity of the premises in Veles covers 1000m<sup>2</sup>. In addition to the accommodation facilities, the minimum-security ward in Veles of the Idrizovo Prison also has a mess hall, kitchen, activity room, garages, and workshops. This facility has eight rooms for stay and education of minors, six of which are for stay and accommodation, one room is a classroom and one leisure activity room. There is also a visiting room, and a room for communication with judges. One of the rooms hosts the infirmary, equipped with basic medical equipment. The total capacity of the Veles minimum-security ward of the Idrizovo Prison is 65 beds. With a donation of the UNICEF, a fitness room has been equipped where minors can exercise and maintain their physical health, while with a donation from the T-Mobile Company, 30 PC's have been provided for education of minors.

### **Idrizovo Prison**

In the course of the 2010 CPT visit, the fifth prison wing was closed since it does not fulfil the basic conditions for accommodation of inmates.

Under the 2011 Program of the Government of the Republic of Macedonia for financing the construction, reconstruction, maintenance and equipping the premises of prisons, there was full reconstruction of the fifth wing of the Idrizovo Prison and of the watchtowers. The fifth wing in the maximum-security ward has a capacity of 95 beds. Budget funds were used for the full reconstruction of the facility, which has 650 m<sup>2</sup>, as follows:

- Replacement of the wooden frame windows with aluminium frame windows, with heat insulated glass;
- Replacement of wooden doors;
- The wooden floor has been replaced with a laminate floor;
- The sanitary facilities have been fully reconstructed;
- All watchtowers at the Idrizovo Prison have been reconstructed.

MKD 4,400,000 under the central budget have been invested in the reconstruction of this prison wing. The reconstruction of the second wing of the Idrizovo prison is expected to begin following the completion of the procurement procedures by the end of 2011.

## **Project – Reconstruction of Prisons in the Republic of Macedonia**

Taking into consideration the established conditions in the prison system of the Republic of Macedonia, and aiming at ensuring better accommodation conditions in prison establishments, as well as better conditions for exercise of all rights by inmates, including health protection related rights, the Government started implementing a project - Reconstruction of Prisons in the Republic of Macedonia.

The funds for this Project for reconstruction of prisons are in the amount of EUR 52,000,000 of which EUR 46,000,000 are a loan from the Council of Europe Development Bank, and EUR 6,000,000 are funds of the Government of the Republic of Macedonia,

Premises covering 63,000 m<sup>2</sup> will be reconstructed under this Project. The initial funds are intended for:

- Construction plan designs and professional review of all four sub-projects;
- Construction works at the Kumanovo Prison and their monitoring;

EUR 32,118 have been paid thus far to suppliers of services;

The Government of the Kingdom of Norway has approved a project of the Association for support and promotion of agricultural and rural development – Fagrikom Skopje for installation of an anaerobic digester at the Idrizovo Prison worth EUR 360,930, which will process the stock breeding farm waste. The Association has published the international tender for procurement of the anaerobic digester.

The first introductory report filed under the Technical assistance to infrastructure project activities to the Council of Europe Development Bank contains a review of on-going activities and schedule of activities in prison establishments covered by the Project for reconstruction of prisons in the Republic of Macedonia. The activities are related to the first component- improvement of conditions and enhancing the accommodation capacities for inmates and minors and improvement of staff offices, while the second component covers building the capacities of institutions for relevant treatment of remand prisoners and inmates.

The completion of the reconstruction activities and the construction of new establishments will help ensure conditions for operation of prisons in line with European standards, and will improve the resettlement and humane treatment of inmates. This will also help create optimum conditions for accommodation and work of inmates and of the staff, and it will help improve the health care services, all strengthened with recruitment of new staff and their training.

The Project for reconstruction of prisons in the Republic of Macedonia envisages reconstruction and construction of new facilities in four establishments: Idrizovo Prison, Tetovo Correctional-Educational Institution, Skopje Prison and the Kumanovo Prison.

This Project and the technical improvement of the establishments will help achieve the following internationally recognized standards:

- Energy efficient buildings;
- Minimized negative environmental impact on the area surrounding prisons;
- Sustainable construction material will be used, having energy saving features, to build facilities with natural day light, indirect sunlight, natural ventilation, water saving systems, secure, safe and easy to maintain;
- Elimination of obstacles to access by disabled persons;
- Sound-proofed buildings;
- Protection against vandalism, especially in areas accessed by inmates, especially in areas where they are accommodated;

- Use of technical equipment for security systems, video surveillance and access control;
- technical solutions to minimise prison security staff, which will increase activities aimed at resettlement;
- building healthcare facilities in line with standards for such premises and equipping them in order to provide persons deprived of freedom with proper health care and ensure its availability as in the free society. On principle, healthcare facilities are constructed near the entrance and with a capacity that corresponds to the capacity of the establishment.

Care for the mental health of persons deprived of freedom will be provided at the Skopje Psychiatric Hospital by constructing new separate premises to accommodate remand prisoners and inmates, who have such medical problems while serving prison sentences.

The Ministry of Justice and the Directorate for the Execution of Sanctions have successfully concluded the preparatory stage of this project by timely drafting the urban planning projects and the other project documentation in accordance with the Law on Construction.

The preparation of the project documentation for the construction and reconstruction of premises at the Idrizovo Prison is in the final stage, whereas construction will begin at the end of 2011.

The preparation of the project documentation for the construction of the Tetovo Educational-Correctional Institution is in progress and construction will begin at the end of this year.

Consultations are held with Technical Assistance experts on relocating the Skopje Prison from its present location in order to ensure greater security and reduce costs.

The Project for Reconstruction of Prisons and Educational-Correctional Institutions envisages the construction of a new gross floor area of 62,203 m<sup>2</sup> of all four institutions covered by this project, including:

**25.1.1.** The Project envisages expanding the **Idrizovo Prison** by a constructed area of approximately 43,000 m<sup>2</sup>, while the present capacity of 900 beds will be increased to 1510:

- construction of a new **Reception Unit** with a capacity of 60 beds;
- construction of a new **Maximum Security Unit (B)** – 582 beds;
- construction of a new **Semi-Open Unit** – 228 beds;
- construction of a new main gate and Visiting Centre;
- construction of a new Healthcare Unit;
- construction of a gym and multipurpose sports grounds;
- construction of new workshops and warehouses;
- construction of a new security wall and fences; and
- construction of a new filter station;
- construction of new units at the **Female Prison** – 78 beds.

Complete reconstruction of:

- the existent maximum-security Unit (A) - 300 beds;
- the minimum-security Unit and construction of new wings – 262 beds;
- the Administrative Building.

**25.1.2.** A new **Tetovo Educational-Correctional Institution** will be constructed with a gross area of approximately 3000 m<sup>2</sup> and capacity of 86 minors:

- ▶ accommodation capacities – three two-story (ground floor + 1) buildings with a gross area of 1900 m<sup>2</sup>, which will comprise:
  - a unit for enhanced re-educational influence containing 12 double-bed rooms with baths, communal kitchen, dining room, fitness gym, workshop and offices for educators;
  - a semi-open unit with 5 double-bed and 2 triple-bed rooms, communal shower, social room and educator offices;
  - an open unit which will occupy two separate two-story (ground floor + 1) buildings with 17 double-bed rooms each and other facilities;
- ▶ an Administrative Block with a gross area of 1603 m<sup>2</sup>, containing:
  - a reception unit,
  - a visitor unit,
  - an infirmary,
  - a kitchen with storage and dining rooms,
  - a multipurpose gym,
  - a Control and Surveillance Unit,
  - two classrooms;
- ▶ a garage with two workshops -165 m<sup>2</sup>;
- ▶ sports grounds;
- ▶ filter station and water tank;
- ▶ an electrical substation and a generator for secondary supply of electrical power;
- ▶ perimeter security fence.

**25.1.3.** At the **Skopje Prison**, new premises will be constructed with an area of 12,235 m<sup>2</sup>, and the total capacity of the establishment will be 634 inmates and remand prisoners:

- two wings of the existent remand section will be torn down and new wings will be built with a combined capacity of 200 beds;
- a new **maximum security Unit** will be built (40 beds), with a **Reception Unit** (24 beds);
- a new Semi-Open Unit and kitchen will be constructed – 100 beds;
- a new **Main Gate** will be constructed;
- a new security **wall and fences** will be constructed.

Complete reconstruction of:

- the Healthcare Unit;
- the minimum security Unit – 104;
- the Administrative Building;
- the Visiting Centre.

**25.1.4.** The construction of the **Kumanovo Prison** started on 28 May 2011. It will include facilities covering a total area of 3000 m<sup>2</sup> and will have a capacity of 250 persons. The value of this investment is EUR 2.5 million.

The prison building has a total area of 2250 m<sup>2</sup>, together with the already built wastewater treatment station and the electrical substation, and was financed under the Budget of the Republic of Macedonia, through the program of the Government of the Republic of Macedonia for financing the construction, reconstruction and maintenance of facilities and equipping prisons and educational-correctional institutions, which earmarked MKD 71 million (EUR 1.16 million).

The total investment in the construction of the Kumanovo Prison will amount to MKD 227,533,555 (EUR 3.66 million).

Upon completion of construction, the Kumanovo Prison will cover a total useful area of over 5000 m<sup>2</sup>.

The construction of facilities at the Kumanovo Prison started on 28 May 2011, including:

- ▶ an administrative block that comprises:
  - reception and control- 239 m<sup>2</sup>;
  - administration- 700 m<sup>2</sup>;
  - visitor premises- 227 m<sup>2</sup>;
  - reception and registration- 209 m<sup>2</sup>;
  - infirmary - 300 m<sup>2</sup>;
- ▶ Kitchen, dining room, laundry- 580 m<sup>2</sup> ;
- ▶ Workshops and education centre 540 m<sup>2</sup>;
- ▶ Garage and energy block- 104 m<sup>2</sup> ;
- ▶ Outdoor sports ground- 968 m<sup>2</sup> ;
- ▶ Security fence;
- ▶ Driveway 1300 meters long.

**25.2.** Guided by the importance of the process of resettlement of inmates as the basic objective of the prison sentence, the Directorate for the Execution of Sanctions at the Ministry of Justice continuously undertakes activities to introduce modern methods and techniques and create the necessary conditions for successful realisation of this process.

In February 2010, the Directorate for the Execution of Sanctions designed a Strategy on Resettlement and Social Adaptation of Inmates, which was adopted by the Government of the Republic of Macedonia at its 155<sup>th</sup> session, held on 27 April 2010.

In order to achieve the primary objective of the Strategy, which relates to improving the system of resettlement and social adaptation of inmates serving prison sentences at prisons in the Republic of Macedonia by implementing systematic measures and activities in the areas of education, interdepartmental cooperation and monitoring aimed at improving the penal and post-penal treatment, specific activities are planned and they are detailed in the Action Plan for Implementation of the Strategy.

Aiming at the successful implementation of the Strategy, in the period from March 2010 to the end of 2010 the Directorate for the Execution of Sanctions formed several task forces comprised of experts from the Directorate for the Execution of Sanctions and the prisons, which worked on drafting the key documents that will greatly improve the resettlement process and facilitate the procedure for treatment of inmates upon their reception and while they serve the prison sentences.

The following activities have been undertaken under the Action Plan for Implementation of the Strategy:

**25.2.1.** Standard Operating Procedures have been developed for reception of convicted persons, including:

- Guidelines for Treatment of Inmates upon Reception;
- Changes have been made to the contents of the professional file;
- Standardised form for the sentence plan;
- Standardised risk assessment forms for convicted persons.

By adopting the Guidelines for Treatment of Inmates upon Reception, the procedure for reception of inmates in all prisons in the Republic of Macedonia has been standardised, thus aligning all activities undertaken upon reception at the institution – in the residential and in the reception unit. Work at the reception unit and treatment planning has been given a new quality dimension by including activities concerning risk assessment of convicted persons and developing a sentence plan.

Risk assessment is a new activity that will enable the professionals on the expert team at the reception unit to predict the risk based on various quality and quantity parameters and consequently plan the treatment, which may involve regular and specific programs.

Since this is a new method which will be employed at prisons and educational-correctional institutions, the Directorate for the Execution of Sanctions at the Ministry of Justice, with support from the UK Embassy in Skopje, organised two workshops for training of prison staff in conducting risk assessment. The subject of the first workshop, held from 15 to 18 November 2010, was “The OASys System for Risk Assessment of Convicted Persons”. The second workshop was held from 14 to 17 March 2011, when instructors were trained in the application of the risk assessment of convicted persons.

For the purpose of successful implementation of the risk assessment instrument, a Handbook has been prepared to ensure its proper application.

**25.2.2.** Eight standardised programs have been developed for specific treatment groups, including:

- Psychosocial Program for Treatment of Inmates Who Abuse Drugs and Psychotropic Substances;
- Program for Treatment of Inmates Who Abuse Alcohol;
- Program for Treatment of Sex Offenders;
- Program for Treatment of Violent Inmates;

- Program for Treatment of Persons Convicted of Violent Crimes;
- Program for Treatment of Juvenile and Young Offenders;
- Program for Treatment of Female Offenders;
- Program for Treatment of Inmates Serving Life Sentences.

The implementation of standardised programs for the respective groups through specific steps, stages and activities ensures continuous treatment of the vulnerable categories of inmates, with the aim of their resettlement, social adaptation and better integration in society. Aiming to improve the treatment of drug and alcohol users at the Idrizovo Prison, a Memorandum for Cooperation has been concluded between the Directorate for the Execution of Sanctions and the HOPS non-governmental organisation, which developed a program for psychosocial support of drug users. In the period from 30 June 2010 to 31 March 2011, an expert team comprised of 2 psychologists and 1 social worker provided continuous psychosocial treatment of drug using inmates at the Idrizovo Prison.

Aiming at the successful implementation of the Programs for the specific treatment groups, the Directorate for the Execution of Sanctions at the Ministry of Justice undertakes activities for training of the existent staff at prisons and at educational-correctional institutions by exchanging experiences and knowledge with other European countries, as well as through continuous updating of the existing programs.

In this respect, in the period 23–24 June 2011, a workshop was organised through the Technical Assistance and Information Exchange Instrument (TAIEX) on the topic “Specific Program for Persons Convicted of Violent Crimes”.

**25.2.3.** The following secondary legislation has been drafted:

- Rulebook on Classification of Inmates;
- Rulebook on the Manner of Exercising Privileges.

Other guidelines have also been developed in order to improve the efficiency of the staff involved in conducting the treatment of inmates in prisons. To this end, two guidelines have been prepared:

- Guidelines for Inclusion of the Security Sector in the Resettlement Process;
- Guidelines for Holding Conference Meetings.

The aforementioned rulebooks, programs and guidelines are expected to greatly improve the process of resettlement and social adaptation of inmates and the manner of treating them, and increase their inclusion in the community upon being discharged from prison, which would in turn result in reducing recidivism in the Republic of Macedonia.

**25.3.** As regards the process of education of inmates, the Directorate for the Execution of Sanctions at the Ministry of Justice engages in continuous activities related to providing instruction at all prisons and educational-correctional institutions in the Republic of Macedonia. The Directorate for the Execution of Sanctions aims to provide all inmates with access to educational programs and formal (primary and secondary) and informal education (vocational training of adult offenders, courses in various social activities or personal development), while respecting their individual desires and needs.

To this end, an interdepartmental task force has been established which in August 2011 developed an Action Plan for Providing Primary and Secondary Education at Prisons and Educational-Correctional Institutions. At present, continuous instruction is given at the Idrizovo Prison and the Tetovo Educational-Correctional Institution. The Idrizovo Prison has extended the contract with the A.S. Makarenko Adult Primary School in Skopje, a specialised institution for teaching literacy and adult primary education, and instruction at the prison is provided uninterruptedly. The instruction at the Tetovo Educational-Correctional Institution is also provided continuously, with the exception of the first semester of the 2010/2011 school year, when it was interrupted due to the relocation of the educational-correctional institution from the Skopje

Prison to the Veles Open Unit at the Idrizovo Prison. In the meantime, a contract was signed with the Blagoj Stračkovski Workers' University in Veles and the instruction in the second semester was provided uninterrupted.

#### **Paragraph 26**

In accordance with ratified international conventions and the national constitution and legislation, and for the purpose of improving the conditions and respecting and protecting the rights of inmates, new **Rulebook on Executing Pre-Trial Detention at Prison Remand Units** (Official Gazette of the Republic of Macedonia No. 101/11 of 26 July 2011) have been adopted.

For purposes of categorising, i.e. classifying inmates, and supervising the serving of the prison sentence, several activities have been undertaken, including the adoption of the **Rulebook on the Manner of Conducting Professional and Instructive Supervision over the Operation of Prisons and Educational-Correctional Institutions** (Official Gazette of the Republic of Macedonia No. 20/11 of 18 February 2011). This Rulebook defines the manner of conducting professional and instructive supervision (regular, control and extraordinary). In addition, a task force has been formed to draft a **Handbook on Conducting Professional and Instructive Supervision**, which will specify in details the manner of conduct supervision in all areas of operation at the institutions, including: treatment of inmates, work engagement, security of inmates, conditions and situation of inmates, and financial operations of institutions. Concerning the categorisation, that is, the classification of inmates, a **Rulebook on Classification of Inmates at Prisons** has been prepared and will be published. This Rulebook specifies the criteria and manner of classifying inmates.

#### **Paragraph 27**

**27.1.** IPA programs have allocated funds totalling EUR 2,100,000 which support, among other things, the development of a National Strategy on Development of the Prison System of the Republic of Macedonia. The National Strategy will give a comprehensive analysis of the situation of the penitentiary system in the Republic of Macedonia, that is, it will identify the positive and negative aspects of its functioning and, based on the current situation, set specific goals and offer real solutions for improving the overall functioning of the prison system of the Republic of Macedonia. In particular, the National Strategy will analyse the network of prisons and educational-correctional institutions, the types of organisation and the functioning of the prisons and the educational-correctional institutions and the procedure for sending convicted persons to prison, and will establish the competence of the Ministry of Health for the healthcare professionals working at prisons and the competence of the Ministry of Education for organising and financing education at prisons and educational-correctional institutions.

For administrative reasons attributed to the Council of Europe, the start of this activity has been delayed. The latest information indicates that the preparation of the National Strategy will commence at the beginning of 2012.

**27.2.** Regarding the training of prison staff, the Directorate for the Execution of Sanctions provides and organises basic and continuous training of employees at prisons and educational-correctional institutions and tests their knowledge and competences. Aiming to achieve the set objectives, the Directorate for the Execution of Sanctions implements systematic measures and activities to establish an efficient system for continuous professional advancement of prison staff, including:

- Testing the knowledge of all employees at prisons and educational-correctional institutions;
- Forming groups for further training;
- Preparing a Training Action Plan;
- Continuous provision of required trainings.

To date, three of these stages have been concluded; their implementation was necessary for efficient provision of continuous training. All employees at prisons and educational-correctional institutions have been tested (in the period from January to March 2011) in order to establish the level of knowledge for lawful, secure and professional performance of the duties of the prison staff and to identify the needs for training of the existent staff. As a result, groups have been formed for further training (basic, intermediate and advanced).

In April 2011, an analysis was conducted of the test results of the employees at prisons and educational-correctional institutions in order to gain a complete picture of the level of qualification of employees at different sectors, that is, the level of knowledge of employees in the penitentiary system of the Republic of Macedonia. Based on the results obtained from the testing and the consequent analysis, an Action Plan for Conducting Continuous Training of Employees at Prisons and Educational-Correctional Institutions has been developed. It specifies the required number of classes that needs to be attended by every employee at prisons and educational-correctional institutions, including managerial staff, and the number of groups for each institution. Programs are being developed for all levels of knowledge (basic, intermediate and advanced). Once they are prepared, the required trainings will begin. The continuous trainings will include theoretical and practical instruction of employees at prisons and educational-correctional institutions – more specifically, employees at the sectors for security, resettlement and healthcare and qualified instructors.

The activities envisaged under the Action Plan began in June 2011. In the period from 19 to 22 June 2011, training was organised in managing with managerial staff at prisons and educational-correctional institutions. The training covered 17 employees at prisons and educational-correctional institutions.

Furthermore, in cooperation with the Government of the Kingdom of the Netherlands, the **MATRA Project** entitled "Strengthening of the National Penitentiary System in Accordance with International and European Standards" was carried out. It incorporated several trainings and workshops aimed at improving the cooperation of employees at the security and remobilisation sectors.

This project was followed by the **MATRA ENPAP** project entitled "Capacity Building of the Middle Management of Prisons", which is envisaged to last until December 2011. The trainings are intended for the directors and the middle management of all prisons. Their objectives are to ensure proper application of laws, improvement of the manner of organising the work at the institutions and fair treatment of convicted persons.

Under this project, procedures and protocols have been developed governing the conduct of employees at the institutions, including:

- Procedure for Control of Hygiene at Prisons;
- Search of Inmates and Premises;
- Procedure for Reception and Treatment of Convicted Persons at Reception Unit;
- Procedure for Providing Health Care to Inmates in Prisons;
- Procedure for Engagement of Inmates in Work at Prisons;
- Process of Riot Prevention;
- Procedure in the Event of Violent Behaviour of Inmates;
- Escort Procedure;
- Procedure in the Event of Escape;
- Procedure for Visit of Inmates.

The aforementioned procedures and protocols are expected to greatly improve the treatment of inmates.

### **Paragraph 28**

In addition to increasing the capacities for accommodation of adult and juvenile offenders, the Directorate for the Execution of Sanctions has undertaken a series of activities aimed to overcome the problem of prison overcrowding by applying in practice the system of alternative forms of punishment and establishing a special probation service in the Republic of Macedonia.

In the Republic of Macedonia, the alternative forms of punishment as new types of punishment and measures imposed by courts to perpetrators who committed a lesser crime for the first time were introduced in 2004 under the amendments to the Criminal Code. Thus, the forms that had already existed (suspended sentence and court warning) were supplemented and re-introduced through the system of alternative forms, which also include community service, suspended sentence with protective supervision, home detention and conditional termination of criminal procedure. Alternative forms are also incorporated in the new Law on Juvenile Justice and can be imposed to juvenile perpetrators of crime, whereas the manner of executing the alternative forms is defined by the Law on the Execution of Sanctions.

The Directorate for the Execution of Sanctions has to date implemented all necessary measures and activities to enable application of alternative forms in practice. In order to further specify the manner of executing alternative forms, the Directorate has adopted the following documents: Rulebook on the Conditions, Procedure and Manner of Issuing and Revoking a License for Executing Alternative Forms (Official Gazette of the Republic of Macedonia No. 123/07), Rulebook on Conducting Professional and Instructive Supervision over the Execution of Alternative Forms (Official Gazette of the Republic of Macedonia No. 118/08) and Rulebook on the Types of and Conditions for Performing Community Service (Official Gazette of the Republic of Macedonia No. 118/08). Aiming to stimulate these forms, workshops have been organised (through TAIEX, on the topic “Alternative Forms of Punishment”, September 2009), as well as numerous meetings with judges and public prosecutors.

Furthermore, the Directorate has concluded memorandums of cooperation with public enterprises operating at the level of the city of Skopje, where community service will be performed. In April 2011, the Directorate for the Execution of Sanctions issued licenses for executing alternative forms to 28 professionals at social work centres.

Considering the fact that at present social work centres are responsible for executing alternative forms of punishment to both juvenile and adult offenders and the great range of their competences, a problem has arisen concerning their staffing.

The system of executing alternative forms of punishment, as is set up presently, is particularly complicated: several bodies are involved in the execution of the forms and there is a particularly complex procedure for executing the forms, for which reasons alternative forms of punishment are rarely imposed. Hence, funds amounting to EUR 1,800,000 have been allocated under the IPA 2010 project to establish a probation service. This project will start in 2012 and will include drafting the Law on Probation and establishing the probation service in the Republic of Macedonia.

Furthermore, in the period September 2010–March 2011 the Probation Service Feasibility Study and Comparative Analysis project was conducted, with financial support from the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland. Under this project, a comparative analysis was performed of the legislation governing the probation services and their operation in Bulgaria, Croatia, Turkey, Romania and Bosnia and Herzegovina, complemented by recommendations on the method for establishing the probation service in the Republic of Macedonia and a feasibility study. Under this project, in the period 17–20 January 2011 a study visit was organised for employees at the Directorate for the Execution of Sanctions and the Institute for Social Activities in Sofia, Republic of Bulgaria, in order to study the functioning of the probation service of the Republic of Bulgaria.

In June 2011, with the financial support from the Embassy of the United Kingdom of Great Britain and Northern Ireland, a project was endorsed under which the Strategy for Development of the Probation Service in the Republic of Macedonia should be designed.

On 1 September 2011, a Memorandum of Cooperation was signed between the Directorate for the Execution of Sanctions at the Ministry of Justice and the British Embassy, and the project started to be implemented in September 2011. The Probation Strategy will be designed by leading British and domestic experts in this area, helping to produce a document that will provide a solid foundation for the drafting of the Law on Probation.

With goal of efficiently establishing the probation service, the Directorate for the Execution of Sanctions has submitted an application for membership of the European Organisation for Probation.

### **Paragraph 31**

Concerning the event of 21 August 2010, following the escape of two prisoners from the Idrizovo Prison, the prison administration has implemented the necessary measures and activities to solve the case. An investigation has been conducted, resulting in the suspension of three officers and fines for further two officers. As regards the ill-treatment of the inmate K. A., a disciplinary procedure was carried out against four officers, who were fined.

Regarding the allegations of physical ill-treatment and verbal abuse of a inmate by one particular shift of officers at the Štip Prison, incited by the head of the shift, which occurred on 18 September 2010, the prison administration has undertaken the following activities:

- the head of shift has been immediately reassigned to another post where the contact with convicted persons is reduced to a minimum (tower and registration desk) and a new head of shift has been appointed;
- part of the officers at the closed unit have been reassigned to other posts;
- Individual interviews were held with every employee on the shift in question, during which they were instructed to raise the level of professionalism in performing their duties and to observe the primary and secondary legislation. Owing to the lack of evidence, that is, since the inmate could not identify the officers who allegedly abused and ill-treated him, no disciplinary procedure has been launched against the employees.

### **Paragraph 32**

Regarding the alleged beating of several inmates by staff at the Skopje Prison in April 2009, the Skopje Basic Public Prosecutor's Office has withdrawn from prosecuting these persons on the grounds of this not being a crime prosecuted ex officio. For these reasons, the Skopje I First Instance Court has issued an order terminating the investigation against the persons employed at the Skopje Prison.

### **Paragraph 33**

The unselective disciplinary and criminal procedures taken by the competent authorities send a clear message to prison staff that every case of ill-treatment of convicted persons will be punished. In addition, employees at the institutions are obliged to observe the Code of Conduct for Officers in Performing Duties at Prisons and Educational-Correctional Institutions (Official Gazette of the Republic of Macedonia No. 123/07). For the purpose of raising the level of professionalism of employees at the institutions when performing their duties, the amendments and supplements to the Law on the Execution of Sanctions add a new paragraph to Article 165 stipulating that every violation of the Code of Conduct constitutes a major violation of the professional obligations.

In the period January–August 2011, disciplinary procedures were instituted against 51 employees at prisons and educational-correctional institutions, resulting in 40 disciplinary sanctions. Most of the disciplinary sanctions were imposed for negligent performance of duties, malfeasance and use of excessive physical force.

In addition, a criminal procedure has been instituted against an employee at the security sector at the Skopje Prison who is suspected of being an accomplice to an organised group involved in illegal production and distribution of narcotics, which was detected by the Ministry of the Interior in May 2011.

#### **Paragraph 34**

Concerning the medical examinations, all institutions are obliged to adopt measures and activities in accordance with the Instruction on the Treatment of Juvenile and Adult Offenders and Remand Prisoners to Improve the Quality of Medical Examinations and Thoroughness in Documenting Data, which the Directorate delivered to all institutions in October 2008. As Sanction Execution Inspectors have noted certain shortcomings in the conducting of medical examinations, in August 2010 all institutions were again provided with the Instruction on the Manner of Treating Inmates when Conducting Medical Examinations and were advised to fully comply with the Instruction.

Whenever there are grounds to suspect that there has been a case of ill-treatment by police officers discovered upon reception of a person at the institution, prison governors are obliged to always inform in writing the competent judges and prosecutors.

Furthermore, in order to improve the quality and confidentiality of medical examinations of persons in pre-trial detention, the obligation to inform the public prosecutor about any and every injury discovered by the prison doctor is stipulated in the Rulebook on Executing Pre-Trial Detention at Prison Remand Units.

As regards the improvement of the quality and confidentiality of medical examinations of persons serving prison sentences, the Directorate has prepared two guidelines: Guidelines for Medical Examination upon Reception of Inmates in Prison and Guidelines for Medical Examinations upon Discharge of a Inmates from Prison. These guidelines are expected to remedy all shortcomings in this area.

#### **Paragraphs 35, 36 and 37**

Concerning the shortcomings identified in the security at the Idrizovo Prison, at the meeting held with the directors, i.e. governors of all establishments over the CPT report, the Director of the Directorate for the Execution of Sanctions highlighted the urgency of the measures that need to be implemented to improve security at all institutions, especially the Idrizovo Prison. To this end, the Director of the Directorate for the Execution of Sanctions delivered an Order to the Idrizovo Prison to improve security at the institution. Following the Order, the Idrizovo Prison administration has undertaken the following activities:

- the 2011 Work Program of the Security Sector at the Idrizovo Prison has been developed;
- an order has been issued by the Prison Governor and by the commander of the Idrizovo Prison security for stationing of security sector employees, increasing the control of the movement of inmates;
- all locks have been changed so as to prevent movement of inmates between different wings;
- regular searches (body and with a metal detector) of security sector employees are conducted in order to prevent bringing in mobile phones, drugs and other illicit items.

These activities have strengthened security at the Idrizovo Prison, that is, increased the control of the movement of inmates and enhanced the screening of persons entering and exiting the institution. In particular, these activities have resulted in the uncovering of three security sector and one resettlement sector employee who tried to bring in mobile phones in the maximum security unit at the institution, and a further one employee was prevented from bringing in narcotics (marijuana). These persons have been suspended and disciplinary procedures have been instituted against them, leading to termination of employment.

At the same time, the Directorate for the Execution of Sanctions makes major efforts to overcome these shortcomings and issues at the Idrizovo Prison. However, the existent material conditions, the manner of serving prison sentences in groups left from the system of the former SFRY and overcrowding hamper the functioning of the institution.

This issue will be overcome by establishing the cell system of serving prison sentences and constructing new facilities at the Idrizovo Prison, as envisaged under the Project for Reconstruction of Prisons in the Republic of Macedonia. In the meantime, investments are made in repairing the current premises at the Idrizovo Prison in order to improve the housing conditions for inmates at this establishment.

#### **Paragraphs 40 and 41**

At present, prisons and educational-correctional institutions employ a total of 788 persons, 273 of whom are employed at the Idrizovo Prison. In February 2011, there were 40 new employments at the prisons, 25 of which were at the Idrizovo Prison. In May 2011, a further five employees were recruited at the Prilep, Gevgelija and Kumanovo prisons and the Tetovo Educational-Correctional Institution. Aiming to raise prison staffing levels, the Government of the Republic of Macedonia has adopted a Conclusion tasking the Ministry of Finance to give consent to the filling of vacancies at prisons and educational-correctional institutions created by retirement, termination of employment etc. Furthermore, in May 2011 all prison and educational-correctional institution employees (except employees at economic units) became civil servants, thereby considerably improving their status in society.

Increasing the number of staff at the institutions and conducting the planned training courses for the prison staff will help improve the efficiency and efficacy in the work of the establishments.

#### **Paragraph 42**

With regard to increasing the number of educators (ethnic Albanians and Roma), it is underlined that by granting the prison staff the status of civil servants, under the Law on Civil Servants, the establishment are obligated to draft an Annual Plan on Equitable Representation of Ethnic Communities, requiring that persons belonging to communities are adequately represented when recruiting new staff. Such an action will help overcome the deficiencies detected at the Idrizovo Prison.

#### **Paragraphs 43 and 44**

The answers to Items 43 and 44 are included in Item 27.2 – Prison Staff Training

#### **Paragraph 45**

With a view to improving the screening of all individuals entering or exiting the prison premises, it is underlined that in the course of 2010, equipment for video surveillance and control was procured in order to prevent that unauthorized objects are taken into the prison under the following order: an x-ray tunnel detector, two metal detector doors, handheld metal detectors and video surveillance cameras were procured for the Idrizovo Prison, whereas the Skopje Prison was provided with an x-ray package control device, as well as with an alarm system, a central video surveillance system, a fire fighting system free of fire-extinguishing devices, an SOS system and a metal detector door. Furthermore, the Strumica Prison was provided with metal detectors and radio communication equipment, whereas the Prilep Prison was provided with a radio communication equipment, as well as with a base unit radio communication network, a

handheld metal detector, a cell phone blocker and cameras equipped with accessory plug-in slots. Moreover, lockers for leaving cell phones and personal items of the staff were installed at all penitentiary and correctional establishments.

In addition, specific measures and activities have been envisaged under the Idrizovo Prison Security Program, aimed at increasing the level of control of all individuals entering or exiting the prison premises. In order to improve the security in all institutions, the sanction execution inspectors have also been constantly encouraging the staff to regularly use the screening equipment on all individuals entering or exiting the prison facilities.

#### **Paragraph 47**

With regard to offering a sufficient number of leisure activities for remand prisoners, it is underlined that, under the new Rulebook on Executing Pre-Trial Detention at Prison Remand Units, educational, cultural, recreational and sports activities have been envisaged for the purpose of allowing remand prisoners to spend a larger part of the day outside their cells. Furthermore, the CPT suggestions have been taken into consideration during the designing of the new facilities of Skopje Prison, including the remand section. The construction of new facilities will create the necessary conditions for offering educational, cultural, recreational and sports activities to remand prisoners, with a view to enabling them to spend a reasonable part of the day outside their cells.

Moreover, it is underlined that under the Rulebook on Executing Pre-Trial Detention at Prison Remand Units, remand prisoners have been allowed to have one centrally operated radio and television set. The size of the television set screens must be 20 inches or 51 cm at the most. Their use is determined by the plan of daily activities at the remand sections of a given prison. The radio and television set can be provided either by the prison administration or by the remand prisoner him/herself.

#### **Paragraph 48**

For the purpose of enabling remand prisoners to serve their pre-trial detention in a dignified manner, the Directorate for the Execution of Sanctions has been constantly undertaking measures aimed at enabling them to exercise their rights as guaranteed by law, among which is the right of remand prisoners to spend at least two hours in open air.

The right of remand prisoners to spend at least two hours in open air has been stipulated by the Law on Criminal Procedure, whereas the regime of movement for remand prisoners has been regulated under the Rulebook on Executing Pre-Trial Detention at Prison Remand Units.

With a view to respecting human rights, the Directorate for the Execution of Sanctions has on a number of occasions instructed governors of all prisons to observe the legally guaranteed rights of all inmates and remand prisoners. In that respect, in December 2009, in line with the provisions of the Law on Criminal Procedure, the Head of the Directorate for the Execution of Sanctions passed an Order to all prisons instructing governors of all prisons having pre-trial detention sections to provide mandatory two-hour walks and open-air activities to remand prisoners, as well as to inmates serving their sentences in the prison wards of the penitentiary and correctional institutions.

In addition, prison administrations are instructed to allow remand prisoners to perform exercise and recreational activities without foregoing the time they need to spend in open air.

#### **Paragraph 49**

Considering that work is one of the basic forms of inmate treatment programs, the Directorate for the Execution of Sanctions pays special attention to ensuring work engagement in the establishments. Namely, all establishments employ occupational educators playing a key role in implementing the work engagement

and resettlement plans. To that end, under the last amendments to the interior organization and systematization of prisons, occupational educators have become an integral part of the resettlement sector. Their main task is to organize and pursue the occupational engagement of inmates, as well as to organize and conduct professional training courses.

In the prison system in the Republic of Macedonia, inmates are allowed to engage in work on a strictly voluntary basis and not as a result of an imposed obligation. Apart from their personal wish and will, the work engagement of inmates also depends on the capacity of an establishment and the nature and type of work. Depending on the possibilities and needs in prisons, inmates in establishments are usually engaged in maintaining the institution's hygiene, in the kitchen, as well as in farming and crafts.

Taking into consideration the significance of providing work and occupational engagements for inmates, efforts are constantly invested in enabling prisoners willing to work to be engaged in or out of the establishment. In the course of 2010, out of the overall prison population, 1026 inmates were engaged in work inside prisons, while 146 inmates were engaged on work outside prisons.

Furthermore, in August 2011, a poll was conducted among all inmates in order to obtain relevant data on the needs and wishes of inmates for acquiring education and professional training, whereby, according to the data collected, the Directorate for the Execution of Sanctions and the Ministry of Education and Science are to draft a Plan on the Manner of Pursuing the Process of Education of Inmates, the implementation of which is to start by the end of 2011.

#### **Paragraph 50**

In line with their available capacity, prisons provide inmates with possibilities for engaging in a number of activities. Apart from having opportunities to be engaged within and outside the prison, inmates at the Idrizovo Prison are engaged in a number of recreational and education-related activities. In their free time, they engage in sport activities such as football, basketball, table tennis and the similar, whereas some of them are engaged in preparing the "Our Forum" periodical.

In the Skopje Prison, a number of sports tournaments are organized with the active participation of inmates in the establishment. With a view to ensuring maximum participation of all inmates, the tournaments are organized in a variety of sport disciplines such as chess, football, basketball, streetball, etc.

Moreover, football, basketball and table tennis tournaments are organized in the Štip Prison, as well. This Prison also organizes music concerts and museum visits, while part of the inmates are engaged in preparing the "Rainbow" periodical.

#### **Paragraph 51**

By moving the Tetovo Educational-Correctional Institution from the Skopje Prison to the Minimum Security Ward of the Idrizovo Prison in Veles, conditions have been created for involving minor offenders in education, culture, recreation and sports activities. Minor offenders are provided with possibilities to acquire computer skills and knowledge, play chess, watch television, as well as be involved in art classes. The institution has a fitness room in which minor offenders can exercise and it also has its own sports playground. In terms of team sports, juveniles have a possibility to play football, basketball, volleyball, etc. Moreover, it is underlined that a task force has been assigned to draft new House Rules for the Tetovo Educational-Correctional Institution which, among other things, will regulate in detail the education and recreation activities of minor offenders. The drafting of the House Rules is currently in progress.

With regard to the manner in which minor offenders serve pre-trial detention, it is emphasized that all international standards for pre-trial detention of juveniles are observed, i.e. minor offenders are placed in a section of the prison separated from the adult section in order to protect minors from the possible negative influence of adult inmates. Building a new separate facility for this category of offenders is a much better solution than the existing one, but, due to the small number of minor offenders sentenced to pre-trial detention, the building of a separate facility is not economically sustainable. For these reasons, minor offenders serve pre-trial detention in remand sections of prisons, always observing international norms and

standards for providing humane and dignified conditions to minor offenders kept in pre-trial detention. The total number of minors serving a criminal sentence in the educational-correctional institution is 26, all of whom are males.

#### **Paragraph 52**

As part of the Project for reconstruction of prisons in the Republic of Macedonia project, it is planned to build and reconstruct the Skopje Prison and thus eliminate the over crowdedness in the remand sections of Skopje Prison (see Item 25).

The C wing at the Skopje Prison has been completely reconstructed and, within the available budget, it has been equipped with a certain number of new mattresses and bed sheets.

Remand prisoners are allowed to watch television (see Item 47).

When admitted to pre-trial detention sections, remand prisoners are allowed to keep in their possession personal items and, while in pre-trial detention, they have the right to procure items according to their needs as long as it does not interfere with the successful implementation of pre-trial proceedings.

Remand prisoners are allowed to use mirrors, but under exceptional circumstances, they can be removed from them or limited in their use if found to be a potential weapon for self inflicted injuries, committing suicide or murdering other people.

#### **Paragraph 53**

Given the fact that overcrowding is a problem faced by a number of prison systems throughout Europe, the Republic of Macedonia is no exception in this respect and overcrowding is one of the major problems the prison system is currently facing.

With a view to overcoming the situation with over crowdedness in prisons, the Directorate for the Execution of Sanctions is undertaking specific measures and activities to that end (see Item 28).

Furthermore, it is underlined that, for the purpose of creating better conditions for serving prison sentences and remand prison orders, every year, the Directorate for the Execution of Sanctions drafts a Program for Financing the Construction, Reconstruction and Maintenance of Facilities and Procurement of Equipment for Prisons, which is then submitted for adoption to the Government of the Republic of Macedonia. As part of the Program, budget funds are allocated for maintenance and procurement of equipment for all prisons, including the Tetovo Prison. In line with the available budget funds for 2011, there are ongoing activities in the Tetovo Prison related to its maintenance and procurement of equipment. Having in mind the CPT suggestions, under the Draft National Budget for 2012, funds have been requested for the maintenance and procurement of equipment for the Tetovo Prison, as well.

#### **Paragraphs 54-59**

The fifth wing and the prison-guard watchtowers in the Idrizovo Prison have been completely reconstructed. As regards the problem of not providing the necessary minimum space of 4 m<sup>2</sup> for each inmate, it is considered that the issue can be resolved by introducing a system of cell based accommodation for serving prison sentences and by building new facilities at the Idrizovo Prison, as planned under the project for reconstruction of prisons in the Republic of Macedonia project. As previously stated, the conditions for serving prison sentences at the Idrizovo Prison are constantly improved.

Taking into consideration the remarks by the CPT and with a view to creating the necessary conditions for serving prison sentences in a dignified manner, the prison administrations of the Idrizovo and Štip Prisons are continuously undertaking measures and activities primarily aimed at improving the hygiene by procuring hygiene products, regularly repairing toilets, pest control, disinfection, re-painting the walls, as well as replacing old mattresses with new ones, providing clean bed sheets etc.

In addition, it is underlined that August 2011, inclusive, 1172 inmates are serving a prison sentence at the Idrizovo Prison, as follows:

1. Maximum security unit, total number: 476

- Wing I: 71
- Wing II: 0
- Wing III: 66
- Wing IV: 64
- Wing V: 100
- Wing VI: 56
- Wing VII: 40
- Wing VIII: 52
- Wing IX: 27

2. Elderly Inmates Unit: 34

3. Infirmary Unit: 97

4. Fire-Fighting Unit: /

5. Admission Unit: 50

6. Semi-Open Unit: 119

7. Minimum Security Unit: 201

8. Female Prison Unit: 43

9. School Unit: 88

10. New Section Ground Floor: 18

11. Ground Floor - Left: 25

12. Premises in Close Proximity to Bakery and Mess-Hall: 21

#### **Paragraph 60**

The alimentation of inmates, i.e. the quality and quantity of the food they are receiving is provided in line with the provisions under the Law on the Execution of Sanctions and the Rulebook on the Norms for Preparing Food for Inmates. The Directorate for the Execution of Sanctions agrees with the remarks of the CPT stating that there are certain deficiencies related to the diet of inmates in several of the establishments and in this respect it is underlined that the following activities aimed at overcoming these deficiencies have been undertaken during the last period:

The Directorate for the Execution of Sanctions contacted the Association for Protection of Consumers of Macedonia asking for their cooperation in improving the quality of food in prisons. This Association, which, among other things, is in charge of drafting food-preparation regulations, will be engaged in designing regulations on the necessary energy value of food products and in providing instructions on maintaining the energy value of food products, as well as lowering food-preparing costs. Depending on the gender, age and

type of physical activity, the menu for inmates is to be planned according to the nutritional norms and recommendable daily intake of energy and nourishment. Taking into account that funds have not been allocated for this specific purpose for 2011, these activities are to be conducted in the course of 2012.

With reference to the remarks on the manner of serving food in the maximum security unit of Štip Prison, it is underlined that changes have been made and food is now served in front of an open door in the wing. Moreover, the method of transporting food from the kitchen to the maximum security unit has also been changed, allowing for the food to be carried in closed containers and vacuum flasks procured specifically for that purpose.

#### **Paragraphs 61-65**

As regards healthcare at the establishments, it is underlined that, during the last period, considerable efforts have been invested in improving the healthcare of inmates, particularly in the larger establishments by staffing their healthcare sectors and procuring equipment for the prison infirmaries.

The number of medical staff at prisons and educational-correctional institutions equals to 27 persons, but efforts are made to increase the number of staff in the healthcare sectors in all prisons.

Aiming to improve healthcare in institutions, activities are undertaken to procure sufficient equipment for prison infirmaries. For the purpose of providing preventive and primary dental care, the dental offices in the Idrizovo Prison, Štip Prison and Skopje Prison have been completely equipped. A gynaecology office has also been completely equipped in the Idrizovo Prison intended to provide for the needs of female inmates serving their sentences in that establishment.

Furthermore, it is underlined that, as part of the second stage of the Reconstruction, Construction and Upgrading Facilities of Public Healthcare Institutions in the Republic of Macedonia project, the implementation of which is under the authority of the Ministry of Health, it is planned to build a Special Hospital Ward for Inpatient Care and Medical Treatment of Inmates Suffering from Mental Disorders as part of the Bardovci Hospital.

The planned construction of this facility opens up a possibility to create the necessary conditions (material, spatial and staffing) for an adequate psychiatric treatment of inmates suffering from mental disorders. This ward is to include the following two sub-units:

1. Sub-unit for treatment of inmates sentenced to mandatory psychiatric treatment and supervision;
2. Psychiatric sub-unit for acute cases of inmates who have developed a mental disorder during the investigative procedure or while serving their prison sentences.

The ward has been designed for an overall capacity of 40-45 inmates. A special unit for women will also be included in the ward.

#### **Paragraph 66**

The number of classes necessary to be visited by all staff of prisons and educational-correctional institutions, including the healthcare sector has been defined by the Program for Initial and Continued Training and Testing the Knowledge and Skills of the Prison and Educational-Correctional Institutions Staff and the Action Plan for Conducting Continuous Training Courses for Prisons and Educational-Correctional Institutions Staff. The continuous training of medical staff helps improve their theoretical and practical knowledge and it is expected that it will significantly improve their skill and expertise levels. Apart from the continuous trainings, several other projects are also implemented, involving a number of different activities, i.e. training courses, workshops and seminars for the medical staff in prisons, such as:

- A seminar entitled “Work with Drug Users in Prisons and Methods of Preventing Work Overburn Syndrome” organized by the “HOPS” NGO in cooperation with the OSCE on 20-21 October 2010 in Skopje;
- Workshop entitled “Stress Management,” organized with the help of the Technical Assistance and Information Exchange Instrument of the European Commission (TAIEX) on 16-17 June 2011 in Skopje.

Moreover, as part of the soft component of the (Reconstruction of Prisons in the Republic of Macedonia) project, activities have been planned aimed at increasing the level of expertise and competence of medical staff, particularly in the context of treating inmates involved in drug and illicit substance use. Namely, it has been planned to draft a Guidebook for treatment of this vulnerable category of inmates and training courses have been planned aimed at its successful implementation.

#### **Paragraphs 67 and 68**

As regards the CPT remarks related to the healthcare of inmates, it is underlined that inmates are not limited in the exercise of their right to healthcare. Every inmate is given a medical examination on admission and discharge from the establishment, while the inmates' health condition is recorded in the personal file.

As pointed out in Item 34, whenever an injury is recorded during a physical examination upon admission of an inmate to the establishment, indicating that the person had been ill-treated, the relevant court and public prosecutor are immediately informed in writing.

As already mentioned, for the purpose of ensuring that inmates are adequately medically examined, all establishments have been forwarded the Instruction for Treatment of Inmates, Minor Offenders and Remand Prisoners aimed at improving the quality of medical examinations and the thoroughness in documenting the acquired data, as well as an Order instructing all establishments to ensure that, on admission, all inmates are provided with an adequate medical examination and that reports are prepared on the inmates' health condition which would be then included in the inmates' personal files and would be kept confidential. In addition, Guidelines for Treatment of Inmates upon Reception, as well as a Guidelines on Medical Examinations upon Admission of Inmates to Prison have been drafted with a view to improve the treatment of inmates on their admission to establishments.

#### **Paragraph 70**

Acting upon the recommendation that the medical examinations of inmates be conducted out of the hearing and sight of prison officers, the Directorate for the Execution of Sanctions hereby informs that this is being fully observed, apart from specific cases in which the doctor concerned requests otherwise. When conducting a medical examination, it is mandatory that the doctor-patient relationship is respected.

Upon admission to the establishment, both inmates and remand prisoners are dully interviewed by a prison doctor and, should it be required, by a psychiatrist, whereas a full medical examination is conducted within 24 hours from admission. The medical report is enclosed with the inmates' files. The prison doctor lists the findings in the medical file of each inmate and provides a recommendation for further treatment. The Directorate for the Execution of Sanctions drafted a **Report containing Recommendations on Healthcare in Prisons and Educational-Correctional Institutions**, which concerns primary and secondary healthcare, psychiatric screening and care, as well as drug rehabilitation treatments.

#### **Paragraphs 71 and 72**

With regard to deficiencies detected in relation to the healthcare of inmates, it is underlined that a draft version of a Healthcare Strategy has been prepared for the purpose of establishing standardized procedures in the area of healthcare of inmates within the prison system in the Republic of Macedonia. The strategy lists

specifically defined goals and activities aimed at improving the material, hygienic and organizational-administrative aspects of healthcare, as well as resolving the key issues in this area, such as:

- non-standardized procedures for healthcare of inmates;
- spreading and lack of prevention for transmittable diseases such as tuberculosis, hepatitis C, hepatitis B, HIV and sexually transmittable diseases;
- growing number of inmates involved in substance abuse;
- lack of prevention of violence in prisons.

By educating the medical staff and by introducing healthcare programs for inmates, which have been listed as planned activities in the Strategy, it is expected that the spreading of transmittable diseases such as tuberculosis, hepatitis C, hepatitis B, HIV and sexually transmittable diseases will be halted. At the same time, it is underlined that, in cooperation with the Global Fund, prison officers are continuously involved in training and educating inmates on preventing hepatitis C, HIV/AIDS and other transmittable diseases.

Furthermore, the following documents have been drafted in order to achieve improvements in this area:

- Guidelines for Treatment of Inmates upon Reception;
- Guidelines on Medical Examinations upon Admission of Inmates to Prison;
- Guidelines on Allowing Access to a Doctor of Medicine by Inmates in Prisons and Distribution of Medicines (Medical Examinations within and outside the establishments);
- Guidelines on Medical Examinations and Medical Supervision of Inmates Serving Disciplinary Measures – Solitary Confinement.

### **Paragraph 73**

As regards the tuberculosis screening of inmates serving their sentence at the Idrizovo Prison, it is underlined that, in September 2010, the Skopje Institute for Pulmonary Diseases and Tuberculosis conducted a screening of inmates diagnosed with tuberculosis at the Idrizovo Prison. Inmates suffering from tuberculosis at the Idrizovo Prison are registered in the Skopje Institute for Pulmonary Diseases and Tuberculosis which keeps full records of their medical treatment. It is also underlined that inmates diagnosed with initial stages of tuberculosis receive constant treatment in the closed ward of the University Clinics and the Institute in Skopje.

After completing the stage of intensive treatment, when the bacteriology tests of the patients have become negative, they are transferred to the Idrizovo Prison and are no longer considered sources of infection for other inmates coming into contact with them. Patients with other non-specific pulmonary diseases are also sent to the aforesaid institutions.

During the monitoring, three inmates were under continued active treatment from tuberculosis, all of whom were AFB negative, whereas two of them were also receiving methadone therapy.

The Idrizovo Prison is continuously cooperating with the Bit Pazar Tuberculosis Dispensary and with the Institute for Pulmonary Diseases. These institutions perform diagnostic examinations related to the disease, monitoring as well the treatment of all inmates suffering from tuberculosis. The Dispensary also performs routine control examinations of the patients and of inmates suspected of suffering from tuberculosis.

### **Paragraphs 74, 75 and 76**

As part of the Project for reconstruction of prisons in the Republic of Macedonia, it has been planned to build a special ward for inmates with drug-related problems, who are to receive special treatment and will be isolated from the rest of the prison population.

According to the Strategy on Resettlement and Social Adaptation of Inmates, a Psychosocial Program has been designed for the treatment of inmates using drugs and other psychotropic substances, aiming to

establish a stable mental and physical state and reduce risk behaviour. By implementing this Program, the existing methadone substitution therapy will be upgraded with an introduction of a psychosocial treatment of inmates having a substance abuse problem.

(For additional details see paragraph 66).

#### **Paragraphs 78-80**

With reference to the recommendation regarding the problem of lack of medical staff that the Idrizovo Prison is facing, it is underlined that amendments have been made to the Rulebook on the Systematization of Jobs at the Idrizovo Prison, stipulating an increase in the number of posts held by medical staff, including the medical staff in the prison ward of the Clinical Centre in Skopje.

Moreover, under the 2012 draft Budget of the Directorate for the Execution of Sanctions, funds have been requested to be allocated for the employment of new medical staff in prisons.

#### **Paragraph 77**

As regards the request for additional information on the outcome of the investigation into the circumstances surrounding the death of an inmate in the Gevgelija Prison, as well as on the investigation into the death of V. T., including the autopsy results, the Ministry of Justice forwarded this recommendation of the CPT to the Veles First Instance Court, Basic Public Prosecutor's Office in Veles, the Tetovo First Instance Court and the Basic Public Prosecutor's Office in Tetovo, receiving in reply the following information on the aforesaid cases:

##### **77.1. Case of death during serving a sentence – R. A.:**

1. The now late R. A. was admitted to Gevgelija Prison on 30 July 2010 at 13, 00 hrs. for serving a prison sentence to which he was convicted by the Kavadarci First Instance Court K № 79/10. He was escorted to the prison by police officers from the Kavadarci Police Station and he was registered in the Prison Registry Book under № 71/10, dated 30 July 2010. Upon his admission, he was instructed and introduced to his rights and obligations as stipulated by the Law on the Execution of Sanctions.

At the same time, when asked by the supervising officers and by the social worker present at his admission whether he had been beaten by the police officers in Kavadarci, he replied negatively and stated that he had received the scratch on his forehead in a fight he had been involved in with other individuals at a previous occasion. He also stated that he was addicted to methadone.

2. Following the established operating procedures for admitting drug users, on 30 July 2010, i.e. on the same day when he was admitted, the prison officers referred and escorted the now deceased R. A. to the Centre for the Prevention and Treatment of Substance Abuse with the Psychiatric Ward at Gevgelija General Hospital, where he was admitted by a doctor of medicine.

The Certificate issued on 3 August 2010 by the doctor who performed the examination contains an anamnesis made on the grounds of the examination performed, indicating, inter alia, that the patient had been addicted to heroin for two years, whereas he had started using methadone during the last months prior to his admission to prison. The last time he used methadone was on 28 July 2010.

He complained to symptoms of abstinence crisis (aches and pains in the joints and the spinal column, intermitting waves of heat and cold, slight tremor and tension, as well as minor anxiety). Furthermore, it is pointed out in the Certificate that the patient was administered 4 ml of methadone due to his chronic drug abuse. The anamnesis also includes examinations on the patient's status presents, status somaticus, torah, cor, abdomen, hapar, lien, sucusio renalis and locomotor system.

3. The therapy for the following three days (due to the fact that weekend was approaching, as well as a national holiday on Monday, resulting in a total of three non-working days) was handed over to the prison officers who were accompanying the now deceased A.

4. According to statements of the prison officers, on 31 July 2010, following standard procedure for all prisoners under methadone therapy, it was distributed to the prisoners in the period between 08, 30 and 09, 00 hrs by the day shift officers. The now deceased A. was also given the recommended dose of 4 ml of methadone.

During the day, the now deceased A. did not show signs of deteriorated health condition, whereas, during the night, while performing their routine controls in the ward, the prison officers saw him sleeping.

5. On 1 August 2010, at 07, 00 hrs, the commanding officer witnessed the now deceased A. sleeping, but noticed that his breathing was difficult. In consequence, his ensuing attempts to wake A. up resulted in failure. For this reason, the Emergency Medical Service was called and, upon their arrival, the paramedics decided that A. needed to be transferred to Gevgelija General Hospital.

Upon arriving at Gevgelija General Hospital, A. was admitted by a doctor from the internal medicine ward. As a result, in his report, dated 3 August 2010, submitted to Gevgelija Police Station, the doctor at this hospital states that, upon arrival, the patient was in a state of coma, cyanotic and breathing irregularly, whereas two lacerocontusion wounds were found on his capillicum in the frontal region (forehead), but without local bleeding. The patient was administered specific anti-narcotic therapy, which did not produce results, as well as therapy for reinforcing basic vital functions. Laboratory tests were performed in the presence of a consulting surgeon and anaesthesiologist. Due to the seriousness of the patient's condition, it was decided to transfer him to an institution having the adequate equipment for advanced and sustainable life support. Around 08:00 hrs, accompanied by a medical assistance team, the patient was transferred in an ambulance vehicle of the Gevgelija General Hospital to the Emergency Clinical Centre in Skopje, where he was admitted at about 09,00 hrs. The patient passed away at 12, 30 hrs.

6. In the Cause of Death Report issued by the Emergency Clinic Centre in Skopje, it is reported that the individual R. A. passed away on 1 August 2010 at 12,30 hrs. In addition, the following clinical diagnosis is reported: Comma cerebri, VLC Regio frontalis and Cardiac arrest. The patient was brought in a non-reflexive coma, not able to breath on his own (intubated) and with an undetectable blood pressure. Resuscitation was attempted, but with no success, resulting in Exitus letalis setting in at 12,30 hrs.

7. On 2 August 2010, the Veles Basic Public Prosecutor's Office submitted to the Investigative Judge at the Veles First Instance Court a proposal for undertaking investigative measures, i.e. for performing a court medical expertise – autopsy investigating whether the presence of methadone and barbiturates in the urine of the now deceased A. which had been found during the autopsy was in immediate relation to the medical therapy he had received, whether the therapy had been adequate to his condition and whether all that had any direct link with his death.

Pursuant to an order issued by an investigative judge, Autopsy Report SP № 14699/201-10, dated 2 August 2010, has been prepared and is herewith enclosed.

The autopsy findings concerning the lungs of the deceased proved the existence of a tissue oedema, stasis, bleeding and massive inflammatory process, i.e. bronchopneumonia.

The inflammatory process in the lungs, aggravated by the effects of the doses of methadone and barbiturates having a depressive influence on the respiratory centre, hence leading to irregularity and seizure of the work of the other vital organs resulted in a lethal outcome for the deceased.

8. Moreover, on 3 August 2010, under Letter №1568/1, the Sector for Internal Control and Professional Standards at the Ministry of the Interior requested the Gevgelija Prison that an investigation be conducted for the admission documents of the inmate R. A., seeking to determine his medical condition upon admission to the prison.

By letters dated 3 August, 5 August and 12 August 2010, the Gevgelija Prison submitted to the Sector for Internal Control and Professional Standards at the Ministry of the Interior, to the Directorate for the Execution of Sanctions, as well as to the Helsinki Committee for Human Rights and to the Ombudsman of the Republic of Macedonia the requested documents related to the case of Ramis A.. The documents include medical certificates issued by the relevant healthcare institutions, as well as the written statements by the Gevgelija Prison officers.

Based on the conducted investigation, the Sector for Internal Control and Professional Standards at the Ministry of the Interior drafted a Report containing the conclusion that, when performing their professional duties in that particular case, the police officers did not use any physical force during the arrest and transfer to the Prison of the person in question, apart from handcuffing him, an action which is in line with Article 85 of the Law on Police and the Rulebook on Performing Police Duties.

9. Based on the above, under Decision № 149/ 10 dated 22 December 2010, the Veles Public Prosecutor's Office concluded that the legally prescribed conditions for qualification of the action as a crime prosecuted ex officio were not fulfilled and therefore no criminal prosecution could be instituted.

The Veles Public Prosecutor's Office forwarded this decision to the family of the deceased A. on the same day.

10. Taking into account the circumstances surrounding the case, as well as the CPT recommendations, the European Convention on Human Rights and the case law of the European Court of Human Rights, the Ministry of Justice contacted the Veles Public Prosecutor's Office in order to determine whether there was a need to pursue additional investigation aimed at proving the validity of the established facts.

11. In that context, by Letter RO № 149/10, dated 17 May 2011, the Veles Public Prosecutor's Office contacted the Gevgelija Police Station requesting that all necessary reports be collected describing the manner in which the now deceased R. A. was admitted to the Prison, providing, as well information as to the condition he was in upon admission, the time when his condition worsened, the therapy he was prescribed or administered, the state of affairs relating to his transfer to Gevgelija General Hospital and his further treatment, including the transport to the Medical Emergency Centre in Skopje.

On 21 June 2011, by Letter № 32.3.5-1647/7, the Gevgelija Police Station forwarded a Report on the collected necessary documents to the Veles Public Prosecutor's Office, while, in the mean time, the Gevgelija Prison submitted all necessary documentation relating to the admission and treatment in that establishment of the now deceased A..

At the same time, the Gevgelija General Hospital, as well as the Centre for Prevention and Treatment of Substance Abuse at the Gevgelija General Hospital submitted their necessary documentation, as well.

12. On 22 June 2011, the Veles Public Prosecutor's Office submitted to the Investigative Judge in Veles a proposal for instituting investigative procedure, suggesting to the Court and to the **Institute of Forensic Medicine**, Criminology and Medical Deontology in Skopje to perform an expert investigation whether in that specific case the now deceased R. A. had been given adequate medical treatment, whether the amount of barbiturates and methadone reported in the autopsy performed on his corps corresponds to the received medication that had been established by the gathered data and whether all that could have led to the death of A., paying particular attention to the issue whether even in the case that A. had not received the reported therapy he would have passed away as a consequence of the inflammation of the lungs and the other circumstances pertaining to it.

13. With regard to these circumstances and whether the deceased person had been administered a therapy which among other things had included Nalaxone, the Basic Public Prosecutor's Office in Veles sent a letter No. RO 149/10 dated 4 July 2011 to the Ministry of Justice stating that additional verifications of facts were in progress and that the CPT would be later also informed about the results.

## **77.2. The case of death of a remand prisoner – V. T.**

1. The Ministry of the Interior was informed on 23 June 2008, by the Tetovo Prison that the person V. T., who had been in pre-trial detention in this prison, allegedly committed a suicide by drowning himself in a bucket of water in one of the pre-trial detention cells in the Tetovo Prison.

Upon the aforementioned information, and in accordance with Art. 154, paragraph 2, of the Law on Criminal Procedure and the Rulebook on the Work of the Public Security Department, a forensic team of the Ministry of the Interior and a forensic doctor investigated the crime scene, under authorization of the on-duty investigative judge.

2. Due to suspicions that the death of T. had been caused by a perpetrated criminal offence, the investigative judge of the Tetovo First Instance Court ordered the Institute for Forensic Medicine on 23 June 2008 to perform an autopsy on the corps of V. T.. The Autopsy Report No. SP 14015/143-08 (enclosed) was prepared on the same day and sent to the competent First Instance Court in Tetovo.

3. On 25 June 2008, the Tetovo Internal Affairs Department sent a letter No. 28-2-4666/1 to the Basic Public Prosecutor's Office in Tetovo, which included a special report together with the following documents: minutes on the investigation of the crime scene, official notes on the interviews conducted with the prison guards, statements personally signed by the cell mates of the deceased V. T., the photograph documentation, and a farewell letter signed by V. T. himself.

4. Furthermore, on 26 and 30 June, and 8 July 2008, the investigative judge conducted a hearing of the following persons in their capacity as witnesses: the cell mates of V. T., the prison guards in the Tetovo Prison, a general practitioner, and an expert in forensic medicine and criminalistics.

Based on the Autopsy Report and other activities, on 9 July 2008 the Basic Public Prosecutor Office in Tetovo filed criminal charges No. KON 431/08 against unknown perpetrator for the crime of murder as defined in Art. 123, paragraph 1, of the Criminal Code.

5. Upon request from the Basic Public Prosecutor in Tetovo to conduct specific investigative activities against unknown perpetrator, on 10 July 2008 the investigative judge issued an order to the Tetovo Internal Affairs Department to conduct specific investigative activities.

Thereat, the Forensic Department of the Ministry of the Interior prepared the following documents:

- An expert opinion on the presence of organic samples of blood, skin and hairs under the nails of the cell mates of the deceased V. T., and of the prison guards, and their comparison with the blood of the deceased person,
- An expert opinion on the handwriting and signature in the farewell letter, i.e., if the letter was authentic and from the deceased person when compared with his previous informal texts and handwritings,
- An expert opinion on ink, toxic materials, and blood, and
- An expert opinion on handwriting and ink fluorescence.

The expert opinions indicate that the aforementioned handwriting and signature in the farewell letter by the deceased person were identical with his undisputed previous handwritings and signatures. In addition, the DNA analysis shows that the samples of nails cut from the fingers of the cell mates of V. T. and from the prison guards contain no biological traces originating from the deceased person.

6. On 6 October 2008, the Basic Public Prosecutor in Tetovo filed, through the investigative judge, additional request for conducting specific investigative activities, and in this context:

- A CD material was received from the Directorate for the Execution of Sanctions containing the video monitoring of the corridor in the prison building where the cell of the deceased person was located for

the period between 10 PM and 5 AM on the night between 22 June and 23 June 2008,

- Relative to the conclusions from the forensic autopsy contained in the Autopsy Report, on 9 February 2009 the investigative judge heard the forensic expert from the Institute for Forensic Medicine, and
- Testimony was also obtained from the wife of the deceased person.

7. Upon order of the investigative judge, re-enactment of the event was conducted on 27 February 2009 in the Tetovo Prison. Police forensic officers, the investigative judge, the public prosecutor, and medical forensic doctors were present there.

8. Also, upon request from the Basic Public Prosecutor's Office in Tetovo dated 4 March 2009 for conducting further specific investigative activities, the investigative judge ordered an expert from the Institute for Forensic Medicine to verify the authenticity of the CD containing the video monitoring taped in the Tetovo Prison during the time span when the event happened.

9. Upon order from the investigative judge dated 9 March 2009, forensic expertise was also conducted on the clothes belonging to the deceased person, in order to check if these clothes had traces of rusted metal or of a paint used for metal coating and eventually to compare them with samples taken from the radiator in the prison cell, during the re-enactment of the event.

10. Based on the aforementioned and in accordance with Art. 42, paragraph 3, in connection with Art. 16, paragraph 3, of the Law on Criminal Procedure, on 19 October 2009, the Basic Public Prosecutor Office issued a decision according to which there had been no grounds to initiate criminal procedure.

The Public Prosecutor based his decision on the following:

- The expertise on human tissue conducted by DNA analysis did not confirm the presence of alien tissue in the blood samples from the deceased person,
- The expertise concerning the uncontested handwritings by the other inmates in the shared remand prison cell verified that their handwriting had nothing in common with the handwriting of the deceased person,
- The findings and opinion provided by the forensic expert witness and the conducted re-enactment did not confirm that the inflicted violent injuries had been committed by use of external force, rather with the possibility of having been committed by the prison guard when lifting the body from the bucket with water and raising it onto the TV set, as well as possibly committed by the doctor when administering first aid.
- The expertise concerning the handwriting in the farewell letter and the comparison with other previous informal handwritings and signatures of the deceased concluded that the handwriting in question was made by the deceased person himself and was authentic.

11. In the decision, the Public Prosecutor pointed out that there were no indications leading to reasonable suspicion that someone has perpetrated the crime of murder and that the conclusion that it was a matter of an accident remained valid. Hence, the Public Prosecutor decided as described above.

12. The decision made by the Basic Public Prosecutor in Tetovo was serviced to the wife of the deceased person on 19 October 2010.

## **Paragraphs 81 and 82**

See paragraph 25.2.

### **Paragraph 83**

With regard to the remark raised by the CPT that relates to providing legal solution that would enable inmates to have contact with the outside world during their admission period, it is underlined that the right of inmates to have contacts with the outside world is guaranteed by Art. 142-152 of the Law on Execution of Sanctions.

Art. 98 of this Law, as cited by the CPT, refers to treatment of inmates in the admission unit; i.e., it stipulates that, upon admission, an inmate is sent to a personality assessment unit in order to determine the treatment for the inmate. Given that contact with the outside world while serving a prison sentence represents a right of inmates, guaranteed in the aforementioned articles of the Law on Execution of Sanctions, no one may restrict or take away such right, including during the period spent in the admission unit.

Although this Law does not forbid inmates to have contacts with the outside world, it is underlined that new House Rules for Prisons would bring more precise definition of the right of inmates to have contact with the outside world during their admission period.

### **Paragraphs 84 and 86**

Taking in consideration the CPT considerations and recommendations, several meetings with prison governors and officials of the Directorate for Execution of Sanctions were held. At the meetings, all items in the Report were given due consideration and instructions to overcome certain problems and improve existing conditions were also issued. Among other things, there was a focus on the protection of rights of inmates, especially on the manner of serving the disciplinary measure – solitary confinement. To that end, several activities were implemented in order to protect rights of inmates, especially when confined to solitary cell as a disciplinary punishment, i.e., to protect the right of the inmate to be able to stay one hour in the open and to have access to showers at least twice a week. The prison administration teams offered convincing assurances that guidelines and instructions are followed. In addition it is underlined that Instructions on medical examination and medical supervision of inmates disciplined to solitary confinement have been drafted; this document will offer detailed regulation of the procedure of conducting medical examination and monitoring.

### **Paragraphs 85**

With regard to the recommendation that inmates should be guaranteed a fair hearing during the disciplinary procedure, as well other rights, it is underlined that the provisions on the manner of conducting disciplinary procedures for inmates and on guaranteeing their rights are explained in detail in the newly drafted House Rules of Prisons, which is in the stage of final text drafting.

### **Paragraph 87**

The right of inmates to have contacts with the outside world is exercised pursuant to present statutes and House Rules of prisons. Taking in due consideration the importance of visiting inmates, prison facilities management teams make efforts to enable unimpeded exercise of the right to be visited, in conformity with the available capacities of establishments and human resources.

### **Paragraph 88**

The right of inmates to lodge an appeal is fully guaranteed right that is provided for and regulated by the Law on Execution of Sanctions and the House Rules of Prisons. Based on laws in force, inmates fully exercise their right to lodge an appeal, both within the prison and outside the prison. For every instituted disciplinary procedure, inmates have right to lodge an appeal with the Directorate for Execution of Sanctions; and for every decision made by the Directorate for Execution of Sanctions, inmates also have right to lodge an appeal with the Minister of Justice. In this context, it is underlined that every appeal lodged by inmates is processed within the deadlines defined by relevant regal regulations. Similarly, inmates have

right to file complaints with the Directorate for Execution of Sanctions and the Ombudsman's Office. In order to guarantee confidentiality of such complaints filed by inmates, letterboxes have been placed in prisons, by which inmates can report cases of ill-treatment directly to the Ombudsman's Office. Separate records are run for all complaints filed to the Directorate for Execution of Sanctions. In case need arises, additional professional – instructional controls are conducted by inspectors overseeing the execution of sanctions.

It is underlined that, in the January-August 2011 period, 34 appeals on decisions made by the Directorate for Execution of Sanctions were lodged, while the number of filed complaints has amounted to 31.

**Parahraph 89**

With regard to supervising operations of prisons, it is underlined that, inspectors of the Directorate for Execution of Sanctions conduct regular control and extraordinary checks. Supervision is conducted of the work of the security systems in prisons, of the treatment of inmates, work engagement of inmates, security of inmates, conditions, and status of inmates, and financial operations of prisons.

In addition to the supervision conducted by the Directorate for Execution of Sanctions, similar supervision of the work of prisons is also carried out by the judge in charge of the execution of sanctions and the State Commission for Execution of Sanctions. The Directorate for Execution of Sanctions has no competences concerning the manner of performing the court supervision.

## **C- PSYCHIATRIC INSTITUTIONS – COMMENTS BY THE MINISTRY OF HEALTH**

### **Paragraph 92**

- The amount of EUR 300,000 is planned for reconstruction of the PHI (Public Health Institution) Negorci Psychiatric Hospital in Gevgelija. Reconstruction work is in progress; reconstruction commenced in September 2010; it is expected to be completed by September 2011.
- The amount of EUR 2.2 million is planned for reconstruction of the Skopje Psychiatric Hospital in Skopje. Reconstruction work is in progress; reconstruction commenced in December 2010; it is expected to be completed by February 2012.
- The amount of EUR 4.5 million is planned for reconstruction of the Psychiatric Hospital in Demir Hisar. Reconstruction works are planned for the 2<sup>nd</sup> and 3<sup>rd</sup> stage of the Project; i.e., 2<sup>nd</sup> stage during January-December 2012, and 3<sup>rd</sup> stage during January-December 2013. The amounts of funds are approximate estimates. Due to objective reasons, realistic figures cannot be still given; however, deviation from the aforementioned amounts would not be more than 10%.
- Initial amounts for reconstruction of the psychiatric hospitals, amounting to EUR 5 million, on request by the Ministry of Health, have been increased; it is expected that the amount would go beyond EUR 7 million.

The Ministry of Health has started to make contacts with the Ministry of Labour and Social Policy, in order to make transfer of responsibility in taking care and treatment of patients who on one hand do not manifest indications for treatment in psychiatric hospitals, while on the other hand there are no conditions for their resettlement (no immediate family, being rejected by the closest relatives, etc.). The Ministry of Health expects to have understanding and cooperation from the Ministry of Labour and Social Policy. Hence, amendments to the 2012 Program on medical care of persons with mental disorder in the Republic of Macedonia have been planned. Thus this issue would be elaborated as well. In other words, a proper solution would be found. It is underlined that exhaustive and comprehensive Information is drafted, together with the Ministry of Labour and Social Policy and the Directorate for the Execution of Sanctions. The prepared Information will provide a detailed account of the problem with those patients, who actually receive attention and accommodation and not medical treatment per se, as well as of court cases having the measure of obligatory admission and medical treatment in a psychiatric hospital; i.e., the problem with financing and physical securing of such patients, will be addressed with proposed ways for its resolution.

### **Paragraph 93**

This question refers to already convicted persons, inmates, who need to receive psychiatric treatment. So far, in the Republic of Macedonia, such persons have received treatment, as required, in one of the three psychiatric hospitals and the University Psychiatric Clinic. After receiving treatment, they were sent back to finish serving their prison sentence. There are plans to construct a new building near the Skopje Psychiatric Hospital, which will be used for treatment of already convicted persons, inmates from all prisons in the country.

### **Paragraphs 98-100**

Together with the National Mental Health Commission, the Ministry of Health established a Commission for supervision of the professional work of psychiatric hospitals in the Republic of Macedonia (Decision No. 09-8751/1 of 25 October 2010). Upon conducting its work, this Commission sent its report to the Ministry of Health (No. 09-8751/2 of 30 November 2010). The Report on supervision of the professional work of psychiatric hospitals was communicated, via the European Integration Department of the Ministry of Health, to the CoE CPT.

- Activities have been undertaken pursuant the CPT recommendations, i.e., the management teams of the three psychiatric hospitals have been charged with drafting protocols on proper conduct by medical staff towards patients, as well as with conducting continuing training of mid level medical staff (orderlies and medical nurses). All three psychiatric hospitals have house rules, according to which a disciplinary action is instituted; a corresponding sanction is foreseen should an internal hospital committee establish that there has been a violation of the work ethics and professional misconduct.
- Letterboxes (without video surveillance) for complaints have been placed in all three psychiatric hospitals; at the same time, these institutions are subject to unannounced inspection check by the State Sanitary and Health Inspectorate (SSHI).
- Instructions have been issued to remove all objects that could be used as weapons and that patients can easily reach.

#### **Paragraphs 102- 107**

- Activities for reconstruction of PHI Negorci Psychiatric Hospital in Gevgelija are conducted under the first stage of the Project on reconstruction and refurbishment of buildings of public health institutions in the Republic of Macedonia. The reconstruction works are in the final stage. Renovation works are underway at the chronic female ward together with the kitchen, dining room, and toilet facilities of the entire hospital.
- Activities for reconstruction of the PHI Skopje Psychiatric Hospital in Skopje are conducted under the first stage of the Project on reconstruction and refurbishment of buildings of public health institutions in the Republic of Macedonia. The reconstruction works were launched in December 2010 and are expected to be completed by February 2012.

As part of the reconstruction project, two buildings being reconstructed with total area of 3750 m<sup>2</sup>, as follows:

1. First acute ward and geriatric wards, and
  2. Fourth male ward, fifth male ward, and closed ward for inmates.
- In January 2011, the PHI Demir Hisar Psychiatric Hospital completely refurbished its premises, using own funds (plastering, whitewashing, painting, new inventory and hospital beds, replacement of floor, and reconstruction of toilet facilities and the water supply and sewage system) as follows:
    - o Ward 7 (female chronic unit) and
    - o Ward 8 (female geriatric unit).

This was made as result of the obligation No. 1 in the preliminary Report on the situation in psychiatric hospitals by the CoE CPT which reads: ‘Transfer of patients from Wards 7 and 8, to wards that meet the conditions prescribed by provisions in the Law on Mental Health, Law on Medical Care, and Law on Protection of Rights of Patients’.

The mentioned activities were successfully completed and patients were transferred in reconstructed wards as of 1 February 2011.

The Demir Hisar Psychiatric Hospital is planned for reconstruction in the second and third stage of the Project on reconstruction and expansion of public health institutions (PHI). The project foresees full reconstruction of the entire hospital with total area of 2974 m<sup>2</sup>, in order to improve conditions in this hospital.

Construction works are expected to start in February 2012. These works will be conducted in the next two years, i.e., they would finish by early 2014.

As part of its humanitarian assistance, the Embassy of the Federal Republic of Germany to the Republic of Macedonia donated 100 new mattresses for hospital beds, together with bed sheets and blankets.

#### **Paragraphs 108 and 109**

- It is mentioned above that the reconstruction works for the PHI Negorci Psychiatric Hospital in Gevgelija are in final stage, and are expected to finish in early September 2011; at the same time, the PHI Demir Hisar Psychiatric Hospital reconstructed Ward 7 (female chronic ward) and Ward 8 (female geriatric ward) using own funds; full reconstruction is also planned of the entire hospital using funds from the Project on reconstruction and refurbishment of buildings of public health institutions in the Republic of Macedonia in 2012 and 2013.
- The number of patients engaged in working activities (farm, horticulture, etc.) in the PHI Negorci Psychiatric Hospital in Gevgelija is 10 patients per month/2 working hours per day/1000 denar as monthly remuneration per patient. The number of patients engaged in working activities (farm, horticulture, etc.) in the PHI Demir Hisar Psychiatric Hospital amounts to 5-8 patients per month/2 working hours per day/3000 denar as monthly remuneration that patients divide among themselves. These working activities in both hospitals are conducted as a working therapy under constant control of a medical officer – a therapist.

#### **Paragraph 110**

All psychiatric patients have daily walks within the hospital grounds, except those who are unable to do this because of the acuteness of their present condition. Upon orders of the competent court, checks of patients for expert witness opinions are conducted in the PHI Skopje Psychiatric Hospital in Skopje and at the PHI the Demir Hisar Psychiatric Hospital; patients are allowed to stay outdoors for one hour in a fenced part of the hospital yard (no mixing with other patients) under supervision of security guards.

#### **Paragraph 112**

Activities have been pursued in line with the CPT recommendations and the Commission on supervision of the work of psychiatric hospitals has issued the said instructions in its Report on supervision.

#### **Paragraph 113**

The Ministry of Health makes efforts to increase the number of medical staff. By the end of the current year, an analysis should be completed of the need for middle level medical staff (orderlies, nurses, etc.) for psychiatric hospitals, as well. Hospital management teams have been charged with preparation (by 1 October 2011) of their own program for training of newly recruited staff, as well as for continuing education of such staff (mostly for the middle level medical staff).

#### **Paragraph 114**

At the moment, there is one dentist and dental nurse employed at the PHI Demir Hisar Psychiatric Hospital and the PHI Skopje Psychiatric Hospital in Skopje, respectively. These teams are charged with conducting annual dental checks. If need arises, then patients are sent to the Clinical Hospital in Bitola or the Dental Clinical Centre in Skopje. The PHI Negorci Psychiatric Hospital in Gevgelija has concluded a contract for conducting annual dental check with a private dentist's office in Gevgelija, while patients requiring more complex dental treatment are sent to the General Hospital in Gevgelija.

#### **Paragraph 116**

Activities have been carried out pursuant to the CPT recommendations. Hence psychiatric hospitals are obliged to send by the end of every year a report to the Ministry of Health on:

- The number of cases of restraints used on patients,

- The time period for every restraint,
- The description of every case of restraint individually.

This report will be also communicated to the Mental Health Commission.

#### **Paragraph 117**

As thus far, the practice of individual assessment for the need of restraining a patient during a transfer for hospitalization continues to be carried out by making a special report on the measures and period of restraint. Pursuant to the informal remarks at the meeting between the CPT delegation members and representatives of the psychiatric hospitals and officials of the Ministry of Health, during the CPT visit to the Republic of Macedonia in September 2010, an exhaustive report on this issue for 2010 will be communicated to the CPT in early 2012.

For the time being, it could be said that the number of restraints of patients in 2011 has been reduced by  $\frac{1}{4}$  in comparison with the same (6 month) period in 2010; all restraints of patients have been carried out by soft atraumatic fabric (chains or other improper means were never used in any of the cases).

#### **Paragraph 120**

Pursuant to laws in the Republic of Macedonia (Law on Medical Care), an autopsy must be carried out for every patient who has died in a medical institution, hospital, after stay of more than 24 hours in such institution. This rule is also exercised in psychiatric hospitals.

Patient Z. S. was treated on several occasions at the PHI Demir Hisar Psychiatric Hospital; she was provided hospital care in the second female acute ward, with a diagnosis Epi G40 and Epi Psychosis and Caracteropathia epileptic.

Also when her condition was improving, she was discharged or was admitted to the day-care psychosis hospital in Demir Hisar. Her first admission was from 5 August 2001 to 17 October 2001. Her second admission was from 26 February 2002 to 12 March 2002. Her third admission was from 4 August 2006 to 5 September 2006. Her fourth admission was on 23 April 2009 in the day-care psychosis hospital in Demir Hisar, and from there she was transferred on 10 August 2010 to the second women's acute unit.

Her situation was deteriorating somatically with unclear febrile conditions and with more frequent Epi seizures of the grand-mal type; hence the expert medical team sent her to the Bitola Clinical Hospital for further treatment; there, therapy was administered and the patient was taken back to the PHI Demir Hisar Psychiatric Hospital. However, her condition after this again started to deteriorate acutely; and in circumstances of frequent Epi seizures and renewed situation of febricity, there was sudden deterioration of the cardio-respiratory function, with acute cardio-respiratory insufficiency, resulting in exitus lethalis. The team of doctors proposed to have an autopsy of the corps, but her family rejected this explaining that they had been familiar with her health situation in the previous period.

#### **Paragraphs 121 to 123**

The regulations on involuntary hospitalization of a person are strictly respected; on the other hand talks with the Ministry of the Interior are under way on possible amendments to the law and bylaw provisions in the context of correction of established deficiencies related to police escort (protection). Information boards have been placed at visible places in every section in psychiatric hospitals as well as day-care centres and outpatient wards in these hospitals; these boards show the articles of the Law on Protection of Rights of Patients ('Official Journal of the Republic of Macedonia' No. 82/08, 12/09, and 53/10). In all three psychiatric hospitals, a complaint box has been placed at visible and easily accessible place. The principle of confidentiality is observed. An expert team established by the hospital executive board processes and acts

upon these complaints. In case a patient is not satisfied with the outcome of a complaints procedure, he/she has right to file appeal to the State Sanitary and Health Inspectorate requesting inspections of the establishment or to the Ministry of Health for expert supervision.

#### **Paragraphs 124 and 126**

The legal status of psychiatric patients is governed by the Law on Health Care and by a special law, the Law on Mental Health.

Concerning the complaints, it is underlined that in 2010 the Legal Department of the PHI Skopje Psychiatric Hospital in Skopje received 5 (five) complaints in total, in written form sent by natural persons. Out of them, 1 (one) was withdrawn by the complainant, while replies were given to 4 (four) complaints within the legal deadline. They were as follows, according to the content:

1. Request for insight into the hospital patient file, submitted on 13 July 2010 by a parent of a patient in the said hospital. A positive reply was given. There was further correspondence whereby new requests were made to see parts of the medical documentation. The Legal Department of the Hospital responded positively, with a communication registered in the outgoing document records under the date of 24 December 2010.
2. Request submitted on 16 July 2010 by a patient, for increasing the daily dose of sol. methadone; a written reply was sent by the physician treating the patient in the said hospital- reply registered in the outgoing document records under the date 30 August 2010.
3. Statement filed on 2 September 2011, by a patient in the same hospital relating to physical assault by a nurse; this statement was withdrawn by the patient himself on 3 September 2010.
4. A complaint filed on 10 November 2010 by a group of patients in the State Hospital located in the Municipality of Kisela Voda, Skopje; these patients complained about the conditions, whereby the director of the said hospital adopted decision to establish an inquiry committee to check the allegations contained in the complaint; the committee investigated the allegations on site and presented its findings in written form- reply registered in the outgoing document records under the date of 12 October 2011.
5. A complaint filed on 17 December 2010, by a patient in the same hospital who wanted to have back some of his personal documents that were part of his personal case file; a reply was sent by his hospital ward physician – reply registered in the outgoing document records under the of 24 December 2010.

#### **Paragraph 125**

The Committee for professional supervision of the work of psychiatric hospitals is the body with such role. The Committee has the right, without any prior notice and with a frequency it finds appropriate, to visit hospitals, check their documentation, and interview patients.

#### **D. COMMENTS BY THE MINISTRY OF LABOUR AND SOCIAL POLICY**

The Ministry of Labour and Social Policy concurs with the general conclusion in the Report on the positive atmosphere and attentive relationship existing between the staff and accommodated inmates in the Demir Kapija Special Institution for Social Protection.

With regard to the remark that the number of staff engaged in night shifts has not been sufficient for a good-quality care of the accommodated inmates, especially those staying in the Ward for care, medical treatment, and rehabilitation of persons with the severest form of mental disability whose number is 139, the Ministry of Labour and Social Policy informs, that in October 2010 further 82 staff were recruited; of them, 38 - care providers, 10 - medical nurses, physiotherapist, and three defectologists. This helped greatly increase the quality of care for inmates during the second and third shift. Hence, the ratio between staff and inmates has improved: 1 employee per 16 inmates.

With regard to the recommendation for full-time employment of a physician in this institution, the Ministry of Labour and Social Policy sent a letter to the Ministry of Finance to consider the possibility of finding additional financial resources in order to engage such a professional profile at this institution, in spite of the anti-crisis measures adopted by the Government of the Republic of Macedonia last year involving restriction of new employments in the public sector. The Ministry hopes that this problem would be overcome in the near future. Still, in this context, it is necessary to underline that these inmates nevertheless receive the required primary health care through a local physician working in the Municipality of Demir Hisar. The same applies also to providing dental and neuro-psychiatrist care that inmates receive in unimpeded manner as required.

Concerning the remark that insufficient individual treatment of inmates still exists, it is underlined that, pursuant to the Work Plan and Work Program of this institution for the current year adjusted to the increased number of additionally recruited professional staff as mentioned above, intensive psychomotor re-education of inmates has started. The purpose of this re-education activity, by using means of individual approach and existing potentials of inmates to attain the maximum of their psychophysical abilities; i.e., to motivate their independence, development, and correction of speech, progress in mobility, and elementary rules of conduct. Concerning the remark on lack of data that are necessary and should be found in the medical files of inmates staying in this hospital, the Ministry of Land Social Policy is of the opinion that, given the current engagement of additional medical nurses, as well as a physician in the near future, this evident data evident data related problem will be overcome.

With regard to the conclusion on continuous need to improve the materiel conditions in this institution, which according to the views of the CPT delegation members have been improved since their last visit in 2006, it is underlined that, in the first half of this year, doors and windows were replaced in the Ward for care, medical treatment, and rehabilitation of persons with the severest form of retardation; i.e. old windows were replaced with new aluminium ones, in order to have better insulation and better cooling and heating of the premises of this ward, which accommodates most of the bed-bound inmates.

The stated need for current maintenance of living conditions in this institution and raising the level of hygiene and ventilation, as well as offering further opportunity for inmates to spend greater part of the day outdoor, is addressed and is implemented as part of regular activities of the institution, which has been evidenced also by the renovation of the existing playground, where the inmates spend most of their time.

Finally, we note the satisfaction of the CPT Delegation concerning the already launched procedure for review of the legal capacity of inmates by Centres for Social Works, and would like to inform that that this practice will continue in the future as well, in order to establish a legal basis for accommodation and stay of inmates in this establishment.