



UNITED NATIONS OFFICE OF THE HIGH
COMMISSIONER FOR HUMAN RIGHTS
SERBIA AND MONTENEGRO



Organization for Security and Co-operation in Europe
Mission to Serbia and Montenegro

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**CONFIDENTIAL MEMORANDUM TO THE MINISTRIES OF JUSTICE
AND THE INTERIOR OF THE REPUBLIC OF SERBIA**

**Initial findings and recommendations arising from the visit
to detainees in Belgrade 14-15 April 2003**

Following their joint visit to places of detention and detainees in Belgrade on 14 and 15 April 2003 the UN Office of the High Commissioner for Human Rights, OSCE Mission to Serbia and Montenegro and OSCE Office of Democratic Institutions and Human Rights have identified nine urgent recommendations which they would draw to the attention of the authorities in the Republic of Serbia.

These recommendations are not intended to represent the complete findings and recommendations of the three institutions. Rather, they represent a number of urgent steps which, if implemented, the Delegation considers would immediately improve the situation of persons detained following the imposition of the state of emergency. The three institutions will issue a comprehensive joint report of their findings and recommendations in due course. This report will expand upon the recommendations below and be complemented by additional ones. The three institutions would like to draw the Government's attention to the fact that, in its observations, many of the problems do not arise directly from the conditions under the state of emergency, but are long-standing problems concerning the Belgrade Central Prison which were identified during assessment visits in 2001. The state of emergency has exacerbated most of these problems and that certain provisions of the amended Law on the Suppression of Organised crime are likely to continue doing so unless appropriate safeguards are promptly introduced.

The three institutions welcome the lifting of the state of emergency orders on 22 April. Although the provisions relating to detention under the state of emergency are no longer in force, they consider that the findings and recommendations pertaining to detention contained in this memorandum remain relevant. They base this on recognition of the fact that the pressures on Serbia's criminal justice system remain; that provisions for extended detention without judicial supervision remain in force under the amended Law on the Suppression of Organized Crime; and the continued existence of systemic problems which have previously been identified following the 2001 prison assessment, the visit of the Committee against Torture in 2002 and other assessments.

Besides the matters requiring attention which are identified below, the Delegation would like to record that welcome improvements upon the situation in 2001 were noted. These included improved relationships between detainees and prison guards. The Delegation heard consistently positive references to the guards from detainees during their confidential interviews. In addition the Delegation also noted that all government officials were helpful and open in their discussions with it.

The three institutions hope that the initial findings and recommendations contained in this memorandum will be of assistance to the Government in its efforts to combat organized crime and uphold the rule of law on accordance with the relevant international standards. They look forward to delivering the full report in the near future and of having the opportunity to carry up follow-up visits to places of detention.

Findings and Recommendations

Section A: The legal basis for detention

Finding 1: The continued justification for detention without judicial supervision

Article 4 of the International Covenant on Civil and Political Rights (ICCPR) states clearly that derogations of rights guaranteed under the Covenant must be strictly limited to those required by the exigencies of the situation. Both the procedures under the state of emergency and the recent amendments to the Law on the Suppression of Organized Crime include provisions for extended periods of detention without adequate judicial supervision. These are clearly not in conformity with the international human rights standards, notably Article 9(4) of the ICCPR and Article 5(4) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The commentaries and case law indicate that detainees may be held without judicial supervision for a few days as an absolute maximum, even in times of public emergency.

The Delegation found that the justification for the continued detention of individuals without judicial supervision was unclear in many cases, particularly as many individuals had not been subject to any form of questioning for many days and that much time has passed since the initial emergency following the assassination. Some, who had been in detention for several days, reported that they had not been questioned at all.

With the ending of the state of emergency, which has occurred since the visit, all derogations to the right to be brought promptly before a judge are to be considered invalid and therefore detention without charge is no longer permissible. Therefore the detainees must be either charged with a criminal offence or released in accordance with Article 9 of the ICCPR.

The Delegation was particularly concerned that the combination of detention without judicial supervision combined with some of the other findings given below meant that human rights violations were being compounded or exacerbated by a combination of these factors.

Recommendation 1: Re-examine, on the basis of the facts of each case, whether the conditions continue to warrant the detention of each individual detained since the state of emergency was introduced (including those detained under the amended Law on the Suppression of Organized Crime). Ensure that detainees are either released or charged with a

criminal offence and kept in further detention only on the basis of judicial decisions. These decisions should be subject to regular review.

Finding 2: Information about status and rights for detainees; access to counsel; procedures for considering appeals

International standards as well as the principles established in the Constitutional Charter of the State Union and the Code of Criminal Procedure emphasize the rights right of detainees to be informed of their status and rights as well as being given access to legal counsel to protect their interests. The state of emergency suspended or restricted a number of rights relating to communication with the outside world including visits by families and communication with legal counsel. While some of these restrictions may be justified as exceptions required by the exigencies of the situation, applied on a case-by-case basis and for short periods, they appear instead to have been applied on a group basis or in an arbitrary way and often for extended periods.

The Delegation found that many detainees were unclear about their status and rights. There appeared to be no systematic process to ensure that detainees were informed of their right to challenge detention under the state of emergency order. The confusion about their status, rights, and possibilities for communication extended to detainees who had passed to detention on judicial orders or on the orders of the Special Prosecutor.

Recommendation 2: Carry out a systematic process of informing all detainees of their status and rights. This should include, inter alia, particular attention to those who were initially detained under orders issued under the state of emergency, but are now passing into other forms of detention. Ensure that all detainees are given immediate access to legal counsel.

Finding 3: Appeals procedures

At least one detainee was informed in writing that he had to submit any appeal within 12 hours of receiving the decision on his detention. No effective deadlines existed for ruling on appeals, at least one detainee received the negative decision around the 30th day of his 30-day detention. The processes for communicating between detainees and the authorities were not transparent in ensuring adequate recording and issuing receipts for communications. The Delegation also felt that a review by the Minister of Internal Affairs was not a sufficiently independent mechanism. The Delegation is concerned that these problems persist for detainees held under the provisions of the amended Law on the Suppression of Organized Crime.

Recommendation 3: Introduce judicial supervision of all detainees immediately. Introduce a clear and consistent procedure regulating the process of allowing detainees to appeal against detention, ensuring that there are no temporal limits on the detainees' right to appeal and that all appeals are ruled upon and communicated to the individual concerned within 24 hours.

Finding 4: Arbitrary factors controlling conditions of detention

The Delegation found that the applicable rules governing detainees conditions of detention were not clear and that they depended in part on individual decisions by the prison authorities. This was particularly problematic as these decisions and the procedures applied appeared

variously to influence the detainees' possibilities to obtain medical supplies or sanitary items and to communicate with families and legal counsel.

Recommendation 4: Ensure that the law and regulations applied do not introduce arbitrary factors which affect the possibility of detainees to obtain access to counsel or restrict other rights.

Section B: Conditions of detention

Finding 5: Police facilities unsuitable for extended detention

The Delegation found that the facilities in the police station it visited were unsuitable for anything other than short periods of detention and were not suitable for overnight stays. The reasons for the unsuitability included, inter alia, the lack of beds for each detainee and of any blankets or mattresses; inadequate provisions for food and medical care; and inadequate lighting and ventilation. All these are requirements contained in the Standard Minimum Rules of the Treatment of Prisoners (SMR) and the European Prison Rules (EPR). SMR Rule no. 19 and EPR Part II, Rule 24 offer specific guidance in this.

The Delegation was concerned to learn that some detainees have been in the Central Police Station in these conditions for up to six or seven days.

Recommendation 5: Ensure that detainees are kept in police detention facilities for as short a period as possible and are not used to detain prisoners for overnight stays.

Finding 6: The conditions of detainees kept in isolation in the Belgrade Central Prison were unacceptable

The Delegation saw that most prisoners kept in isolation at the Belgrade Central Prison are kept in small, badly lit cells with poor lighting and ventilation. It also learned that most were denied exercise and were kept in the cells all the time and were taken out infrequently and mainly for the purpose of questioning.

The cumulative and combined effects of the underlying illegality of extended periods of detention coupled with the substandard conditions of detention for many detainees amounts to degrading punishment or treatment which is incompatible with Article 3 of the Convention against Torture and Other, Cruel, Inhuman or Degrading Treatment and Punishment (CAT), Article 3 of the ECHR and Article 7 of the ICCPR.

The Delegation noted that the increased population at the prison also appeared to decrease the possibility for exercise for all prisoners. It noted that the 2001 assessment found that the exercise facilities in the Belgrade Central Prison were already inadequate for the then population of some 400 detainees and the exercise periods too short. The current population is reported to be more than 1,000.

Recommendation 6: Ensure that all prisoners are allowed adequate exercise of at least one hour per day and that other steps are taken to improve the conditions in the isolation cells in the Belgrade Central Prison.

Finding 7: Procedures for registering complaints

During the visit to the Belgrade Central Police Station and the Belgrade Central Prison the Delegation was briefed about the procedures in place to submit complaints to internal or external control bodies. The procedures within the prison which were described to and seen by the Delegation represented a very centralised approach to the airing of complaints. They seemed to be an inadequate guarantee and did not provide for independent and transparent analysis of complaints. The inadequacy of the current method was also reflected in the poor confidence of the detainees in the effectiveness of the internal investigations.

This concern seems particularly relevant as during the visit, the Delegation heard allegations or saw indications of torture or ill-treatment during arrest concerning two detainees. It was unable to verify in full the veracity of these allegations, but the Delegation considers it important that detainees are able to report any such allegations with confidence in seeing their complaints promptly addressed. The Delegation also heard accounts of forms of questioning and pressure during interrogation which would appear to be inappropriate, particularly when they involve young women.

Recommendation 7: Improve the possibilities for detainees to communicate with the relevant authorities concerning their conditions of detention and develop a long-term plan of revision of the internal control systems in both the police and prison systems. Any allegations of ill-treatment should be subject to prompt and proper investigation with the invocation of appropriate criminal and/or disciplinary proceedings against the officials concerned.

Finding 8: Proportionality of the measures applied to each detainee

The Delegation found that the physical conditions of detention and the possibilities to communicate within the prison or the outside world varied enormously. There appeared to be no clear rationale as to why certain measures were applied in general or in individual cases. As indicated in finding 4, there appeared to be elements of arbitrariness and a lack of transparent regulations and guidelines.

Recommendation 8: Re-examine on an individual basis whether the measures applied, such as detention in isolation, are proportionate and justifiable in each case. Ensure that the decisions on the application of these measures are subject to regular review in each case.

Finding 9: Health and medical provisions

A number of prisoners kept in isolation complained of inadequate medical and provision, including difficulties in obtaining the necessary medicines, items for personal hygiene and clean clothes. They also complained that they were unable to communicate to their families their state of health and learn of the health of their relatives. Some detainees were not confident that they had prompt access to doctors or doctors who were familiar with their existing medical conditions.

Partial or incorrect information about the health or aspects of the situation of has reached the relatives of detainees either through media reports or word of mouth. In some cases they allege that they heard information officially.

The Delegation would draw attention to Rules 25 and 62 of the SMR and Rules 29-62 in Part II of the EPR Part II which provide more guidance on provisions for medical care and SMR Rule 15 and EPR Part II, Rule 20 which describe the requirements necessary to ensure personal hygiene.

If requested, an organization such as the International Committee of the Red Cross should be able to address these needs.

Recommendation 9: Improve access to medical care and provision of clean clothes, personal hygiene items and facilities. As an additional safeguard, invite the assistance of an independent organization with capacity to address the medical and hygienic and related needs of the detainees and allow the possibility of communication with their families.

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POVERLJIVI MEMORANDUM MINISTARSTVIMA PRAVDE I UNUTRAŠNJIH POSLOVA REPUBLIKE SRBIJE

24. april 2003.

**Inicijalna zapažanja i predlozi koji proističu iz posete pritvorenim licima u Beogradu od
14. do 15. aprila 2003. godine**

Nakon zajedničke posete mestima pritvora i pritvorenicima u Beogradu 14. i 15. aprila 2003. godine, Kancelarija Visokog komesara Ujedinjenih nacija za ljudska prava, Misija OEBS-a u Srbiji i Crnoj Gori i OEBS-ova Kancelarija za demokratske institucije i ljudska prava, utvrdili su devet hitnih preporuka koje žele da prenesu organima vlasti u Republici Srbiji.

Ove preporuke ne treba smatrati kompletnim nalazima i preporukama ove tri institucije. Tačnije, one predstavljaju određen broj hitnih mera koje bi, ukoliko se sprovedu, po mišljenju Delegacije koja je izvršila posetu odmah popravile situaciju lica koja su pritvorena nakon uvođenja vanrednog stanja. Ove tri organizacije će u dogledno vreme objaviti sveobuhvatan zajednički izveštaj o svojim nalazima i preporukama. Ovaj izveštaj će detaljno razraditi navedene preporuke i biće dopunjen drugima. Tri organizacije žele da skrenu pažnju Vlade na činjenicu da, po njihovom shvatanju, mnogi od problema ne proističu direktno od uslova nastalih usled vanrednog stanja, to su pre svega problemi Centralnog zatvora u Beogradu koji postoje već duže vremena i ustanovljeni su tokom poseta 2001. godine. Vanredno stanje je pogoršalo većinu ovih problema i verovatno je da će određene odredbe izmenjenog Zakona o borbi protiv organizovanog kriminala nastaviti to da čine ukoliko se odmah ne uvede odgovarajuća zaštita.

Tri organizacije pozdravljaju prestanak vanrednog stanja od 22. aprila. Mada odredbe koje se odnose na pritvor nisu više na snazi, one smatraju da su nalazi i preporuke iz ovog memoranduma koje se odnose na pritvor i dalje relevantne. Ovo zasnivaju na činjenici da i dalje postoje pritisci na sistem krivičnog pravosuđa Srbije; odredbe o produženom pritvoru bez sudskog nadzora i dalje ostaju na snazi prema izmenama i dopunama Zakona o borbi protiv organizovanog kriminala; i dalje postoje sistemski problemi koji su već identifikovani nakon posete iz 2001. radi utvrđivanja stanja u zatvorima, posete Komiteta protiv mučenja u 2002. i drugih procena.

Uz niže navedena pitanja koja zahtevaju pažnju, Delegacija želi da navede da su konstatovane pozitivne promene u odnosu na situaciju iz 2001. Tu spadaju bolji odnosi između pritvorenika

i zatvorskih čuvara. Takođe, Delegacija je tokom poverljivih razgovora sa pritvorenicima čula dosledno pozitivne ocene o čuvarima. Uz to, Delegacija želi da konstatuje da su svi državni službenici bili predusretljivi i otvoreni prilikom razgovara sa Delegacijom.

Tri organizacije se nadaju da će početni nalazi i preporuke sadržane u ovom memorandumu biti od pomoći vladi u njenim naporima u borbi protiv organizovanog kriminala i podržavanju vladavine prava u skladu sa relevantnim međunarodnim standardima. Predstavnici tri organizacije očekuju da će uskoro podneti potpuni izveštaj i imati mogućnost da ponovo posete pritvorske ustanove.

Nalazi i preporuke

Deo A: Pravni osnov za pritvaranje

Nalaz 1: Dalje pravdanja pritvora bez sudskog nadzora

Član 4. Međunarodne konvencije o građanskim i političkim pravima (ICCPR) jasno navodi da odstupanje od prava garantovanih Konvencijom mora biti strogo ograničeno na odstupanja koja nalažu potrebe situacije. I postupci u vreme vanrednog stanja kao i nedavni amandmani na Zakon o borbi protiv organizovanog kriminala sadže odredbe o produženom pritvoru bez adekvatnog sudskog nadzora. Jasno je da takve odredbe nisu u saglasnosti sa međunarodnim standardima o ljudskim pravima, posebno sa članom 9(4). ICCPR-a i članom 5(4) Evropske konvencije za zaštitu ljudskih prava i osnovnih sloboda (ECHR). Komentari i običajno pravo ukazuju da pritvorenici mogu biti držani samo nekoliko dana kao apsolutni maksimum, čak i za vreme vanredne situacije.

Delegacija je utvrdila da ne postoji jasno opravdanje za produženje pritvora pojedinaca bez sudskog nadzora, posebno što mnogi od njih nisu ispitivani danima i što je dosta vremena proteklo od početne vanredne situacije nakon atentata. Neki, koji su bili u pritvoru nekoliko dana, izjavili su da uopšte nisu bili ispitivani.

Sa okončanjem vanrednog stanja, do čega je došlo nakon naše poslednje posete, sva derogiranja od prava, a naročito od prava da lice bude izvedeno pred sudiju bez odlaganja treba smatrati nevažećim i samim tim pritvaranje bez podizanja optužbe nije više dopustivo. Stoga se pritvorenici moraju ili optužiti za krivično delo ili pustiti, u skladu sa članom 9. ICCPR.

Delegaciju posebno brine što pritvor bez sudskog nadzora zajedno sa nekim od drugih niže navedenih nalaza znači da se kršenje ljudskih prava još više komplikuje ili pogoršava kombinacijom ovih dodatnih faktora.

Preporuka 1: Ponovo ispitati, na osnovu činjeničnog stanja svakog predmeta, da li i dalje postoje uslovi za pritvor svakog pojedinca koji se i dalje nalazi u pritvoru, nakon uvođenja vanrednog stanja (uključujući i one koji su pritvoreni na osnovu izmenjenog zakona o borbi protiv organizovanog kriminala). Obezbediti da pritvorene osobe budu ili oslobođene ili optužene za krivično delo, a da se dalji pritvor zasniva na sudskoj odluci. Ove odluke treba da podležu redovnom preispitivanju.

Nalaz 2: Informacije o statusu i pravima pritvorenih lica; pristup advokatu; postupak za razmatranje žalbi

Međunarodni standardi kao i principi utvrđeni Ustavnom poveljom Državne zajednice Srbija i Crna Gora i Zakonom o krivičnom postupku naglašavaju pravo pritvorenih lica da budu obavešteni o svom statusu i pravima, kao i da im se omogući pristup braniocu radi zaštite njihovih interesa. Vanredno stanje je ukinulo ili ograničilo jedan broj prava koja se odnose na komunikaciju sa spoljnim svetom, uključujući i posete porodice i komunikaciju sa braniocem. Dok neka od ovih ograničenja mogu imati opravdanje kao izuzeci izazvani potrebama situacije, koji se primenjuju od slučaja do slučaja i tokom kratkih perioda čini se, umesto toga, da su ona primenjena zbirno, i to ili na prozvoljan način i često tokom dužeg vremenskog perioda.

Delegacija je utvrdila da mnogim pritvorenima nije jasan njihov status i prava. Čini se da nije postojao nikakv sistematski proces kojim se obezbeđuje da pritvorenici budu upoznati o svom pravu da ospore pritvor na osnovu Naredbe o vanrednom stanju. Ta konfuzija o statusu, pravima, i mogućnosti za komunikaciju se i dalje nastavlja i u slučaju pritvorenika koji su sprovedeni u pritvor na osnovu odluke suda ili naređenja specijalnog tužioca.

Preporuka 2: Sprovesti sistematski postupak informisanja svih pritvorenih lica o njihovom statusu i pravima. Ovde se, između ostalog, mora pokloniti posebna pažnja onim licima koja su prvobitno pritvorena na osnovu naređenja koja su izdata na osnovu vanrednog stanja ali sada prelaze u druge oblike pritvora. Obezbediti da sva pritvorena lica odmah dobiju pristup advokatu.

Nalaz 3: Žalbeni postupak

Delegacija je našla da je najmanje jedno pritvoreno lice je obavešteno pismenim putem, da žalbu mora podneti u roku od 12 sati od prijema odluke o svom pritvaranju. Nikakav rok nije dat za postupanje i donošenje odluka po žalbi, a najmanje jedno pritvoreno lice je dobilo negativan odgovor na svoju žalbu o pritvoru i to oko 30-tog dana svog tridesetdnevnog pritvora. Postupak komunikacije između pritvorenih lica i vlasti nije transparentan u tome da obezbeđuje adekvatno evidentiranje i izdavanje potvrda o prijemu žalbi, pritužbi itd. Delegacija takođe smatra da pravo na žalbu Ministru unutrašnjih poslova ne predstavlja nezavisan mehanizam zaštite prava pritvorenika. Delegacija izražava zabrinutost zato što ovi problemi i dalje opstaju za lica pritvorena na osnovu odredbi izmenjenog Zakona o borbi protiv organizovanog kriminala.

Preporuka 3: Odmah uvesti sudski nadzor nad pritvorenim licima. Uvesti jasan i dosledan postupak kojim se reguliše proces kojim se dopušta pritvorenim licima da ulažu žalbu na pritvaranje, kojim se obezbeđuje da ne postoje vremenska ograničenja u pogledu prava pritvorenika da se žale i da se po svim žalbama odlučuje, i odluka saopštava podnosiocu u roku od 24 sata.

Nalaz 4: Proizvoljni faktori koji određuju uslove pritvora

Delegacija je utvrdila da važeća pravila koja određuju uslove pritvora nisu jasna i da zavise delom od individualnih odluka samih zatvorskih vlasti. Ovo je posebno problematično jer se ima utisak da ove odluke i postupci utiču na pritvorenike različito i dovode do nejednakih mogućnosti da dobiju higijenske pakete, lekove i da komuniciraju sa porodicama ili advokatima.

Preporuka 4: Obezbediti da važeći zakon i propisi ne omogućavaju uvođenje arbitrarnosti koja utiče na mogućnost pritvorenika da imaju pristup advokatu ili koji ograničavaju druga prava.

Deo B: Pritvorski uslovi

Nalaz 5: Policijski objekti neprikladni za produženi pritvor

Delegacija je utvrdila da su uslovi u policijskoj stanici koju je posetila neprikladni za bilo šta drugo osim za kratkotrajan pritvor i da su neprikladni za boravak preko noći. To je, između ostalog, zbog nedostatka kreveta za svakog pritvorenika kao i ćebadi i dušeka; neodgovarajuće hrane i lekarske pomoći; neodgovarajućeg osvetljenja i ventilacije. Svi ovi zahtevi su sadržani u Standardnim minimalnim pravilima o postupanju sa zatvorenicima (SMR) i Evropski zatvorskim propisima (EPR). Pravilo br. 19 SMR-a i pravilo br. 24 EPR Deo II o ovome daje precizna uputstva.

Delegacija je sa zabrinutošću primili informaciju da su neka pritvorena lica boravila u Beogradskoj glavnoj policijskoj stanici pod ovim uslovima do šest ili sedam dana.

Preporuka 5: Obezbediti da pritvorena lica borave u policijskim pritvorskim objektima što je kraće moguće i da se ista ne koriste za držanje pritvorenih lica preko noći..

Nalaz 6: Stanje pritvorenika koji su držani u izolaciji u Centralnom zatvoru u Beogradu je neprihvatljivo

Delegacija je videla da se većina zatvorenika koji su držani u izolaciji u Centralnom zatvoru u Beogradu nalazila u malim, slabo osvetljenim ćelijama sa slabim osvetljenjem i ventilacijom. Takođe je utvrdila da većini nije bilo dopušteno fizičko vežbanje i da su sve vreme držani u ćelijama i samo povremeno izvođeni uglavnom radi ispitivanja.

Kumulativni i kombinovani efekti spornog produženog pritvora u sadejstvu sa uslovima pod kojima se vrši pritvor, koji su ispod standarda, za mnoge pritvorenike predstavljaju ponižavajuće kažnjavanje ili postupak a što je nespojivo sa članom 3. Konvencije protiv mučenja i drugog okrutnog, nečovečnog ili ponižavajućeg postupanja (CAT), i članom 3. ECHR-a i članom 7. ICCPR-a.

Delegacija je konstatovala da povećanje populacije u zatvoru takođe umanjuje mogućnost fizičkog vežbanja za sve zatvorenike. Konstatovano je da je nalazom iz 2001. godine utvrđeno su već tada uslovi za vežbanje u Centralnom zatvoru u Beogradu bili neadekvatni za oko 400 pritvorenika i da vreme za vežbu bilo prekratko. Prema izveštajima trenutna populacija je veća od 1,000.

Preporuka 6: Obezbediti da svim zatvorenicima bude omogućeno adekvatno vežbanje od najmanje jedan sat dnevno i da se preduzmu druge mere radi poboljšanja uslova u ćelijama za izolaciju u Centralnom zatvoru u Beogradu.

Nalaz 7: Postupci podnosenja žalbi

Tokom posete Gradskom SUP i Okružnom zatvoru u Beogradu, delegacija je obaveštena o postupku za podnošenje žalbi unutar institucije, kao i spoljnim organima za kontrolu. Postupci u okviru zatvora, kako su opisani i utvrđeni od strane delegacije, predstavljaju vrlo centralizovan pristup za podnošenje žalbi. Moglo bi se zaključiti da predstavljaju neadekvatnu garanciju i da ne obezbeđuju nezavisnu i javnu analizu žalbi. Neadekvatnost postojećeg metoda naročito se ogledala u slabom poverenju pritvorenih lica u delotvornost unutrašnje istrage.

Ova zabrinutost je, izgleda, od naročitog značaja, pošto je tokom posete delegacija čula optužbe ili videla indikacije mučenja ili zlostavljanja tokom hapšenja dva pritvorena lica. Bilo je nemoguće u potpunosti proveriti istinitost ovih optužbi, ali delegacija smatra važnim da pritvorena lica imaju mogućnost da prijave svaku takvu optužbu sa uverenjem da će njihove žalbe biti razmatrane po hitnom postupku. Delegacija je takođe obaveštena o načinima ispitivanja i pritiska prilikom isleđivanja, koja se čine neprimerenim, posebno ako se odnose na mlade žene.

Preporuka 7: Poboljšati mogućnosti za obraćanje pritvorenih lica relevantnim organima u vezi uslova u pritvoru i razvijanja dugoročnog plana revizije sistema unutrašnje kontrole, kako u policiji, tako i u zatvoru. Svaka prijava zlostavljanja trebala bi da bude hitno i ozbiljno istražena uz sprovođenje odgovarajućeg krivičnog i/ili disciplinskog postupka protiv odgovornog službenog lica.

Nalaz 8: Proporcionalnost mera primenjenih protiv svakog pritvorenog lica

Delegacija je utvrdila da fizički uslovi u pritvoru i mogućnosti za komunikaciju u okviru zatvora ili sa spoljnim svetom, enormno varira od slučaja do slučaja. Izgleda da nema valjanog razloga zašto se neke mere primenjuju prema svima ili samo u pojedinim slučajevima. Kao što je naznačeno u nalazu 4, izgleda da postoje elementi proizvoljnosti i nedostatka transparentnosti propisa i uputstava.

Preporuka 8: Preispitati na osnovu pojedinačnih slučajeva da li su mere primenjene u konkretnom slučaju, kao što su pritvor u izolaciji, proporcionalne i odgovarajuće u svakom od slučajeva. Uveriti se da su odluke u vezi primene ovih mera bile proveravane u svakom pojedinačnom slučaju.

Nalaz 9: Mogućnosti pružanja zdravstvene zaštite

Jedan broj pritvorenih lica zadržanih u izolaciji žalio se na neadekvatnu zdravstvenu zaštitu, uključujući teškoće u nabavljanju neophodnih lekova, sredstava za ličnu higijenu i čiste odeće. Takođe su se žalili i da su bili onemogućeni da obaveste porodice o svom zdravstvenom stanju i da dobiju informaciju o zdravstvenom stanju svojih bližnjih. Neki od pritvorenih lica nisu bili ubeđeni da im je omogućen pravovremen pristup lekarima, ili doktorima koji su upoznati sa njihovim zdravstvenim stanjem.

Delimične ili netačne informacije o zdravstvenom stanju ili razvoju situacije došle su do rodbine pritvorenih lica, bilo putem medija ili usmeno. U nekim slučajevima navodno su informacije stizale iz službenih izvora.

Delegacija bi želela da skrene pažnju na pravila 25 i 62 "Skupa minimalnih pravila o postupanju sa zatvorenicima", pravila 29 – 62 iz Dela II Evropskih Zatvorskih Pravila, koja daju dodatna uputstva u vezi obezbeđenja zdravstvene zaštite, kao i pravila 15 "Skupa

minimalnih pravila o postupanju sa zatvorenicima" i pravila 20 Dela II Evropskih Zatvorskih Pravila u kojima su navedena sredstva neophodna za ličnu higijenu.

Ukoliko se to zatraži, organizacija kakva je Međunarodni komitet crvenog krsta bi trebala da bude u mogućnosti da odgovori ovim potrebama.

Preporuka 9: Poboljšati dostupnost zdravstvenoj nezi, kao i obezbeđenju čiste odeće i sredstava za ličnu higijenu. Kao dodatno obezbeđenje, zatražiti pomoć nezavisne organizacije sposobne da odgovori zdravstvenim, higijenskim i ostalim sličnim potrebama pritvorenih lica i omogućiti komunikaciju sa njihovim porodicama.

ENDS