



## **Response**

### **of the Serbian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Serbia**

**from 9 to 19 March 2021**

The Government of Serbia has requested the publication of this response. The CPT's report on the 2021 visit to Serbia is set out in document CPT/Inf (2022) 03.

Strasbourg, 10 March 2022

We thank the delegation of the Committee for the recommendations sent to the competent authorities of the Republic of Serbia in order to improve respect for the rights of persons deprived of their liberty.

10. Four associations selected were selected in the public call for cooperation in the work of the National Mechanism for the Prevention of Torture (hereinafter: NPM), published in 2018 by the Protector of Citizens: Belgrade Centre for Human Rights, Lawyers' Committee For Human Rights (YUCOM), Mental Disability Rights Initiative of Serbia - MDRI-S and International Aid Network - IAN. The cooperation was limited to one year by a memorandum, with the possibility of extension for another year, and all four associations were active in the work of the NPM during 2018.

At the beginning of 2019, all associations were invited to improve cooperation and submit proposals in that sense. The Belgrade Centre for Human Rights submitted its written remarks regarding the functioning of the NPM; the possibilities for improving cooperation with the Protector of Citizens and the work of the NPM were discussed in direct communication with them, as well as with the representatives of other organizations. However, despite the agreement reached in that dialogue, the Cooperation Agreement was extended for another year with the Lawyers' Committee for Human Rights (YUCOM), the Mental Disability Rights Initiative of Serbia - MDRI-S and the International Aid Network – IAN - everyone except the Belgrade Centre for Human Rights. These three associations were active in the work of the NPM until the expiration of the Agreement on Cooperation, i.e. until the middle of 2020.

Following a new public call, published in June 2020, the Protector of Citizens has selected six associations to cooperate with in carrying out the work of the NPM: Lawyers' Committee For Human Rights (YUCOM), Victimology Society of Serbia, Center for Youth Integration, Helsinki Committee for Human Rights in Serbia, Human Rights Committee Valjevo and A11 - Initiative for Economic and Social Rights.

As can be seen, although certain associations did not re-apply for the new public call in 2020, the Protector of Citizens still cooperates with a sufficient number of associations, i.e. with a larger number of associations compared to 2018 and 2019, with different profiles of experts, including specialists in forensic medicine and psychiatry, and diverse fields of interest and work, which allows for a multidisciplinary approach to the work of the NPM, transparency in the performance of these tasks and the participation of the civil sector.

All associations had the opportunity to point out problems and obstacles they may have in this regard, both during the cooperation and whenever there was an opportunity to extend or renew this cooperation, and the Protector of Citizens showed interest in hearing all objections and improving the work in performing these tasks.

Regardless of the fact that the Belgrade Center for Human Rights is a well-known non-governmental organization and that cooperation with them was at a high level while they were part of the NPM, as evidenced by numerous visits and projects (for example, the Belgrade Center for Human Rights in the field of protection of refugees, migrants and asylum seekers), the withdrawal of the Belgrade Center for Human Rights from cooperation the activities of the NPM did not affect the efficiency and quality of the activities of the NPM. This is precisely because the Protector of Citizens continues to cooperate with very reputable and important civil society organizations, as well as medical experts, with whom the Protector of Citizens has successful cooperation and whose participation contributes to the quality of work of the NPM.

Regarding the CPT's request to receive comments from the NPM on its methodology for monitoring the treatment of persons in police custody, we note the following:

In 2020, the NPM conducted 48 visits to police stations, out of a total of 85 visits to institutions where persons deprived of their liberty are or may be found. One part of these visits was dedicated to

monitoring the follow-up to the CPT's recommendations to the Republic of Serbia following the 2017 visit, one part included nightly and early morning visits to police stations to monitor the treatment of apprehended and detained persons regarding the respect of their fundamental rights that are protective measures against ill-treatment at the same time, and for the first time the NPM monitored the actions of the police during public gatherings of citizens in Belgrade in July 2020.

In 2021, the NPM conducted 33 visits to police stations, out of a total of 86 visits, during which it continued with its activities related to monitoring the exercise of basic rights of apprehended and detained persons - the right to access to a doctor and a lawyer, the right to inform a third person about their detention and the manner in which the apprehended and detained persons are informed about their rights. All these visits were unannounced, and some of them were night visits.

The treatment of detainees was also monitored during visits to penitentiaries, given the practice of some police administrations using penitentiaries to detain persons, based on the Criminal Procedure Code.

Also, during the visits to the penitentiaries, the emphasis was placed on the treatment of persons deprived of their liberty by the police before they were brought to the penitentiary. Thus, during the visit to the penitentiaries, the NPM conducted interviews with detainees in order to collect information on the treatment of police officers during their detention, as well as during the exercise of other police powers. The visits were carried out by visiting both the local police station and the penitentiaries, which made it possible to cross-reference the information obtained from the detained persons with official statements and the documentation.

According to the usual methodology, before visiting the police station, the NPM team conducts unsupervised interviews with detainees in the local penitentiary (correctional institution or district prison) about the circumstances of their treatment by the police during deprivation of liberty, detention and exercise of police powers. If there are a small number of detainees in the institution, interviews are held with all those found in the institution on the day of the visit, and if there is a larger number, NPM selects those detainees who are at greater risk of ill-treatment (e.g. younger people, suspects for drug-related crimes, members of national minorities) and vulnerable groups always (such as women, minors, foreign nationals, etc.). The NPM then reviews the police detention documentation at the police station, collects additional information from police officers on the treatment of detainees and, if it finds a detained person at the station, talks to the detained person in private. The NPM team always visits the detention facilities to verify if they are in accordance with the prescribed conditions and applicable standards. If necessary, other premises are visited, for example if it is necessary to check whether there are non-standard items in the offices and other documentation is checked, for example documentation on complaints or on the use of coercive means.

After the visits, the NPM prepares reports with recommendations for improving the procedure. The reports are submitted to the visited institution and the competent ministry; as a rule, both parties are given a deadline to give their opinion on acting on the sent recommendations, with an invitation to establish a dialogue in order to consider implementing the recommendations. The aim of the dialogue is to review the situation in the visited institution and the system as a whole, primarily in order to find the best way to implement the recommendations made by the NPM after the visits.

In order to maintain a balance between confidentiality and transparency in its work, the NPM publishes a report on visits to institutions, in which all personal data are anonymized, after receiving responses from visited institutions and the competent ministry on actions taken to follow recommendations from the NPM report. Reports and responses of the bodies are published on the website of the Protector of Citizens and the NPM subpage.

In 2020, out of a total of 334 recommendations from the report on visits to places where persons deprived of their liberty are, or may be, found, 142 recommendations were sent to the Ministry of the Interior.

In order to establish an ongoing dialogue on possible measures to implement the NPM recommendations and improve cooperation in the field of prevention of torture, meetings were held with representatives of the Commission for the Implementation of Police Standards in the Field of Prevention of Torture of the Ministry of Interior, of Border Police and other organizational units, in order to exchange information related to the implementation of NPM recommendations.

**12.** Successful preventive measures have prevented the disease of a large number of persons deprived of their liberty with the COVID 19, and health care is provided at the same level as in civil health. Since March 2021, the Directorate for the Execution of Criminal Sanctions has conducted a survey of persons deprived of their liberty for voluntary vaccination, and every person who has applied was vaccinated. 6,671 persons deprived of liberty were vaccinated until October 01, 2021.

Exercising the right to visits in the visiting halls of persons deprived of their liberty has been enabled with respect to strict epidemiological protection measures from May 12, 2020, when visits were limited to 15 minutes with only one visitor, and on June 3, 2020, Institutions were informed that the above-mentioned restrictions on visits to persons deprived of their liberty were canceled and that visits will be carried out in accordance with the law and in compliance with all protection measures.

Also, we note that, starting from April 16, 2021, 3-hour visits in special rooms are possible (Article 94 of the Law on Execution of Criminal Sanctions), with mandatory testing of the visitors with rapid antigen tests, carried out by the institute.

## **A. Facilities under the responsibility of the Ministry of the Interior**

**20.** With regard to the recommendation under item 20 concerning the adoption of a Code of Conduct for police interviews and the appointment of police personnel exclusively fulfilling the task of "prison guard", we inform you of the following:

During March 2021, within the project "Strengthening the protection of human rights of persons deprived of their liberty and convicted persons in Serbia - phase 2", the Police Directorate, together with the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture, a Working Group was established for drafting of the Manual on conducting informative interviews with the categories of suspects, injured parties, witnesses and persons with mental disabilities and the Working Group for the introduction of the "custody officer".

Regarding the recommendation from item 20, which refers to the organization of training for managers for the exercise of police powers, with special emphasis on theoretical and practical aspects of preventing ill treatment, based on existing European standards, we inform you the following:

Newly hired police officers are employed by the Ministry of the Interior for a definite period of time as a trainee police officer. The police officer-trainee is obliged to attend a training, which includes the treatment of apprehended and detained persons, and which is a condition for applying for the professional exam. Police officers - trainees who successfully pass the professional exam before the commission of the Ministry of the Interior receive the status of a police officer.

The Ministry of the Interior conducts the training of police officers in relation to the treatment of apprehended and detained persons continuously, in accordance with the Program of Professional Development of Police Officers of the Ministry of the Interior.

During 2020, the Sector for Human Resources, at the initiative of the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture, plans to deliver specialist trainings, primarily for criminal police officers and police officers of general jurisdiction, for interrogation techniques and interviews with people with mental disorders.

The professional training programs for police officers of the Ministry of the Interior for 2020 and 2021 include a seminar entitled "PEACE model for conducting official interviews" which aims to professionalize the way interviews with witnesses, victims and suspects are conducted during the pre-trial proceedings.

Given the importance of this seminar, the Police Training Center organized four instructive seminars in 2020, where 64 police officers (lines of work: police officers and criminal police) from the Police Administration for the City of Belgrade and all regional police administrations were trained to independently deliver the trainings on this topic. Immediately after the implementation, and in accordance with the guidelines given at the instructional seminars, the police officers who attended these seminars began delivering the seminar "PEACE model for conducting official interviews" in their regional police administrations (except for police officers from the Police Administration in Valjevo); so far, a total of 1,270 police officers have attended the seminar.

The implementation of the entire professional training during 2020 (including the seminar "PEACE model for conducting official interviews") was significantly hampered by the COVID 19 pandemic, accordingly, the number of activities and the number of police officers to whom the seminar was delivered was significantly reduced.

In accordance with the Program of Professional Development of Police Officers of the Ministry of the Interior for 2021, within the teaching area "Theory", classes were conducted on the following topics:

- "Protection of human rights of persons deprived of their liberty and police officers", attended by 21,500 police officers;
- "Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture", attended by 30,827 police officers.
- "Police powers", attended by 30,712 police officers.

We note that the participants in the Basic Police Training, acquire knowledge and skills in the field of human rights protection and the exercise of police powers (including police powers of gathering information) within the subjects: "Community Policing, Human Rights and the Code of Police Ethics", "Exercise of Police Powers and Use of Coercive Means" and "Crime Suppression".

Also, in the course of 2020, in accordance with the Program of Professional Development of Police Officers of the Ministry of the Interior for 2020, within the teaching area "Theory", classes were conducted on the following topics:

- "Exercise of police powers", attended by 25,934 police officers;
- "Protection of human rights of persons deprived of their liberty and police officers", attended by 1,673 police officers;
- "Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture", attended by 26,089 police officers.

The Police Training Center in the Human Resources Sector, together with the Police Directorate of the Police Directorate and the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture, in accordance with the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has developed the content of problem-based teaching "Theoretical and practical aspects of preventing

abuse based on existing European standards", on the topics: "Rights of an apprehended and detained person", "Providing medical assistance to apprehended and detained persons", "Recording detaining activities" and "Storage of temporarily seized items originating from criminal offense and/or misdemeanor". After that, on October 25, 2021, the mentioned problem teaching was carried out for 36 police officers, including police control officers, from the Police Administration for the City of Belgrade, regional police administrations and organizational units at the headquarters of the Police Directorate, who then, in their organizational units, delivered that problem teaching to a total of 1,528 managers. At the same time, we point out that the Program of Professional Development of Police Officers of the Ministry of the Interior for 2022 will envisage this problem-based teaching.

**21.** In accordance with Article 225, paragraph 2 of the Law on Police ("Official Gazette of RS", Nos. 6/2016, 24/2018 and 87/2018), the Internal Control Sector is taking measures and actions in accordance with the law governing criminal procedure for detecting and suppressing criminal acts of corruption and other forms of corrupt behavior, as well as other criminal acts committed at work or in connection with work by police officers and other employees of the Ministry.

In cases when no criminal offense has been committed, pursuant to Article 25, paragraph 1, item 5 of the Law on Police, regional police administrations perform control-instructional activities of the work of their organizational units.

Also, in accordance with the Decision on establishing the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture issued by the Minister of the Interior, this commission has a mandate identical to the mandate of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

The competencies of the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture include, inter alia, control and supervision of cases with elements of torture and inhuman or degrading treatment or punishment by police officers, as well as supervision of the implementation of the document regulating the treatment of apprehended and detained persons.

**24.** In May 2021, the Minister of Justice issued a decision establishing a Working Group for the analysis of the effectiveness of the criminal justice system and for drafting the working text of the Law on Amendments to the Criminal Code. At the meeting held on November 8, 2021, the members of the Working Group decided, among other things, that the provisions of Articles 136 (Extortion of Confession) and 137 (Ill-Treatment and Torture) of the current Criminal Code will be the subject of analysis and possible amendments in line with international legal standards.

**29.** Since the adoption of the Methodology for conducting investigations into cases of ill-treatment by the police, on October 18, 2017, the Internal Control Sector has applied this document consistently and without exceptions.

According to the mentioned Methodology, the investigation is conducted by the public prosecutor, and he can exceptionally entrust the execution of certain evidentiary actions to the Internal Control Sector. The investigation should not be conducted by the public prosecutor who acted, or is acting, in the case in which the injured party (alleged victim of ill-treatment) appears as a defendant or a witness.

Accordingly, if during any criminal proceedings someone makes a "convincing accusation", or there are clear indications that the defendant or witness has been ill-treated, a special criminal case will be opened, in which such allegations will be verified and dealt with, by another public prosecutor.

It is clear from the previous paragraph that all activities in the investigation of cases with allegations of ill-treatment by the police are directed by the competent public prosecutor's office.

The CPT states at this point that the police officers of the Internal Control Sector have made efforts to comply with the Methodology.

Regarding the CPT's comment that there were examples of inconsistencies in the provision of evidence and failure to order forensic examinations, we note that the Criminal Procedure Code ("Official Gazette of RS", Nos. 72/2011, 101/2011, 121/2012, 32 / 2013, 45/2013, 55/2014 and 35/2019) stipulates that the body of the procedure will order the expertise when expert knowledge is required to determine or assess a fact in the procedure. In item 6.3.1., the Methodology determines that "if there are certain traces or consequences of a criminal offense on the body of the accused or injured party, the public prosecutor shall urgently undertake an investigation of the person, which does not require that person's consent, or order an expert opinion, if the physical examination requires expertise the public prosecutor does not have." Furthermore, the above item of the Methodology explains in detail the manner in which the mentioned actions will be taken. Item 6.3.1.2. of the Methodology stipulates that "in cases of alleged ill-treatment, the public prosecutor shall, if necessary, order a forensic examination at the earliest possible stage of the procedure."

As with the preliminary observations related to the establishment of a fully independent police grievance mechanism, we note the following in the comment in the Report that an independent police grievance body should be established:

In accordance with Article 285 of the Criminal Procedure Code, the pre-investigation procedure is managed by the public prosecutor. The public prosecutor may order the police to take certain actions to detect criminal acts and find suspects. The police are obliged to execute the order of the public prosecutor, as well as to regularly inform the prosecutor on the actions taken.

State and other bodies, legal entities and natural persons report to the competent public prosecutor criminal offenses for which they are prosecuted ex officio, of which they have been informed or have found out about them in another way.

Therefore, the law determines which state body is competent to conduct the pre-investigation procedure and investigation, for all criminal acts that are prosecuted ex officio.

The Internal Control Sector is an internal organizational unit of the Ministry of the Interior and acts in the pre-investigation procedure and investigation exclusively upon the order of the competent public prosecutor.

In addition, we note that the Internal Control Sector participates in the project "Strengthening the protection of human rights of persons deprived of their liberty and convicted persons in Serbia", which is implemented within the joint program of the Council of Europe and the European Union "Horizontal Facility for the Western Balkans and Turkey".

The representatives of the Internal Control Sector are currently participating in two working groups within the mentioned project, - the Working Group for the development of the Manual for conducting interviews and the Working Group for the improvement of the detention system.

**31.** Regarding the recommendation from item 31 that criminal offenses from Articles 136 and 137 of the Criminal Code be included in Article 172 of the Law on Police, which leads to automatic termination of service in cases when the court finds a police officer guilty, we inform that The Ministry of Interior is in the process of preparing the Draft Law on Internal Affairs.

**33.** With regard to the events at unregistered public gatherings in Belgrade, Novi Sad and Kragujevac in July 2020, the Internal Control Sector undertook activities to establish the identity of police officers for whom there are grounds to suspect that they have exceeded their powers. In this regard, criminal charges were filed for the criminal offense of Ill-treatment and Torture, against a police officer of the

Police Administration in Novi Sad, whose identity has been unequivocally established. It was also ordered to initiate disciplinary proceedings against this, as well as against two other police officers due to a serious breach of official duty.

Two disciplinary proceedings against employees of the Ministry of the Interior are under way before the first instance bodies, while one procedure is in the appeal phase.

Information on the outcome of criminal prosecution on the said criminal charges, as well as other information on prosecutorial investigations in connection with unreported public rallies from July 2020, is available to the competent public prosecutor's offices.

**35.** Within the tasks and mandates of the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture, the President and members of the Commission conduct periodic control activities in organizational units of the Police Directorate, in order to verify the legality and professionalism of the police officers activities in treating apprehended and detained persons, for the purpose of protection against ill-treatment of persons deprived of their liberty, i.e. persons under the supervision of police officers.

On that occasion, a total of 17 control activities were carried out in 17 regional police administrations and in 35 police stations, and the control activities by the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture have identified certain shortcomings and omissions in the work of police officers that, among other issues, refer to the treatment of detained persons, as well as to the keeping of electronic Custody registers, as follows:

- the content of the forms “information on the rights of the apprehended and detained persons” in foreign languages is not in accordance with Art. 19 and 29 of the Rulebook on Police Powers;
- not all facts relevant to detention are entered in the Record on detained persons;
- not all applied powers are recorded in accordance with the Instruction on the unique manner of keeping records of applied authorizations;
- the medical examination of the detainee is not organized in accordance with Article 36 of the Rulebook on Police Powers and Recommendations of the Protector of Citizens;
- the personal data of detained persons are not treated in accordance with the Law on Personal Data Protection, i.e. the case files contain data that are particularly sensitive;

Reports on conducted control activities and recommendations for elimination of identified deficiencies and omissions in work, by the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture were submitted to the Police Directorate, for information and to instruct the heads of controlled organizational units to act on the recommendations.

The activities of the Commission for the Implementation of Police Standards in the Field of Prevention of Torture were aimed at raising the awareness of police officers on the prohibition of torture and legal consequences, through control activities, improving the legislative framework and intensifying the training of police officers.

Also, the Police Administration is continuously conducting control activities in police administrations; in 2019, 2020 and 2021, in the part related to the application of police powers, 85 control activities were performed, which included all 27 police administrations, with special emphasis on enabling the rights of apprehended and detained persons in accordance with Art. 19 and 29 of the Rulebook on Police Powers, where it was mostly determined that police officers ensured the rights

of apprehended and detained persons, and that a small number of them were not recorded in the electronic Custody registers of apprehended and detained persons in the Custody records.

In this regard, within the project of the Council of Europe "Strengthening the protection of human rights of persons deprived of their liberty and convicted persons in Serbia", the work of these records has been improved and will be improved in 2022, primarily taking into account recommendations from CPT and NPM.

In Articles 19 to 39, the Rulebook on Police Powers, adopted on June 11, 2019 ("Official Gazette of RS", No. 41/2019), entered into force and began to apply on June 19, 2019, prescribes the rights and treatment of apprehended and detained persons, which is in line with the CPT's recommendations. The Rulebook stipulates that all police officers are obliged to comply. Failure to comply with the Rulebook entails the initiation of disciplinary proceedings for a serious breach of official duty prescribed by the Law on Police.

Article 29 of the Rulebook stipulates that the time and place of detention shall be notified to the person of detainee's choice, a diplomatic or consular representative of the state of which the detainee is a citizen or a representative of an appropriate international organization if the detainee is a refugee or a stateless person; to inform the person or the guardianship authority without delay about the detention if it is necessary to provide protection or care for the child or other persons cared for by the detainee; to have unhindered contact with the diplomatic and consular representative of their country, or the representative of the relevant international organization.

**36.** Article 29 of the Rulebook on Police Powers prescribes the right of a detained person to be instructed that he/she is not obliged to say anything, and that anything he/she declares may be used against him/her as evidence in the procedure prescribed by law; that he/she has the right to a defense counsel of his/her choice, to a confidential conversation with the defense counsel, for the defense counsel to be present during each interview; to be informed that the competent prosecutor will appoint an ex-officio lawyer, if the person does not choose one him/herself, when it is obligatory by law.

The Police Administration and the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture are continuously conducting control activities in police administrations; during the control activities in 2019, 2020 and 2021, so far, in the part related to the application of police powers, 85 control activities have been carried out, which included all 27 police administrations, with special emphasis on ensuring the rights of apprehended and detained persons in accordance with Art. 19 and 29 of the Rulebook on Police Powers, where it was mostly determined that police officers provided the rights to apprehended and detained persons, and that a small number of them were not recorded in the electronic Custody registers of apprehended and detained persons in the Custody records.

In this regard, within the project of the Council of Europe "Strengthening the protection of human rights of persons deprived of their liberty and convicted persons in Serbia", the work on these records has been improved and will further be improved in 2022, primarily taking into account the recommendations from the reports of the CPT and the NPM.

**37.** Article 29 of the Rulebook on Police Powers stipulates that a detainee has the right to be examined by a doctor; visual inspection determines the existence of visible injuries and possible damage to clothes and footwear; the doctor interviews the person and asks if the person has pain or other health problems, is they are receiving medical therapy and if they need a certain type of medication or medical care; when a person has visible injuries or other health problems, the doctor must organize

the provision of medical assistance. If a person is brought to a detention cell in wet or otherwise inappropriate clothing and footwear, it is necessary to provide him/her with appropriate clothing and footwear during the detention, through his/her family members or in another way. The police officer enters in the Custody records the information on visible bodily injuries, as well as injuries or changes in health status that have occurred during detention, provided medical assistance, damage to clothing and footwear.

Article 36 of the mentioned Rulebook stipulates that a sick or injured person who obviously needs medical help, or a person who shows signs of severe poisoning by alcohol or other substances, cannot be kept in the detention cell. For these persons, the police officer who performs the detention must immediately organize the provision of the necessary medical assistance and accommodation in an appropriate medical institution. During transportation and while the detained person is in the appropriate health institution, police officers take measures and actions to prevent self-harm, attacks on police officers or other persons, as well as the escape of the detainee. Only at the request of medical staff, for reasons of safety of medical staff, a police officer of the same sex may attend a medical examination of a detainee. In the event that the detained person, in the opinion of the doctor, does not need to be accommodated in an appropriate health institution, the detention of the detainee continues in the detention cell with the obligatory supervision by a police officer. Police officers will enable for the detained person to use the prescribed medical therapy.

Through continuous control and instructional activities, police officers are instructed not to inspect reports - findings and opinions of doctors on the health condition of the detainee, which states diagnoses of health status and other health data that are not relevant to police detention, and that such reports must not be found in the police detention file. The medical report is not placed in the detention file, i.e. in the file of the exercise of other police powers, but is given to the person or deposited in the locker with their temporarily seized items during the detention. Exceptionally, information on a person's state of health can be made available to police officers only if it is relevant to their treatment and the extent to which they perform their work: the doctor's opinion on whether the person is in a state of health that allows him/her to be detained and if special care or attention is required during detention (e.g., therapy, special diet or similar). Police officers should consult with the doctor who have conducted the medical examination of the detainee regarding the treatment of the detainee in relation to the health condition. It is necessary to obtain information from the doctor whether the person is capable of carrying out the measure of detention from the aspect of their health condition; whether a special diet is needed and what kind; whether it is necessary to give a certain therapy to a person, and which, in what doses and dynamics, who is competent to dispense therapy. It is necessary to make an official note about the information obtained from the doctor, which should be signed by the doctor, and if the doctor refuses to do so, it is necessary to note this in writing. In cases where a doctor requests that police officers attend a medical examination, police officers will be present so that they cannot see or hear the conversation between the doctor and the person, unless the examining doctor requests otherwise. The police officers will state in the record on the detention of persons, i.e. in the official note, the information on whether they attended the medical examination of the person or not at the request of the doctor for security reasons.

**38.** Article 19 of the Rulebook on Police Powers prescribes the rights of an apprehended person, as well as the manner in which the police officer acquaints or informs the apprehended person of his/her rights.

Article 29 of the Rulebook on Police Powers prescribes the rights of a detainee: The detainee is informed orally and by a written notice in his/her mother tongue or language that he/she understands his/her rights, as follows: to be informed of the reasons for detention; to be taught that he/she is not obliged to declare anything, and that everything he/she declares can be used against him/her in the legally prescribed procedure; to the defense counsel of his/her choice, to conduct an uninterrupted conversation with the defense counsel, for the defense counsel to attend his/her interview; to be informed that the defense counsel will be appointed ex officio, if he/she does not appoint one, when it is obligatory by law; to inform the person of his/her choice, diplomatic and consular representative of the state of which he/she is a citizen or a representative of the relevant international organization if the person is a refugee or a person whose identity has not been established; to inform the person or the guardianship authority without delay about the detention if it is necessary to provide protection or care for a child or other persons cared for by the detained person; to have unhindered contact with the diplomatic and consular representative of his/her country, i.e. the representative of the relevant international organization; to be examined by a doctor; to food and uninterrupted eight-hour rest; to initiate proceedings before the competent police or judicial authorities in order to examine the legality of the detention or compensation for damage.

**39.** In Article 30 of the Rulebook on Police Powers, detention is determined by a decision on detention. The decision on detention in criminal proceedings shall be made in the manner prescribed by the law governing criminal proceedings. The decision on detention in misdemeanor proceedings is made by the head of the organizational unit that ordered the detention, or by a police officer when authorized by him. The head of the organizational unit, or the authorized police officer, are responsible for the lawful exercise of the said police powers. The police officer who implements the measure of detention of a person is responsible for exercising the rights of the detained person (safety, health, etc.) from his/her placement in the detention cell until the detention ends or is revoked. Police officers cannot bring official weapons into the detention cell.

Article 32 of the aforementioned Rulebook stipulates that the time of detention of a person from the moment of the beginning of the exercise of police powers to apprehend, when the conditions for detention in the misdemeanor procedure have been met, i.e. from the moment of arrest or response to a call, when the conditions for detention in the criminal proceedings have been met.

Also, Articles 33 and 36 of the Rulebook clearly prescribe the obligations of police officers regarding the implementation of the detained person's right to a medical examination.

Article 38 of the Rulebook stipulates that a police officer shall draw up a Custody record, which contains the data prescribed in Article 111 of this Rulebook (personal data of the detained person, name, surname, address, unique personal identification number); legal basis for detention, data on the manner of informing the person about the reasons for detention and his rights, information on the ensured rights of the detained person, data on informing family members, other persons and competent authorities about detention) data on bringing the detained person to the competent authority; data on visible bodily injuries, other information on the state of health and medical assistance provided to the detainee; data on temporarily seized items that could be used for an attack, injury or inflicting self-harm; data on the time and reasons for leaving and returning the person to a detention facility; time of termination of detention: signature of the detained person and the police officer conducting the detention. The record on the detention of a person shall be signed by the police officer who detained the person and the detained person. A copy of the Custody records shall be

served on the detained person. If the detained person refuses to receive a copy of the Custody records, or refuses to sign it, the police officer will make a note on it in the Custody records.

Within the project "Strengthening the protection of human rights of persons deprived of their liberty and convicted persons in Serbia", the Police Directorate, together with the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture, among other things works to improve electronic records of apprehended and detained persons, the current system of complaints and internal control and the conduct of police officers in the exercise of police powers to apprehend and detain.

Within the Working Group for harmonization of records with the provisions of the Law on Records and Data Processing in the Authority of Internal Affairs, activities are undertaken on digitization of records kept in the Ministry of Interior, during which 4 applications were prepared for the following records: "Records of exercised powers", "Records of temporarily seized items", "Records of security checks" and "Records of persons and events related to sports events".

The electronic application "Records of persons and events related to sports events" was launched in November 2021. Also, on December 1, 2021, a new Instruction on the unique way of keeping records of exercised powers was adopted, when the applications "Records of exercised powers" and "Records of temporarily seized items" were launched.

**40 and 41.** With regard to equipping the premises intended for interrogation of persons with appropriate technical audio and video equipment for recording interviews, the Criminal Police Directorate, at the suggestion of the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture, had developed a plan for equipping premises in regional police administrations and police stations with technical equipment for audio and video recording, which will be used for the purpose of interviewing persons.

The procurement was completed in 2021, and works on equipping the premises for conducting interviews and recognizing persons began and the subject works were carried out and completed at the following locations: Police Administration for the City of Belgrade - 9 locations (2 locations at the Police Administration for the City of Belgrade and in 7 buildings in police stations: Rakovica, New Belgrade, Zemun, Savski venac, Voždovac, Zvezdara, Palilula), Police Administration in Niš - 1 location, Police Administration in Kragujevac - 1 location, as well as in five rooms used by the Criminal Police Directorate at the headquarters of the Ministry of the Interior.

**42.** Pursuant to Article 108, paragraph 1 of the Law on Police, a police officer shall submit a written report on any use of coercive measures to a superior police officer as soon as possible, and no later than 24 hours after the use of coercive measures. Paragraph 3 of the same article stipulates that the justification and regularity of the use of coercive means is assessed by an authorized police officer or a commission with at least three members.

The procedure for assessing the justification and regularity of the use of coercive means is regulated in more detail by Article 104 of the Rulebook on Police Powers ("Official Gazette of RS", No. 41/2019).

Therefore, until the grounds for suspicion that the use of coercive means or otherwise committed criminal offense are acquired, the authority to act is on the immediate superior of the police officer and the authorized police officer or a commission of at least three members.

When the grounds for suspicion that a police officer has committed a criminal offense at work or in connection with work, in accordance with Article 227, paragraph 3 of the Law on Police, all organizational units of the Ministry of Interior are obliged to notify the competent public prosecutor and the Sector internal controls, and no later than within 24 hours from the information.

Also, in accordance with Article 234, paragraph 7 of the Law on Police, if the complaint of a person who considers that actions or omissions in the performance of official duties have violated his/her human and minority rights and freedoms and that there are elements of a criminal offense, the complaint shall be, without delay, notified to the competent public prosecutor, the Sector of Internal Control and the head of the organizational unit in which the complainant works, who shall inform the complainant about this.

Also, the Police Administration and the Commission for the Implementation of Standards of Police Conduct in the Field of Prevention of Torture are conducting continuous control activities in police administrations and police stations. So far, during 2019, 2020 and 2021, a total of 79 control activities have been carried out in all 27 police administrations, in which, among other things, the control of the exercise of police powers and the use of coercive means has been conducted.

**44.** Regarding the construction, adaptation and equipping of detention facilities, the Police Directorate, in cooperation with the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture and the Sector for Material and Financial Affairs, participates in the project "Norwegian Call - 2018"; United Nations Office for Project Services - UNOPS is an implementing partner in this project. The project, financed by the Government of the Kingdom of Norway, deals with the priority of the Ministry of the Interior, which refers, among other things, to the improvement of material conditions in detention facilities in terms of reconstruction of existing and construction of new premises. The Embassy of the Kingdom of Norway has allocated funds in the amount of about 800,000 euros for the renovation and adaptation of the detention premises.

The project proposal as well as the list of priorities of detention facilities was made by the Police Directorate in cooperation with the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture. The priority list of detention facilities, which includes 127 facilities in 24 police administrations (86 police stations/police outposts), was compiled based on the recommendations of the European Committee for the Prevention of Torture (CPT) and the National Mechanism for the Prevention of Torture (NPM). In the previous period, they visited regional police administrations within the framework of implementation and control of respect for human rights in accordance with international agreements signed by the Republic of Serbia. In that sense, the priority for adaptation and construction of premises is the headquarters of regional police administrations and police stations that were visited by the CPT and NPM, and if funds remain, other police stations covered by the proposed plan based on the list of priorities.

The total number of detention cells adapted with the funds from the project financed by the Kingdom of Norway is 63 cells, with a capacity of 128 persons. The implementation of the project was completed on March 30, 2021. These premises are equipped in accordance with the Rulebook on the conditions that must be met by the detention facilities ("Official Gazette of RS", No. 34/2018).

128 metal lockers with cassettes for the storage of temporarily items seized from detained persons were bought with the funds from the project and they were distributed to all reconstructed detention facilities. 5 professional laundry machines for washing and drying clothes were also bought from the

funds from this donation, and they were distributed in the Police Administration for the City of Belgrade (2) and 1 each in the regional police administrations in Novi Sad, Kragujevac and Niš, in order to maintain hygienic conditions in accordance with the Regulations.

In order to continue the implementation of the project financed by the Kingdom of Norway, on March 5 and 30, 2021, meetings of representatives of the Ministry of Interior and UNOPS were held.

In the next period, the Ministry of Internal Affairs will plan continuous activities on the annual level on the adaptation of at least 5 detention cells, with funds from the budget of the Ministry of Internal Affairs.

**45.** In the part related to the provision of funds for the maintenance of personal hygiene of detained persons, the said consumables, after the procurement procedure and concluded contracts, are continuously procured throughout the year.

The provision of Art. 37, paragraph 2 of the Rulebook on Police Powers ("Official Gazette of RS", No. 41/19), stipulates that food is provided to the detained person within 6 hours from the moment of detention, and in cases of detention lasting more than 12 hours, the person will be provided with 3 meals. Also, the Rulebook mentioned in Art. 32. stipulates that the beginning of the retention is calculated from the moment of the beginning of the exercise of police powers to apprehend, when the conditions for detention in the misdemeanor procedure have been met, i.e. from the moment of arrest or responding to summons when the conditions for detention in the criminal procedure have been met. Meals are provided in accordance with the regulations of the Ministry of the Interior on food and accommodation services.

Also, based on the recommendations of the National Mechanism for the Prevention of Torture and the CPT Report, in cooperation with the Police Directorate, activities are being undertaken to improve the electronic Custody registers of apprehended and detained persons, in the sense that all relevant facts concerning the treatment of detained persons are inevitably recorded as a rule, as well as all circumstances that may be relevant to the exercise of this authority.

We also emphasize that the process of amending the Agreement on Cooperation between the Ministry of Justice and the Ministry of the Interior is underway. The Police Directorate, in cooperation with the Commission for the Implementation of Standards of Police Treatment in the Field of Prevention of Torture, is undertaking activities to amend the Agreement in the area of improving cooperation in the implementation of the measure of detention by the police for up to 48 hours; a Proposal of the Annex to the Cooperation Agreement was developed in that sense, which will be discussed at a meeting of representatives of the two Ministries. The above is also a recommendation of the Protector of Citizens.

## **B. Facilities under the responsibility of the Ministry of Justice/Directorate for Execution of Criminal Sanctions**

**52.** The EU-funded SAPA Unified Electronic System contains a module for keeping records and reports on the use of coercive measures. Members of the security service have been trained to use this system, which enables better control of the use of coercive measures by the head of the service and the manager of the institution. During 2021, 328 members of the security service completed their training in the Training and Vocational Training Center of the Administration. The training also included special teaching units related to the legal use of coercive measures.

**54.** In 2021, trainings were organized, in cooperation with the Council of Europe Office and the OSCE Mission to Serbia, to implement the Guidelines on the conduct of employees in case of claims of harassment, the Manual for health workers working in the institutions, and the Manual for the Implementation of Istanbul Protocol for investigating and documenting cases of torture, for prison managers and doctors with the aim of raising the awareness of employees that it is the obligation of the administration to investigate every case of violence between persons deprived of their liberty. Special workshops for prison managers were held in order to regularly monitor and respond to indications of possible violence, as well as to determine in each case of inter-detainee violence whether there was a failure in the conduct of employees and to initiate disciplinary proceedings, if there is a basis.

For members of the security service, the teaching unit included dynamic security techniques in the function of preventing violence, especially the development of a relationship of trust with persons deprived of their liberty. The workshops were interactive, experiences and examples of good practice were exchanged in order to raise the awareness of employees in this field.

A multidisciplinary approach has been introduced in solving this problem, given that representatives of the treatment service must be involved in the prevention of violence, applying new treatment programs for perpetrators of violent acts and programs for controlling aggressive behavior.

The Administration will continue to work on improving the existing and on introducing new teaching units for the training of employees, with a goal to prevent violence and conduct an efficient investigation of incidents in the institutions.

**55.** The time of the delegation's visit coincided with the scheduled time for the submission of bids for the selection of the most favorable bidder for the refurbishing of the two detention blocks in the Belgrade District Prison. According to the conducted administrative procedures, the Contract for the execution of works on the complete refurbishing of detention units 1.1 and 1.2 was concluded on June 4, 2021. The planned completion of the contracted works is the first quarter of 2022.

In 2022, the financial plan envisages the refurbishing of the remaining detention blocks, which will complete the process of refurbishing of accommodation capacities in the entire institution. The current refurbishing of the two detention units implies state-of-the-art accommodation solutions. Also, activities are underway regarding the repair of the equipment in accommodation units, beds and lockers.

Also, the District Prison in Belgrade is currently in the process of drafting a new project for the refurbishing the detention block 2-1, planned for 2022. The submission of the prepared project technical document is planned in phases, in order to obtain permits for the execution of works next year.

Also, a significant, comprehensive and extremely important procedure of drafting project technical document and studies for energy rehabilitation of the building is underway in order to create preconditions for the transition to district heating, which would far improve the infrastructural conditions.

With regard to faulty artificial lighting and broken washbasins, as stated in the report, activities have been undertaken to replace and repair them, and to bring them into functional condition.

Disinfection and pest control activities are regular activities that the institute undertakes in certain time intervals, in accordance with the agreed activity of providing these services. Additional activities

are carried out in order to suppress the sporadic appearance of bed bugs on detention blocks, and in connection with that, numerous models of their extermination are being undertaken, from steam cleaner treatment to the use of special products for these purposes. The pest extermination measures were taken on September 24, 2021 in the entire facility. Also, a heat treatment chamber for bed bugs was procured for the entire facility at 14 Bačvanska Street.

Mattress replacement is planned with procurements from the internal production of the institute, based on annual planning in accordance with the allocated funds for these purposes.

**56.** With regard to accommodation conditions within the Special Detention Unit of the Belgrade District Prison in Ustanička Street, several accommodation units have undergone lighting replacement activities with the aim of improving it, switching to LED lighting, which is planned as an activity for the entire facility. These activities are being carried out in accordance with the available financial resources, and a comprehensive replacement of lighting is planned for 2022 and is envisaged by the proposed financial projections. Also, in order to improve access to natural light, it is planned to remove oblique metal grilles from accommodation units that have reduced the natural light due to their position. The accommodation capacity will be adjusted to the square footage of the accommodation unit, i.e. the preparation of the removal of one bed is in progress, so that the accommodation capacity of the units will be adjusted to accommodate a maximum of four people. With regard to the ringers, in accordance with the financial resources for the next budget year, activities are planned to repair all call devices within the accommodation space (ringers) both in the premises of the Special Detention Unit and the facility in Bačvanska Street. With regard to the current refurbishing of the two detention blocks and the planned refurbishing of block 2-1 during 2022, the introduction of this system is envisaged through the project technical document.

**60.** The new Pavilion 4 was opened on March 5, 2021 and was occupied at the time of the CPT delegation's visit. The new Pavilion 3 was opened and put into operation on June 9, 2021, when Pavilion 5 was completely evicted and put out of function, which on the recommendation of the delegation does not meet conditions for accommodating convicted persons. The capacities of the new Pavilions 3 and 4 are for 200 convicts each. The pavilions consist of a ground floor and 2 floors with 2 wings on each floor. The pavilions have 47 rooms with 4 persons in a room (16 m<sup>2</sup>) and 6 rooms with 2 people in a room (12 m<sup>2</sup>). Each room has a bathroom with washbasin, mirror and a squat toilet. On each wing there are bathrooms with 5 showers, 4 telephone booths, a TV room with a large TV with a seating area for each convict and a separate room for smoking and preparing hot drinks. The rooms in the pavilions have a bed, table, chair and wardrobe. Rooms are equipped with a TV connection. All convicts are allowed to use the refrigerator in the rooms.

The above-mentioned reconstructions will also enable the reduction of the load on Pavilion 7. In relation to the recommendation for solving the problem of water supply on the 2nd floor of the 7th pavilion, we would like to inform you that a request has been submitted for approval of funds for the project and execution of works on the water supply of the pavilion.

The recommendation in paragraph 2, which refers to 2 rooms that do not have access to natural light - **has been implemented, i.e. the rooms have been put out of operation and they have been turned into a storage space.**

**61.** An urban design project for the new Detention Unit is currently being drafted, followed by a design phase for a building permit and a project for the execution of works. After the preparation of

the project-technical document, a public procurement will be announced for the selection of the contractor.

**62.** The Požarevac-Zabela correctional institution is undertaking activities to expand the choice of meals. Due to the age and porosity of the materials, the facilities used by the Department of Nutrition for many years give the appearance of poor hygienic conditions, however, they are chemically treated several times a day and for that purpose a book is kept on hygienic treatment of rooms, equipment and inventory. Renovating the equipment will solve the big evaporation and humidity of the walls in the kitchen.

According to the recommendation of the Committee, closed carts for internal transport of food and groceries were made, so that groceries for food preparation and meals of convicted persons are protected from external influences - birds and weather conditions.

The Institute will take measures to improve the material conditions in the kitchen and dining room in 2022.

**64.** With regard to activities aimed at detainees in the Belgrade District Prison, accepting positive practices within the Criminal Sanctions Administration (Pančevo Correctional Institution) system, activities are under way to involve a number of detainees, specifically female detainees. The plan includes the employment of about twenty people according to capacity. Also, activities are being prepared that include workshops on various topics with the inclusion of about twenty detainees in work by groups and interests, in order to create a more meaningful use of time and more meaningful activities. In addition to preparing activities, a number of female detainees have already been engaged.

For a particularly vulnerable category of detainees, juveniles, activities are carried out by an already established expert team of the institution, consisting of: specialist in child psychiatry, psychologist, member of the security service as commander, other employees in accordance with needs, with the aim of conducting workshops and other activities in the direction of purposeful and quality spending of juvenile time.

The Institute will renew the long-term cooperation with the Elementary School for Adult Primary Education "Obrenovac", as soon as the conditions due to the pandemic caused by the COVID-19 virus allow it, which will complete the planned activities in this way.

In accordance with the conditions, other detention wards will work on introducing new and expanding existing activities for detainees.

**67.** In the Požarevac-Zabela Correctional Institution, during 2021, about 650 convicts regularly worked in metal production, warehouses, carpentry, agriculture, transport and catering, for which they received compensation. Also, all convicts who are in the contained part of the institution, except for the Pavilion 7, have been approved 4 hours of daily stay outside the pavilion and daily access to the sports center in winter and summer for 1 hour. In the contained part of the institute, wood carving, art, chess and table tennis sections are organized.

The strategy for the development of the system of execution of criminal sanctions for the period 2021 to 2027 envisages further development and introduction of new treatment programs and purposeful work engagement, attending training programs and various courses for convicted persons.

**70, 71.** In terms of improving working conditions, three new offices have been made available to treatment officers in the newly built pavilions, which are fully equipped with computers connected to

the Internet and connected to the SAPA program for the registration of convicted persons. There are currently two offices and eight computers available to treatment officers in the administrative building, and the reconstruction of another office for treatment officers is underway. The Institute is in the preparatory phase of the procedure for announcing a public competition for the engagement of 10 new treatment officers.

Within the project of the Council of Europe for "Strengthening the protection of human rights of persons deprived of their liberty", a treatment program for the execution of prison sentences and preparation for release of convicts over five years, which is in the pilot project phase, followed by training its implementation.

**75.** We would like to inform you that the management of the institution is taking measures to ensure a wider range of purposeful activities for convicted persons in the Special Department of the Požarevac-Zabela Correctional Institution. An art workshop will be formed, considering that the equipment and materials were procured within the project of the Council of Europe, the offer of exercise equipment will be expanded and a common space for preparing hot drinks will be arranged.

**76.** With regard to the above recommendation, we report that, pursuant to Article 41 and Article 42 of the Rules of Procedure of the Special Department and Article 39 of the Law on Imprisonment for Organized Crime, all convicted persons in the Special Department that demonstrate particularly good behavior, are granted an open visit once a week for 2 hours.

Also, all convicted persons currently, in accordance with the situation related to the COVID-19 pandemic, pursuant to Article 37 of the Rules of Procedure of the Special Department and Article 36 of the Law on Serving Imprisonment for Organized Crime, use the right and have 2 phone calls per week.

**80.** The following employees are currently employed full-time in the Health protection service at the Požarevac-Zabela Correctional Institution:

- 4 general practitioners
- 1 psychiatric specialist - chief
- 1 dentist
- 9 medical technicians
- 1 sanitary technician
- 2 pharmaceutical technicians
- 1 radiology technician (with four hours of work 5 days a week)

Specialists (consultants) hired from the General Hospital in Požarevac come at least once a week, as follows:

- Internist
- General surgeon
- Neurologist
- Pulmonologist
- Physiatrist
- Dermato-venerologist
- Ophthalmologist
- Laboratory - service provider that is engaged after the public procurement, the provision of laboratory services for the needs of the institute comes at least once a week, and more often if necessary.

**84.** In reference to the claims in this paragraph, it can be stated that the Law on Execution of Criminal Sanctions in Article 113, paragraph 2 stipulates that institutions have drugs from the positive list of the Republic Health Insurance Fund (lists of drugs A, A1, B, C, D). Persons who do not have their own funds or family help to purchase medicines that are not on the positive list, turn to the institute to provide them with the necessary medicines. The management will control the implementation of the recommendation on the distribution of drugs in the institution.

**85.** The Manual for the Work of Health Care Workers in Institutions for the Execution of Criminal Sanctions regulates in detail the monitoring of specific indicators in prisons, such as injuries of persons deprived of their liberty, and regulates in detail the procedure for documenting injuries in prisons. The Directorate, in co-operation with the Council of Europe Office and the OSCE Mission to Serbia, held trainings for health professionals on the implementation of the Handbook.

Each injury is identified and registered, photographed and recorded by the doctor of the institution in three documents: a health record, a body diagrams and a special register.

The injury report must contain the following:

- a) Anamnestic version according to the statement of the person deprived of liberty on the manner of occurrence of the injury, with the answers to the following questions: where and when did the injury occur, who caused the injury, the manner in which the injury was caused;
- b) A precise description of the injury presented objectively and without any prejudices; the following is described: type of injury, location, size, direction, area and borders of the injury.
- c) Opinion of the doctor on the connection between the allegations of the person deprived of liberty and the objective medical finding.

Any injury must be taken seriously and all necessary measures must be taken to review, remedy and prevent or present the causes that led to the injury.

**86.** The Directorate, in cooperation with the OSCE Mission, has developed Guidelines for the conduct of employees in the institutions for the execution of criminal sanctions, detailing international standards in this area as well as domestic legislation, with detailed procedures in the institution in these cases, the obligation to collect appropriate evidence, including detailed reports from doctors (link to the Manual for the Work of Health Care Workers in Institutions in Cases of Allegations of Ill-treatment). The Guidelines also regulate the obligation of the warden to inform the competent prosecutor's office of all cases of possible ill-treatment. In November 2021, trainings were organized, in cooperation with the Council of Europe Office in Belgrade and the OSCE Mission to Serbia, for institute wardens and doctors to implement the Guidelines, with special emphasis on the obligation to inform the prosecution.

**87, 88, 89.** Based on the Report on activities for the implementation of the Strategy on the Prevention of Drug Abuse for the period 2018-2020 and the Action Plan for 2021, activities are being undertaken in the Directorate for the Execution of Criminal Sanctions in the field of raising the awareness of health workers in prisons and persons deprived of their liberty about testing for viral hepatitis B, C, and HIV. Training programs have been developed to prevent bloodborne diseases and to reduce harm to addicts. The Training of Trainers-doctors for the implementation of these programs is underway; they will conduct these trainings for doctors in the institutes through the Center for Training and Vocational Training of the Police Administration. At the joint meeting of the representatives of the

Ministry of Justice, the Special Prison Hospital and the Ministry of Health, a plan was developed for the implementation of prevention and control of viral hepatitis, which will improve prevention, early diagnosis and treatment. Also, the Ministry of Health has developed a Draft Plan for the Prevention and Control of Viral Hepatitis in RS for the period 2021-2026, which envisages activities related to the development of new mechanisms for financing standardized testing programs for HIV and HCV infection in selected population, which include persons deprived of liberty, increasing testing of persons deprived of liberty, as well as a cross-sectional study of the population deprived of liberty in need of diagnosis and treatment.

**90.** The Directorate for the Execution of Criminal Sanctions, in cooperation with the Ministry of Health, has implemented measures and activities in order to further develop the provision of health services in prisons, in particular the protection of the mental health of persons deprived of their liberty.

As part of the Council of Europe project "Strengthening the Protection of the Rights of Persons Deprived of Liberty in RS", doctors from the Special Prison Hospital participated in workshops with Council of Europe experts and representatives of the Ministry of Health to develop individual treatment and treatment programs for persons deprived of their liberty. The cooperation continues in this part. Also, representatives of the Special Prison Hospital participated in the development of the Program on the Protection of Mental Health in the RS for the period 2019-2026.

In accordance with the Strategy for the Development of the System of Execution of Criminal Sanctions for the period 2021-2027, the Action Plan envisages infrastructural investments in order to humanize the conditions for the execution of prison sentences for persons facing mental difficulties, as well as the development of specialized treatment programs. In that sense, it will be of special importance to provide a location for the construction of a new facility for the needs of the Special Prison Hospital for security measures of mandatory psychiatric treatment and custody in a health institution, as well as the construction of a new facility for sick and mentally handicapped persons in correctional institutions in Niš and Požarevac-Zabela.

**92.** The Manual for the work of health workers in institutions for the execution of criminal sanctions stipulates that the management of the institution, or the doctor, shall contact the public prosecutor's office that ordered an autopsy and request a copy of the autopsy report. A copy of autopsy report must be available to the health service in the institution and the administration of the institution in order to analyze the causes and take possible measures. Doctors in the institute are acquainted with the established practice during trainings for the application of the Manual.

**95.** The Rulebook on the work of the Center for Training and Vocational Training of the Directorate for Execution of Criminal Sanctions and organization and implementation of training and vocational training and development ("Official Gazette of RS", No. 82/2019) was adopted, which regulates the work of the Center, the hierarchical relationship between the director of the administration, the manager of the institute and the Training Center, in relation to the preparation of annual training plans for employees, which affect career advancement, during the annual evaluation of the work of employees. A draft of the new Rulebook on Professional Development, Training, Exams and Programs for Internship Training and Professional Exam in the Directorate for Execution of Criminal Sanctions has been prepared, which regulates vocational training, training and exams in the Directorate for Execution of Criminal Sanctions, program and manner of taking professional exams and training, internship training program in the security service, content and keeping records of passed professional exams and completed vocational training and issued certificates of passed vocational exams.

**96.** The Training and Vocational Training Center of the Police Administration has intensified training on dynamic security. During 2021, a training was conducted on the application of the Guidelines on the Conduct of Employees in Institutions in Cases of Allegations of Ill-treatment, which included, among other things, a thematic unit on the prevention of violence among persons deprived of their liberty for prison managers. Special workshops for prison managers were held with the aim of regularly monitoring and responding to indications of possible violence, as well as to determine in each specific case of inter-detainee violence whether there was a failure in the conduct of employees and to initiate disciplinary proceedings, if there is a basis. For members of the security service, the teaching unit included dynamic security techniques in the function of preventing violence, especially the development of a relationship of trust with persons deprived of their liberty. Cooperation with the OSCE Mission is planned in terms of improving the capacity of the Training Center and improving the existing training for members of the security service in the area of dynamic security in the institution and cooperation with other services (primarily the treatment service) in order to better monitor implementation of a prison sentence execution program.

**98.** With regard to the application of the measure of enhanced supervision, the institutes will apply the recommended instructions by forming a team with the task of establishing individual plans for each person deprived of liberty in relation to which this measure is applied.

Decisions on placing persons under increased supervision contain information on the time period of their review, which is determined in accordance with the Law on Execution of Criminal Sanctions (reviewed every three months), which determines the longest duration of this measure until deciding whether there are reasons for its extension. The prisoner has the right to appeal to the judge for the execution of criminal sanctions against the decision on determining the measure of placement under increased supervision, as well as the extension of the duration of the measure. In the current practice of applying these measures, despite the legal deadline for reviewing the measure, it was suspended before the expiration of the deadline in all situations when the reasons for its determination ceased, based on the opinion of expert services of the institute, which monitor its implementation.

Institutions for the Execution of Criminal Sanctions follow the recommendations and carry out the following activities in order to develop purposeful regimes for prisoners who have been determined the measure of intensified supervision: a review of the program for prisoners is carried out immediately after the measure has been determined, and the implementation of the measure is adapted individually; if the review of the program identifies some of the needs, new individual goals are introduced into the program. Contact with treatment officers is intensified.

**100.** At the Pančevo Correctional Institution, there were no complaints from persons deprived of their liberty alleging that members of the Security service informally punished them by removing their mattress until the end of the day for failing to get up for the counting activity.

Members of the Security service were acquainted with the Committee's recommendation, as well as with the obligation to comply with laws and other bylaws governing the area for the execution of criminal sanctions and to be able to apply only formal disciplinary procedures by filing a disciplinary report.

**101.** In the current practice of applying these measures, despite the maximum duration of solitary confinement prescribed by law, in most cases it is determined to less than 15 days and it is suspended in all situations when it is determined that it has achieved its purpose before its expiration.

**102.** In accordance with the Law on the Execution of Criminal Sanctions, every convicted person is entitled to two visits per month by a spouse, children, parents, adoptive parent, adoptee and other relatives in the direct line and in the collateral line up to the fourth degree and in-laws, as well as foster parents, foster children and guardians for at least 1 hour. In addition, the convict has the right to a 3 hour-visit in a special room once every two months with a spouse, children or other close person.

The Rulebook on Treatment, Treatment Program, Classification and Subsequent Classification may provide extended rights to convicted persons who are well-behaved, who achieve the treatment program and individual goals, which include the right to more visits, so that a convicted person can exercise rights of up to 6 visits per month.

In the Požarevac-Zabela Correctional Institution, the investment plan for 2022 includes the refurbishing of the facility, which includes rooms for family visits with toilets and accompanying office space.

**103.** The Administration will take measures to increase the number of telephone booths in accordance with the expressed needs of the Office.

**110.** The increased number of referrals to the Special Prison Hospital leads to overbooking of accommodation facilities. One block of the hospital is being renovated, which will increase the number of rooms, and the plan is to provide a location and build a new facility, outside the city, which is intended for patients who are under security measures of mandatory psychiatric treatment and health care institutions, which will provide more humane conditions for the implementation of this measure, given the restrictions, in the architectural sense, in the building in Bačvanska Street.

**113.** As noted, the SPH has made efforts to renovate the park used daily by patients, and additional facilities for exercise and gardening are planned. As for the yard between the buildings whose facades are old, it is planned to renovate them with the idea of painting them with murals, which would further encourage the creativity of persons deprived of their liberty, and thus refresh the space.

**115.** Exit to the yard and park during the previous 2020/2021 was limited by the current COVID-19 pandemic, as well as the lack of employees in the security service. After the vaccination, activities and socializing in the open air have improved, and it is planned to hire employees in the security service, which will enable more frequent and longer exposure of people to fresh air.

**116.** Psychiatric drug therapy is prescribed in the SPH by psychiatric specialists in accordance with applicable national guidelines and available registered medicines through the RHIF. Prescribing benzodiazepines is based on many years of experience in good practice in line with current recommendations.

**117.** The implementation of individual treatment plans for psychiatric patients has been under way for some time, which has been slowed down due to the large influx of patients and the smaller number of psychiatric specialists. Every year, SPH refers general practitioners to the specialist studies of psychiatry, in order to improve the quality of work. Also, within the project of the Council of Europe "Strengthening the protection of the rights of persons deprived of their liberty", cooperation on the development of individual treatment plans will continue.

**118.** In accordance with the Committee's recommendations, wall clocks will be installed in all rooms where persons under security measures of compulsory psychiatric treatment and custody are accommodated. Occupational therapy has been intensified, and horticulture and vegetable growing

are planned in the new space created in the park. A volleyball net has also been set up so that persons on psychiatric measures will be able to engage in special activities. The new block that is being renovated will have a women's block in which space is provided exclusively for women's occupational therapy.

**119.** In SPH, drug therapy is given to patients exclusively by medical staff, i.e. medical technician and some stable patients, in remission of chronic disease, provide assistance in moving, dressing up and daily activities of the less mobile patients.

**120.** SPH is aware of the need for a separate space for minors and is accordingly renovating a free block to expand accommodation capacity, where a special section for minors is planned, in addition to the current solution to place minors in separate rooms within the existing block. A consultant specialist in child psychiatry who treats such patients has also been hired.

**126.** The SPH has made an effort to establish a room that is used to physically restrain patients. We emphasize that the procedure is used exclusively in emergency situations, in order to ensure the physical safety of persons with mental disorders or another person, when other therapeutic options have been exhausted. Patients for whom this is the first psychiatric treatment and who are slower to respond to drug therapy are often hospitalized in the SPH, so sometimes physical restraint is the only choice to ensure their physical safety as well as the safety of other patients. Also, patients who are not treated therapeutically, or show pharmacoresistance, are hospitalized from other institutions on a daily basis, which in some cases increases the length of physical restraint. The recommended procedures are followed during the application of this measure. The staff of SPH tries to apply physical restraint as rarely as possible and an effort is made to prevent this measure from being a practice in referring to professional training of doctors and applying a new generation of drug therapy.

**127.** The Special Prison Hospital is making efforts to increase the number of health workers and associates, especially psychiatry specialists, by announcing a competition for admission, and is continuously referring younger doctors to specialist studies.

### **C. Facilities under the responsibility of the Ministry of Health**

**132.** We note that at the meeting of the Clinic Management and the Head of the Department with the members of the Commission, and after the visit to the Clinic, it was preliminary and explicitly stated by Dr. Tomčuk, a member of the Commission, that the management of the Clinic requested that this statement be entered in the official minutes of the Commission, and the Clinic made based on the audio recording of the meeting, after the consent of all participants to record the meeting.

We emphasize this because we have repeatedly told the Commission that we are an institution that has implemented the ISO 9001 quality standard, which means that we have provided the Commission with all the documentation and procedures for all phenomena that they monitored. Precisely due to the problematic methodology of the Commission, which is the information "about one slap of one patient" out of a total of over 250 hospitalized patients at that time, the mentioned remark cannot be taken as a fact on the basis of which general conclusions are made.

From the above, it can be concluded that what is stated in the Report - "several accusations of verbal abuse and physical abuse of patients by employees of the Clinic" is FALSE.

**133.** All toilets in the Clinic are provided with doors, and the only exception is the toilet located in the OJ Intensive Care 1, within the Emergency Psychiatry Service, where, in accordance with

indications, urgent and short-term (several hours) care for persons in state of psychomotor anxiety, and which potentially endanger their own or other people's life and health. Such patients require constant monitoring by medical staff, and that is the only reason for the lack of a toilet door. Also, we must mention that the toilets in the mentioned organizational unit are placed so that they do not disturb the intimacy of the patient.

It is unknown how the members of the Commission have established what was happening in the Clinic after the end of their visit, in the organizational sense. We must also state that the specific allegations from the Report are incorrect, given that each department for extended treatment in the Padinska Skela sector implements psychosocial rehabilitation measures on a daily basis, which include various activities such as learning social and life skills, assertive training, painting workshops, sculpting, cooking, as well as music and drama therapy, which the members of the Commission could witness when visiting the imposing space, fully equipped and intended for these activities where they could see the works of patients.

With regard to the equipment of the department, we note that each department of the Belgrade and Padinska Skela clinic sectors has TVs, and some departments also have additional video and audio equipment, tables for table tennis and table football. There is written documentation on all daily activities in the work with the patients of the Clinic, and in accordance with the accreditation standards. All of the above is documented in the attachment.

**134.** The above applies to patients treated in the sector of the Clinic located in Višegradska Street. We must mention once again (although the Commission was informed about this during their visit) that in this part of the Clinic are treated persons who in the diagnostic sense belong to the category of acute psychotic conditions, for a maximum of 14 days (from the day of admission to the Clinic), which is a prescribed epidemiological isolation, i.e. the length of the incubation period due to potential infection with Corona virus.

After the mentioned period, patients are transferred to the departments of the Padinska Skela Clinic sector, when they are included in the therapeutic process and in all outdoor activities (sports activities, walks and staying in nature). This is also recorded in the documentation provided in accordance with the accreditation standards and the individual treatment plan.

During the visit, the Commission was informed that the activities related to the process of rehabilitation, work and occupational therapy were in a changed mode of operation, due to the current epidemic, and in accordance with current epidemiological measures adopted by the state, which especially refers to the ban of gathering for more than a certain number of persons at that time.

**135.** We note that in the Padinska Skela Sector, in the departments for extended treatment and non-standard services, the patient rooms are limited to four beds, which is in accordance with the law and the accreditation standard of the Clinic.

**142.** Regarding the objection to the number of employees in the Clinic "Dr Laza Lazarević", we note that on March 1, 2021, the Clinic had 80 doctors, 25 health associates, 3 pharmacists, 269 nurses and technicians, 31 administrative workers and 106 technical workers, which is a total of 513 employees who are daily in the service of quality health care provided in the Clinic. To make it clearer, these data have been compared with the 2020 Implementation Report on the capacity and use of hospital beds, which is an official document of the City Institute for Public Health and the Republic Health Insurance Fund. By reviewing this report, as well as the number of patients in the previous four years, the daily number of patients at the Clinic has never exceeded 290 beds, which brings the following

structure: 1 doctor to 3.62 beds, 1 nurse to 1 bed, etc. This is certainly an extremely high standard, therefore there isn't a small number of employees in the Clinic. These data are absolutely verifiable and the members of the Commission received them. At the time of the visit, the number of patients in hospital was less than 260.

**149.** In the part of the report related to legal measures for the protection of patients' accommodation, i.e. that certain patients who were admitted on a voluntary basis in fact deprived of liberty after signing a consent form that they did not even understand, we emphasize that this claim is false. Also, the fact is that in the period from 2015 mentioned in the report until today, the number of forced hospitalizations in the Clinic has been significantly reduced, which is confirmed by insights into the decisions of the First Basic Court in Belgrade for 2018 (123 people in total), 2019 (a total of 143 people) and 2020 (a total of 70 patients). We also emphasize that the Clinic fully complies with the Law on the Protection of Persons with Mental Disorders, and especially the acts related to the forced detention of persons for treatment, which is confirmed by the Procedure on Forced Hospitalization. Namely, five days before the expiration of the original decision on forced hospitalization for a maximum of 30 days, the Clinic needs to submit a request to the First Basic Court stating the need to extend the forced hospitalization with arguments, which is determined by the competent judge who is registered with the Ministry of Justice as a court expert. It is stated that, contrary to the allegations in the Report, there are still no restrictions on the duration of forced hospitalization. The Law on the Protection of Persons with Mental Disorders limits forced hospitalization to a maximum of 30, and exceptionally to a maximum of 90 days, which is consistently executed by the First Basic Court in Belgrade. The Commission was given access to the entire documentation related to forced hospitalization cases, as well as to court decisions, evidence of delivering the decisions to patients, and their appeals against decisions.

**171.** We consider that the comments stated in paragraph 171 of the Report are incorrect, because the entire documentation related to mechanical restraint is properly and timely recorded, in accordance with the Law on Protection of Persons with Mental Disabilities and the Clinic's Mechanical restraint Procedure. Therefore, the Law obliges us to reassess the necessity of continuing mechanical restraint for each fixed patient every two hours. This means that no patient can be mechanically restrained for more than two hours without a re-assessment and a new indication, which makes it a new restraint, which is registered, and the documentation was presented to the Commission. We have informed the commission in detail about that legal obligation and presented them with forms. We note that the members of the Commission are not familiar with our legislation, in terms of the Law on the Protection of Persons with Mental Disorders, which we have introduced to them at the final meeting (about which there is a record from the recorded meeting). Also, there is no evidence of claims of long-term mechanical restraint, such as skin marks, injuries or pulmonary embolism, as possible consequences of long-term mechanical restraint, which Commission members should know as experts. We note that no patient stayed in the Belgrade part of the Clinic for more than 14 days at the time of the visit due to epidemiological measures, and that the physical consequences of excessive restraint could be directly and indisputably determined, which was not the case.

**After answering to various parts of the Report, the members of the management of the Clinic for Psychiatric Diseases "Dr. Laza Lazarević" need to present their observations and remarks on the mentioned visit, and in the hope that they will be of mutual benefit.**

We are still unclear about the Committee's visit to tertiary institutions during the current epidemic, but more than that - the low level of information of the delegation members about the importance, justification and complexity of implementing epidemiological measures at the Clinic.

As professionals in the field of mental health, we must also present our observations and suggestions regarding the selection of members of the Committee delegation. Namely, the lack of medical knowledge of the members of the delegation largely prevents the success of communication and understanding of the work process itself, the specifics of the psychiatric service, which can be seen from the remarks made in the Report. Also, complete ignorance of the legal regulations of the country they come to, and especially very open expression of bad attitude and prejudice towards employees and the state of Serbia in general, which they verbalized on several occasions, led to bad and unpleasant treatment of the clinic staff by delegation members; we are certain this was not the goal of the Committee that delegated them.

#### **D. Facilities under the responsibility of the Ministry of Labor, Employment, Veterans' Affairs**

**163.** Based on the intervention of the Ministry, the plan for the reconstruction of the Pavilion 6 for the accommodation of users in the home through the Public Investment Office was reactivated. On December 30, 2021, the Report on the completed procedure of public procurement of works no. 90-2021 in the amount of RSD1,019,614,456.32 was signed, and the process of mitigating the identified deficiencies in Kulina started. Thanks to the Ministry of Labor, Employment, Veterans and Social Affairs and the understanding of the team, funds were obtained to equip the institution, which will facilitate the work of the staff who works directly with the users (severe and intellectual disabilities, with additional psycho-physical and somatic problems and illnesses). First of all, modern beds, bathing beds for immobile users (about 150 of them), machines for cleaning rooms, living room equipment, food processing machines, furniture for functional furnishing of the yard to improve the quality of life of our users. It should be noted that all purchased equipment was purchased exclusively for the purpose of improving the quality of life of users and easier, i.e. reduced physical effort of staff in working with users in immediate and primary care.

**164.** The Office for Managing Public Investment conducted a procurement for the services of drafting a technical document required for the reconstruction, rehabilitation and extension of the "Home for Children and Youth "Duško Radović" in Niš.

On December 13, 2021, the institution received a notification from the Republic Property Directorate of the Republic of Serbia, which gives consent to the Home for Children and Youth "Duško Radović" to obtain all necessary technical and other necessary documentation for construction works for upgrading the facility in question, and after completing the project-technical documentation and receiving the funds, to file a new request for the adoption of the Government Conclusion on the construction of the facility, in accordance with the provisions of Article 27, paragraph 2 and in reference to Article 29, paragraph 2 of the Law on Public ownership and the transfer of investment rights to the city of Niš.