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**Report to the Government of
Bosnia and Herzegovina
on the visit to Bosnia and Herzegovina
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
from 27 April to 9 May 2003**

The Government of Bosnia and Herzegovina has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2004) 41.

Strasbourg, 21 December 2004

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Copy of the letter transmitting the CPT's report

Strasbourg, 5 December 2003

Dear Ambassador,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Government of Bosnia and Herzegovina drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) following its visit to Bosnia and Herzegovina from 27 April to 9 May 2003. The report was adopted by the CPT at its 52nd meeting, held from 3 to 7 November 2003.

I would like to draw your attention in particular to paragraph 183 of the report, in which the CPT requests the authorities of Bosnia and Herzegovina to provide an interim and a follow-up response on the action taken upon its report; further, paragraph 184 sets out the Committee's requests in respect of two specific issues. The CPT would ask, in the event of the responses being forwarded in one of the official languages of Bosnia and Herzegovina, that they be accompanied by an English or French translation. It would also be most helpful if the authorities of Bosnia and Herzegovina could provide a copy of the responses in a computer-readable form.

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

Yours sincerely,

Silvia CASALE
President of the European Committee for the
prevention of torture and inhuman
or degrading treatment or punishment

Mr Igor GAON
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Bosnia and Herzegovina
to the Council of Europe
Room 1523 - Palais de l'Europe
Strasbourg

PREFACE

The European Committee for the prevention of torture and inhuman or degrading treatment or punishment has deemed it appropriate to begin the first of its reports to each State by setting out some of the Committee's salient features. This should prove particularly helpful in differentiating the basis and aims of the CPT from those of another Council of Europe supervisory body within the field of human rights, the European Court of Human Rights.

Unlike the Court, the CPT is not a judicial body empowered to settle legal disputes concerning alleged violations of treaty obligations (i.e., to determine claims *ex post facto*).

The CPT is first and foremost a mechanism designed to **prevent ill-treatment from occurring**, although it may also in special cases intervene after the event.

Consequently, whereas the Court's activities aim at "conflict solution" on the legal level, the CPT's activities aim at "conflict avoidance" on the practical level.

This being so, the guiding maxim for the CPT when performing its obligations must be to "extend the widest possible protection against abuses, whether physical or mental" (quotation from the 1979 UN Code of conduct for law enforcement officials as well as from the 1988 Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, both adopted by the General Assembly).

The CPT's activities are based on the concept of co-operation (Article 3 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment). The CPT's task is not to publicly criticise States, but rather to assist them in finding ways to strengthen the "cordon sanitaire" that separates acceptable and unacceptable treatment or behaviour. In fulfilling this task the CPT is guided by the following three principles:

- i) that the prohibition of ill-treatment of persons deprived of their liberty is absolute,
- ii) that ill-treatment is repugnant to the principles of civilised conduct, even if used in milder forms, and
- iii) that ill-treatment is not only harmful to the victim but also degrading for the official who inflicts or authorises it and ultimately prejudicial to the national authorities in general.

The CPT first of all explores the prevailing factual situation in the countries it visits. In particular, it:

- i) examines the general conditions in establishments visited;
- ii) observes the attitude of law enforcement officials and other staff towards persons deprived of their liberty;
- iii) interviews persons deprived of their liberty in order to understand how they perceive (i) and (ii) and hear any specific grievances they may have;
- iv) examines the legal and administrative framework on which the deprivation of liberty is based.

Subsequently, the CPT reports to the State concerned, giving its assessment of all the information gathered and providing its observations. In this regard, it should be recalled that the CPT does not have the power to confront persons expressing opposing views or to take evidence under oath. If necessary, it recommends measures designed to prevent the possible occurrence of treatment that is contrary to what reasonably could be considered as acceptable standards for dealing with persons deprived of their liberty.

In carrying out its functions, the CPT has the right to avail itself of legal standards contained in not only the European Convention on Human Rights but also in a number of other relevant human rights instruments (and the interpretation of them by the human rights organs concerned). At the same time, it is not bound by the case law of judicial or quasi-judicial bodies acting in the same field, but may use it as a point of departure or reference when assessing the treatment of persons deprived of their liberty in individual countries.

To sum up, the principal differences between the CPT and the European Court of Human Rights are:

- i) the Court has as its primary goal to ascertain whether breaches of the European Convention on Human Rights have occurred. By contrast, the CPT's task is to prevent abuses, whether physical or mental, of persons deprived of their liberty from occurring; it has its eyes on the future rather than the past;
- ii) the Court has substantive treaty provisions to apply and interpret. The CPT is not bound by substantive treaty provisions, although it may refer to a number of treaties, other international instruments and the case law formulated thereunder;
- iii) given the nature of its functions, the Court consists of lawyers specialising in the field of human rights. The CPT consists not only of such lawyers but also of medical doctors, experts in penitentiary questions, criminologists, etc;
- iv) the Court only intervenes after having been petitioned through applications from individuals or States. The CPT intervenes *ex officio* through periodic or ad hoc visits;
- v) the activities of the Court culminate in a legally binding finding as to whether a State has breached its obligations under a treaty. The CPT's findings result in a report, and, if necessary, recommendations and other advice, on the basis of which a dialogue can develop; in the event of a State failing to comply with the CPT's recommendations, the Committee may issue a public statement on the matter.

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Bosnia and Herzegovina from 27 April to 9 May 2003. The visit formed part of the CPT's programme of periodic visits for 2003, and was the first visit to Bosnia and Herzegovina to be carried out by the Committee.

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

- Renate KICKER (Head of delegation)
- Ioanna BABASSIKA
- Pétur HAUKSSON
- Mauro PALMA
- Pierre SCHMIT.

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

- Fabrice KELLENS, Head of Unit
- Bojana URUMOVA,

and assisted by

- Clive MEUX, Consultant forensic psychiatrist, Oxford, United Kingdom (expert)
- Derrick POUNDER, Professor of forensic medicine, University of Dundee, United Kingdom (expert)
- Spomenka BEUS (interpreter)
- Goran ĐAPIĆ (interpreter)
- Divna JAKIĆ-SUBAŠIĆ (interpreter)
- Ksenija KEIVANZADEH (interpreter)
- Amira SADIKOVIĆ (interpreter)
- Jasna ŠOPTRAJANOVA-VRTEVA (interpreter).

B. Establishments visited

3. The delegation visited the following places of detention:

Federation of Bosnia and Herzegovina

Police establishments

- Police Administrations of Mostar and Novo Sarajevo
- Mostar Centar, Posušje and Široki Brijeg Police Stations

Prisons

- Remand sections of Mostar and Sarajevo Prisons
- Zenica Prison (including the forensic psychiatric annexe)

Republika Srpska

Police establishments

- Banja Luka and Srpsko Sarajevo Centers for Public Security
- Banja Luka 1 & 3, Pale and Srpsko Sarajevo Police Stations

Prisons

- Remand sections of Banja Luka and Srpsko Sarajevo Prisons

Psychiatric establishments

- Jakeš Institution for the Treatment, Rehabilitation and Social Protection of chronic mental patients, Modriča
- Sokolac Psychiatric Hospital

C. Context of the visit

4. The first visit by the CPT to Bosnia and Herzegovina took place in the eighth year following the signing of the General Framework Agreement for Peace ("Dayton Agreement"), a treaty which marked the end of a devastating three-year international armed conflict.¹ The Dayton Agreement set out the principles of the structure of Bosnia and Herzegovina, a State comprising two constituent entities - the Federation of Bosnia and Herzegovina² and the Republika Srpska - and an autonomous district, Brčko. It also established the Office of the High Representative (OHR) as the chief civilian peace implementation agency in the State.

The governmental functions and powers relating to deprivation of liberty have been assigned to the entities.³ Although certain reforms aiming to strengthen central State institutions and harmonise legislation in the entities were imminent or already underway, at the time of the CPT's visit, each entity had a distinct police, penitentiary, and health care system, and was applying a different legal framework in those fields.

The international involvement in Bosnia and Herzegovina continued to be substantial in 2003, including in the fields of judicial and legal reform, the development of police forces meeting internationally recognised standards, and prison reform.

5. As one might expect, the 1992-1995 conflict had adversely affected the various places of deprivation of liberty. Authorities responsible for areas covered by the Committee's mandate also made repeated reference to chronic budgetary difficulties, which obstructed the implementation of necessary material improvements, as well as the recruitment and remuneration of teams of properly trained staff. These issues have been borne in mind by the CPT, especially when considering material conditions and activities offered to detained persons.

6. In addition to meeting authorities representing the State, the two constituent entities, and various local officials, the delegation held consultations with representatives of international organisations. A list of the authorities and organisations with which the delegation held consultations is set out in Appendix II to this report.

¹ The conflict claimed more than 280 000 lives and displaced 2.6 million persons from their homes.

² The Federation of Bosnia and Herzegovina is divided into ten cantons.

³ Under Article III of the Constitution of Bosnia and Herzegovina, "[t]he entities shall provide a safe and secure environment for all persons in their respective jurisdictions, by maintaining civilian enforcement agencies operating in accordance with internationally recognised standards and with respect for [...] internationally recognised human rights and fundamental freedoms..." The same Article specifies that all governmental functions and powers not expressly assigned by the Constitution to the institutions of the State shall be those of the entities.

D. Cooperation between the CPT and the authorities of Bosnia and Herzegovina

7. The degree of cooperation received by the CPT's delegation from the authorities of Bosnia and Herzegovina was very good on the whole.

At State level, the CPT's delegation met Mladen IVANIĆ, Minister for Foreign Affairs, and Bariša ČOLAK, Minister for Security. From the Government of the Federation of Bosnia and Herzegovina, the delegation met Mevludin HALILOVIĆ, Minister for the Interior, Tomo LUČIĆ, Minister for Health, and Rešad FEJZAGIĆ, Assistant Minister for Justice responsible for the execution of criminal sanctions. From Republika Srpska, it met Zoran ĐERIĆ, Minister for the Interior, Saud FILIPOVIĆ, Minister for Justice, Marin KVATERNIK, Minister for Health, and Strahinja ČURKOVIĆ, Assistant Minister for Justice responsible for the execution of criminal sanctions.

8. As regards cooperation at local level, in almost all cases, the delegation was granted prompt access to each of the establishments visited and was provided with the facilities it required in order to carry out its task. Nevertheless, a number of officers under the authority of the entity or canton Ministries of the Interior were unaware of certain basic precepts regarding the CPT's mandate and their obligations vis-à-vis visiting delegations. In this context, it should be recalled that delegations are entitled to "unlimited access to any place where persons are deprived of their liberty, including the right to move inside such places without restriction".⁴ Further, it must be made clear that visiting delegations are to be provided with "other information available to the Party which is necessary for the Committee to carry out its task"⁵; this includes access to any detained persons' files held by police authorities. **The CPT trusts that additional efforts will be made in the context of future visits, with a view to ensuring that all relevant authorities, including those working at local level, receive detailed information on the Committee's mandate and their obligations vis-à-vis visiting delegations.**

9. It should also be noted that the lists of places of deprivation of liberty initially provided to the CPT were not complete. Under the Convention, a Party is required to provide full information on the places where persons deprived of their liberty may be held;⁶ **such information must include all establishments where persons may be held against their will by a public authority, regardless of the reason or the length of time.**

10. It is of great concern to the CPT that certain inmates interviewed in Zenica Prison claimed that they had been threatened by staff with retaliation if they made allegations against prison staff to the delegation. In a similar context, the motives behind the meticulous recording in the daily logbook of the remand section of Sarajevo Prison of the names of all the remand prisoners interviewed by the delegation appeared to be highly questionable (cf. in this regard paragraphs 53, 54, 59 and 113).

The CPT trusts that decisive measures will be taken to ensure that persons deprived of their liberty are never subjected to any pressure or repercussions in relation to their being interviewed by visiting delegations; such practices are contrary to the principle of cooperation enshrined in Article 3 of the Convention.

⁴ Cf. Article 8, paragraph (2)(c), of the Convention.

⁵ Cf. Article 8, paragraph (2)(d), *ibid.*

⁶ Cf. Article 8, paragraph (2)(b), *ibid.*

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

11. At the end-of-visit talks on 9 May 2003, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention. The observation, which was confirmed in a letter dated 11 June 2003 addressed by the President of the CPT to the Permanent Representative of Bosnia and Herzegovina to the Council of Europe, concerned the Male and Female Acute Wards at Jakeš Institution for the Treatment, Rehabilitation and Social Protection of chronic mental patients. The delegation requested the national authorities immediately to carry out an inspection, under the auspices of the Ministry of Health of Republika Srpska, of the conditions prevailing in those wards and their effect on safety issues and to inform the CPT within three months of the results of the inspection and the measures taken in response.

By letter of 1 October 2003, the authorities of Bosnia and Herzegovina provided comments on various issues raised by the delegation at the end of the visit, including the immediate observation referred to above. This response has been taken into account in the relevant sections of the present report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. Preliminary remarks

12. The Federation of Bosnia and Herzegovina and the Republika Srpska each have a police system structured under the authority of a Ministry of the Interior, comprising uniformed branches, criminal investigation departments, and security/counterintelligence services. It may be noted that the police system of the Federation is de-centralised, each of the ten cantons having its own Ministry of the Interior.⁷

At the time of the visit, the only police force at State level was the Border Police. As regards the recently-established State Ministry for Security,⁸ **the CPT would like to receive detailed information concerning its functions and powers relating to deprivation of liberty.**

13. The international community has been closely involved in the founding, monitoring, advising, and training of law enforcement agencies throughout the State; this has included a comprehensive process of vetting and re-certifying police officers carried out by the International Police Task Force (IPTF).⁹ Upon expiration of its mandate, the IPTF was replaced on 1 January 2003 by the European Union Police Mission (EUPM). EUPM officers are stationed in different police establishments throughout the country, side-by-side with local police. Although they may remove from office non-compliant local officers, whose performance and behaviour do not conform to agreed standards, they have no executive powers of their own.

14. The CPT's first periodic visit to Bosnia and Herzegovina took place during a transitional period in terms of the legal framework governing police custody. The new Criminal Code and Criminal Procedure Code for the Court of Bosnia and Herzegovina¹⁰ entered into force on 1 March 2003. The corresponding Codes of the two entities were modified so as to harmonise with the new State Codes; it was envisaged that they would enter into force in the course of 2003. **The CPT would like to receive up-to-date information regarding the above-mentioned legislative developments.**

Under the new State Criminal Procedure Code, the inquisitorial system is to be transformed into a prosecutorial system, with all investigative functions to be transferred to the prosecutor, and the office of the investigating judge to be abolished.

⁷ The Federation has responsibility for combating international and inter-cantonal crimes, in particular terrorism, drug trafficking, and organised crime, as well as cooperation with Interpol (cf. Article I, Chapter III, of the Constitution of the Federation of Bosnia and Herzegovina); the cantons are responsible for combating crimes committed on their respective territories.

⁸ The State Ministry for Security was established in March 2003.

⁹ The IPTF was a UN body tasked with assisting the State in founding "civilian law enforcement agencies operating in accordance with internationally recognised standards and with respect for internationally recognised human rights and fundamental freedoms" (cf. Annex 11 of the Dayton Agreement).

¹⁰ The new legislation was developed by the Legal Reform Unit of the OHR.

The basic elements of the legal framework for police custody which applied at the time of the visit in each entity are set out in the following two paragraphs.¹¹

15. In the Federation, police custody of persons arrested on suspicion of having committed a criminal offence was limited to a maximum of 24 hours; within that period, they had to be either brought before a court or released.¹² The physical facilities used for detaining such persons were located in establishments under the authority of the cantonal Ministries of the Interior. The Judicial Police of the Federation had the responsibility for transferring persons to remand prisons or courts.¹³

The police may also issue a summons ("*poziv*") directing persons to present themselves at police premises in order to provide information regarding a criminal offence (a procedure commonly known as "informative talks").¹⁴ An "informative talk" can lead directly to a period of formal deprivation of liberty if, during that talk, police officers reach the conclusion that the interviewee is to be considered as a criminal suspect.

16. At the time of the visit, the legal basis for police custody in Republika Srpska was the 1977 Yugoslav Code of Criminal Procedure, which foresees a three-day period (72 hours) of police custody before a person is brought before an investigating judge or released. During this period, a person may be held in a police establishment or in the remand section of a prison. The information gathered during the visit indicated that, due to the lack of appropriate facilities in many police establishments, the usual practice was to transfer a person to a prison within 24 hours.

17. As already indicated (cf. paragraph 3), the CPT's delegation visited eleven police establishments of different types in each entity (five in the Federation of Bosnia and Herzegovina, and six in Republika Srpska).

¹¹ Under the 2003 State Code of Criminal Procedure, persons deprived of their liberty by the police must be brought before the prosecutor within 24 hours (cf. section 139 (1) of the State Code of Criminal Procedure).

¹² Cf. section 187(1) of the 1998 Code of Criminal Procedure of the Federation of Bosnia and Herzegovina.

¹³ Cf. section 176, *ibid.*

¹⁴ Cf. section 143(3), *ibid.*

2. Torture and other forms of ill-treatment

18. Many of the persons deprived of their liberty interviewed by the delegation indicated that they had been treated correctly by police officers, both at the time of their apprehension and during the time they were held in a police establishment. Nevertheless, a number of persons interviewed in different parts of the country did allege that they had been physically ill-treated. Most of those allegations related to ill-treatment at the time of apprehension; however, a not insignificant number of persons interviewed alleged that they had been ill-treated by uniformed police or criminal inspectors in the course of police questioning.

The types of ill-treatment alleged included beatings, consisting of punches, kicks, and blows on various parts of the body with batons, metal rods, plastic-coated metal cables, or baseball bats. Unlabelled objects of this kind were found in a number of police station offices used for questioning suspects. For example, in one such office in Posušje Police Station, the delegation found two baseball bats; in certain of the inspectors' offices in Mostar Centar Police Station, it found a baseball bat, a wooden stick (42 cm long, 2 cm in diameter) as well as an old bayonet. In Banja Luka 3 Police Station, the items found in an office of the Criminal Police included a wooden stick (80 cm long) and a steel rod (60 cm long).

In several cases, the delegation was able to verify that the persons concerned had been held in police establishments during the periods to which the ill-treatment in question had been ascribed; moreover, certain of them provided accurate descriptions of the offices where they had been questioned and correctly identified the officers present. In one case, a senior officer interviewed in the relevant establishment in the Federation conceded that a person had been deprived of sleep over a prolonged period (more than 24 hours).

19. In a few cases, the delegation gathered supporting medical evidence - consistent with the persons' accounts of ill-treatment - either by examining the medical records opened on the persons' admission to a remand prison, or through direct observations made by one of the delegation's doctors. By way of example, one person alleged that, at the end of April 2003, he was struck with fists and a baton about the right chest and right back by police officers in an office of the Banja Luka Centre for Public Security. Upon examination by one of the delegation's doctors four days later, he was found to display: a yellowing bruise on the right flank; two coin-shaped bruises 2 to 3 cm in diameter over the anterior chest near the right nipple; and a similar faint yellow 3 cm coin-shaped bruise to the back. In the view of the delegation's doctor, all those injuries were fully consistent with the person's allegations of ill-treatment by the police.

More generally, health care staff in certain remand prisons confirmed that, in their experience, a number of the persons admitted to their establishments following a period in police custody do allege police-ill-treatment as well as displaying injuries consistent with those allegations.

20. **The CPT recommends that the relevant authorities of both entities as well as senior police officers regularly instruct police officers that: ill-treatment will not be tolerated; all relevant information regarding alleged ill-treatment will be investigated; and perpetrators of such treatment will be subject to severe sanctions.**

21. As regards more specifically the allegations of ill-treatment at the time of apprehension, the CPT fully recognises that the apprehension of a suspect is often a hazardous task, in particular if the person concerned resists and/or the police have reason to believe that the person might be armed and dangerous. The circumstances of an apprehension may be such that injuries are sustained by the person concerned (and possibly also by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is strictly necessary should be used when effecting an apprehension. Furthermore, once apprehended persons have been brought under control, there can never be any justification for their being struck by police officers.

The CPT recommends that police officers be reminded of these principles in an appropriate manner.

22. Further, to have any objects of the kind enumerated in paragraph 18 in offices where detained persons may be present is a matter of concern to the Committee; apart from inviting speculation about improper conduct on the part of police officers, objects of this kind are a potential source of danger to staff and criminal suspects alike. At the end of the 2003 periodic visit, the delegation called upon the national authorities to ensure that such items be immediately removed from all police premises where persons may be held or questioned. **The CPT would like to receive confirmation that this has been achieved.**

More generally, the CPT recommends that items of property seized during criminal investigations be entered in a separate register, properly labelled (identifying the case to which they refer) and stored in a dedicated property store.

23. Later in this report, the CPT will recommend a certain number of measures designed to strengthen formal safeguards against the ill-treatment of persons detained by the police (cf. paragraphs 27 to 32); however, it should be emphasised that, although important, legal and technical safeguards alone will never be sufficient. The best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers; this implies strict selection criteria at the time of recruitment of police officers and the provision of adequate professional training. As regards the latter, the authorities should seek to integrate human rights concepts into practical professional training for high-risk situations, such as the apprehension and interrogation of suspects. This will prove more effective than separate courses on human rights.

Such training should be pursued at all levels of the police force, and should be ongoing. It should seek to put across and develop two points: firstly, that all forms of ill-treatment are an affront to human dignity and, as such, are incompatible with the values enshrined in Article II of the Constitution as well as in many international instruments ratified by and binding upon Bosnia and Herzegovina; secondly, that resort to ill-treatment is a fundamentally-flawed method of obtaining reliable evidence for combating crime. More advanced interrogation and investigation techniques will lead to better results from the security standpoint.

Further, particular attention should be given to training in the art of handling, and more especially of speaking to, persons in police custody i.e. interpersonal communication skills. The possession of such skills will often enable officers to defuse situations which might otherwise become violent.

In this context, reference has already been made to the vetting and re-certifying process carried out by IPTF (cf. paragraph 13), a body which has also been closely involved in the development of the curricula at the two police academies in Bosnia and Herzegovina (Junior College in Banja Luka and Criminal Faculty at the University of Sarajevo).

24. The CPT recommends:

- that a very high priority be given to professional training for police officers of all ranks and categories, taking into account the above remarks. Experts not belonging to the police should be involved in this training;
- that an aptitude for interpersonal communication be a major factor in the process of recruiting police officers and that, during the training of such officers, considerable emphasis be placed on acquiring and developing interpersonal communication skills.

The CPT would like to be kept informed of all relevant developments related to police selection and training in Bosnia and Herzegovina since the beginning of the year 2003 (recruitment criteria; training strategy; curricula; etc.).

25. Another very effective means of preventing ill-treatment lies in the diligent examination by all competent authorities of all relevant information regarding alleged ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint. In this regard, the CPT has noted the role the IPTF had previously played in the investigating of human rights abuses.

In the light of the delegation's findings, it is clear that public prosecutors and/or other relevant authorities should supervise more closely the activities of the police. They should be alert to any signs of ill-treatment and take appropriate action. Moreover, the absence of marks should not be regarded, in itself, as evidence that ill-treatment has not occurred; indeed, if carried out expertly, many forms of ill-treatment leave only ephemeral traces, if any.

The CPT recommends that, whenever criminal suspects brought before an investigating judge or public prosecutor at the end of police custody or thereafter allege ill-treatment by the police, the judge or prosecutor should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge or prosecutor should order a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.

26. The CPT has also noted with interest that a new system for complaints against the police (known as the Office for Citizens' Claims) was due to be established in the Federation on 1 June 2003; this body was to comprise a president and two members (appointed by a Parliamentary Committee of the Federation), only one of whom would be an employee of the Federation Ministry of the Interior.

The CPT would like to receive further information on the new complaints system in the Federation, and to be informed whether similar arrangements exist or are envisaged for Republika Srpska and the District of Brčko.

3. Safeguards against the ill-treatment of persons deprived of their liberty

27. The CPT attaches particular importance to three rights for persons deprived of their liberty by the police:

- the right of those concerned to have the fact of their detention notified to a close relative or third party of their choice,
- the right of access to a lawyer,
- the right of access to a doctor.

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons deprived of their liberty, which should apply from the very outset of their deprivation of liberty (i.e. from the moment when the persons concerned are obliged to remain with the police). These rights should be enjoyed not only by criminal suspects, but also by all other categories of persons deprived of their liberty (e.g. persons placed in administrative detention, persons detained under the Aliens' legislation, etc.). Furthermore, persons detained by the police should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

In terms of the formal legal framework, certain of these safeguards were already in place in both entities (though to a lesser extent in Republika Srpska) at the time of the visit; further, they were incorporated in the 2003 State Code of Criminal Procedure.¹⁵ However, there appeared to be a wide gap between the formal legal provisions and their practical application.

¹⁵ Section 5 of the 2003 State Code of Criminal Procedure reads as follows:

Rights of a Person Deprived of Liberty

(1) A person deprived of liberty must, in his native tongue or any other language that he understands, be immediately informed about reasons for his apprehension and instructed on the fact that he is not bound to make a statement, on his right to a defence attorney of his own choice as well as on the fact that his family, consular officer of the foreign state whose citizen he is, or other person designated by him shall be informed about his deprivation of liberty.

(2) A person deprived of his liberty shall be appointed a defence attorney upon his request if according to his financial status he cannot pay the expenses of a defence.

28. Persons who are obliged to remain with the police should have the right immediately to inform a close relative or third party of that fact. In both the Federation and Republika Srpska, notification of custody must take place within 24 hours, unless the person concerned objects.¹⁶ However, during the visit, a number of detainees alleged that their families had not been notified (unless the arrest had taken place in the presence of family members, e.g. at a detained person's residence). **The CPT recommends that the authorities of Bosnia and Herzegovina take appropriate action to ensure that the right to notify a close relative or third party of the fact of one's detention is rendered fully effective in practice, as from the very outset of deprivation of liberty. The exercise of this right may be made subject to certain exceptions designed to protect the legitimate interests of the police investigation. However, such exceptions should be clearly defined and strictly limited in time, and resort to them should be accompanied by appropriate safeguards (e.g. any delay in notification of custody to be recorded in writing with the reasons therefor, and to require the approval of a senior police officer unconnected with the case or of a prosecutor).**

29. Anyone who is under a legal obligation to attend a police station should have the right to have access to a lawyer, which should apply as from the very outset of deprivation of liberty; this right should include the right to contact and to be visited by the lawyer (in both cases under conditions guaranteeing the confidentiality of the discussions) and the right to the lawyer's presence during questioning (whether this be during or after the initial period of detention). The *raison d'être* of this key safeguard is to enhance the protection of detained persons against ill-treatment; as the CPT has emphasised on several occasions, it is precisely during the first hours of police custody that the risk of ill-treatment is the greatest.

The 1998 Federation Code of Criminal Procedure, which was in force at the time of the visit, provides that suspects, accused persons, and persons summoned for informative talks have the right of access to a lawyer.¹⁷ The formal legal situation in Republika Srpska was less favourable; the 1977 Yugoslav Code of Criminal Procedure makes no reference to the right of access to a lawyer during the initial period of police custody, though it does provide that persons may have a lawyer once they have been accused.¹⁸ As for the new State Code of Criminal Procedure, it provides that "[t]he suspect or accused shall be entitled to have a defence attorney throughout the course of the criminal proceedings".¹⁹

The information gathered by the delegation indicated that in both entities, it was the exception rather than the rule for apprehended persons to have access to a lawyer during the initial period of police custody, prior to being brought before an investigating judge.

The CPT recommends that the authorities of Bosnia and Herzegovina take the necessary steps to ensure that the right of access to a lawyer is guaranteed both in law and in practice. For this right to be fully effective in practice, appropriate provision should also be made for persons who are not in a position to pay for a lawyer. The CPT suggests that the relevant Bar Associations be consulted in this context.

¹⁶ Cf. section 191 of the 1998 Code of Criminal Procedure of the Federation of Bosnia and Herzegovina and section 200 of the 1977 Yugoslav Code of Criminal Procedure (as amended up to 1986).

¹⁷ Cf. sections 4 (2), 4 (3) and 143 (3) of the 1998 Code of Criminal Procedure of the Federation of Bosnia and Herzegovina.

¹⁸ Cf. section 67 (1) of the 1977 Yugoslav Code of Criminal Procedure (as amended up to 1986).

¹⁹ Cf. section 39 (1) of the 2003 State Code of Criminal Procedure.

30. As far as the CPT's delegation was able to ascertain, the right of persons in police custody to have access to a doctor is not formally guaranteed by law in Bosnia and Herzegovina.

The CPT recommends that specific legal provisions be adopted on this subject. Those provisions should stipulate inter alia that:

- a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police authorities (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his own expense);
- all medical examinations of persons in police custody, whether carried out on police premises or in a health care facility, are to take place out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers;
- the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the detained person and his lawyer.

31. Many detained persons interviewed by the delegation alleged that they had not been informed of their rights. In order to ensure that persons in police custody are duly informed of all their rights, **the CPT recommends that a form setting out those rights be given systematically to all persons apprehended by the police at the very outset of their custody. The contents of this form should reflect, inter alia, the rights referred to in paragraphs 27 to 30. The form should be available in an appropriate range of languages. Further, the persons concerned should be systematically asked to sign a statement attesting that they have been informed of their rights.**

32. The standardised custody registers ("*Evidencija o lišavanju slobode*"), which were in use in both entities, had an excellent layout. They contained headings for recording inter alia the following: number; date; name of person deprived of liberty; date of birth, address and personal identification number; time of and reasons for depriving the person of liberty; when the person arrived at the police station; when informed of rights; signs of injury, health problems, and signs of drug or alcohol use; when offered food; when interrogated; contacts with and/or visits by next of kin, lawyer, doctor, or other persons; when transferred to a court or another institution; when released; etc. However, the delegation found many cases where the forms in the custody registers were filled out in a haphazard manner; more worryingly, there were a few instances where they did not contain any record of a person's stay in a police establishment.

The introduction of the custody registers is a positive step, which has the potential to make a significant contribution as a safeguard against ill-treatment, as well as to facilitate internal and external supervision mechanisms. In order to fulfil that potential, **the CPT recommends that the relevant authorities take the necessary steps to rectify the above-mentioned shortcomings.**

4. Conditions of detention

33. Custody in police establishments in Bosnia and Herzegovina is of relatively short duration (cf. paragraphs 15 and 16); nevertheless, certain elementary material requirements must be met.

All police holding facilities should be clean, of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, such facilities should enjoy natural light. Further, holding facilities should be equipped with a means of rest (e.g. a fixed chair or bench) and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be allowed to comply, when necessary, with the needs of nature in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for 24 hours or more should be provided with appropriate personal hygiene items and, as far as possible, be offered outdoor exercise every day.

34. The holding facilities of the Police Administration of Novo Sarajevo met the above-mentioned requirements. In contrast, the basement cells in Mostar Centar and in Široki Brijeg police stations patently failed to do so. They were filthy (blood-stained walls, urine in the corners, rotting mattresses); those in the basement of Mostar totally lacked heating and artificial lighting, and scarcely received any natural light. The cell at Pale Police Station displayed deficiencies similar to those observed in the basement cells of Mostar Centar.

At the end-of-visit talks, the delegation requested that action be taken immediately to remedy the shortcomings in the basement cells in Mostar Centar and in Široki Brijeg, or that they be taken out of use. The CPT would like to be informed of the action taken in this respect, and recommends that appropriate action also be taken in respect of the cell at Pale Police Station.

More generally, **the CPT recommends that the state of cellular accommodation in all police stations in Bosnia and Herzegovina be reviewed, having regard to the criteria set out in paragraph 33.**

B. Prisons

1. Preliminary remarks

35. As already indicated, each of the constituent entities of Bosnia and Herzegovina has its own prison system, under the authority of the respective Ministry of Justice. Depending on the security level and restrictiveness of the regime applied, the prisons (or sections within prisons) in each of the entities could be classified as "closed", "semi-open" or "open".

In the Federation, the prison system consists of one closed penitentiary-correctional institution ("*kazneno-popravni zavod*") and five²⁰ semi-open ones; at the time of the visit, there was no establishment (nor any section thereof) which was officially classified as open. Each prison holds inmates with sentences of varying length and may also accommodate remand prisoners.

In Republika Srpska, the prison system comprises three penitentiary-correctional institutions for persons sentenced to terms longer than a year and for recidivists, and three district prisons ("*okružni zatvori*") for persons serving shorter sentences. As in the Federation, none of the establishments have open sections for sentenced prisoners, though four do have semi-open sections.²¹ Sections for remand prisoners may be found in five establishments.²²

36. The basic rules (applicable at the time of the visit) governing remand imprisonment are set out in sections 182 to 194 of the 1998 Code of Criminal Procedure (Federation) and in sections 190 to 205 of the 1977 Yugoslav Code of Criminal Procedure (Republika Srpska). As for the 2003 State Code of Criminal Procedure, corresponding provisions are set out in sections 131 to 147. Each of the foregoing laws stipulate inter alia that the criminal investigation concerning a person held on remand should be completed within six months at the latest. However, unlike the new State Code of Criminal Procedure (cf. the following paragraph), the respective codes of the Federation and Republika Srpska do not set a time limit for remand imprisonment after an indictment is filed; courts are only required to make decisions on remand imprisonment at certain points in the proceedings, rather than at fixed intervals.

37. In practice, the situation was similar in both entities; the information gathered by the delegation indicated that proceedings before the courts were unduly lengthy and that persons were consequently being held on remand for periods up to three years. However, the delegation was informed that once the entity Codes of Criminal Procedure are harmonised with the new State Code, courts will be required to review remand imprisonment at regular intervals (section 135). Further, there will be formal time limits on remand imprisonment following confirmation of the indictment and following pronouncement of the first or second instance verdicts (section 137).

²⁰ Of the five semi-open prisons in the Federation, the one in Tomislavgrad had not yet been established, though its semi-open section in Busovača was operating at the time of the visit.

²¹ Those establishments are Srbinje and Srpsko Sarajevo penitentiary-correctional institutions, and Doboj and Bijeljina district prisons.

²² Of the prisons in Republika Srpska, only Srbinje Penitentiary-Correctional Institution has no remand section.

38. At the time of the visit, the rules governing the treatment of sentenced prisoners applicable in the Federation were those set out in the 1998 Law on the Execution of Sanctions. However, the delegation was informed that a revised version of the Federation Law had been drawn up and presented to the Federation Parliament. In Republika Srpska, the 2001 Law on the Execution of Sanctions²³ formed the basic legal framework in this area.

39. The delegation was also informed that the Legal Reform Unit of the OHR envisaged the drafting of a State Law on the Execution of Criminal Sanctions, in consultation with the Joint Steering Committee for Prison Reform.²⁴

The CPT would like to receive updated information on the formal legal situation concerning the issues covered in paragraphs 35 to 39 (including, in due course, copies of any new laws).

40. The delegation visited the remand sections of Banja Luka, Mostar, Sarajevo, and Srpsko Sarajevo Prisons. It also visited Zenica Prison as a whole.

Banja Luka Prison began operating in 1966; it is located in a suburb of Banja Luka, the administrative centre of Republika Srpska. Its remand section has an official capacity of 87; on 2 May 2003, 57 inmates (including four women and four escapees) were registered in that section.

Mostar Prison is located in the centre of the town of Mostar (in the Neretva canton of the Federation), near the courts. The premises are approximately a hundred years old; most of the damage inflicted during the recent conflict has been repaired. The official capacity of the prison's remand section is 82 and, on 5 May 2003, it accommodated 21 inmates (including two women).

Located in the centre of the capital, **Sarajevo Prison** (built in 1912) has the largest remand section in the Federation, with an official capacity of 152. At the time of the visit, the section was overcrowded; the number of remand prisoners registered was 164 (including four male minors and four women).

Srpsko Sarajevo Prison is situated in a suburb of Sarajevo within the territory of Republika Srpska. On 7 May 2003, 21 adult men were imprisoned in the establishment's remand section, which had an official capacity of 76.

41. **Zenica Prison** (official capacity excluding the forensic psychiatric unit: 635) is the largest prison in the Federation of Bosnia and Herzegovina. It was constructed at the end of the 19th century; the prison complex presently comprises seven Pavilions. The delegation focussed its attention on the "closed" sections, i.e. Pavilions I to V and the reception section.²⁵

On 29 April 2003, 613 prisoners - all adult men except for one male minor - were registered at the establishment, including 27 remand prisoners (still excluding the forensic psychiatric unit).

²³ That law entered into force on 1 January 2002.

²⁴ Formed in 2000, the Joint Steering Committee for Prison Reform is composed of the Assistant Ministers for Justice with responsibility for the execution of criminal sanctions of each entity and international experts, and is facilitated by the Council of Europe. It has made an important contribution in identifying problems and setting priorities for making improvements in this field.

²⁵ Pavilion IV, the forensic psychiatric unit, is discussed in paragraphs 84 to 100.

42. Citing inadequate material conditions and lack of financial resources, the authorities of each entity openly acknowledged that a wide gap existed between the legal and regulatory norms and the realities prevailing in the prison system.

2. Ill-treatment

43. The vast majority of remand prisoners interviewed in **Banja Luka, Mostar, Sarajevo and Srpsko Sarajevo Prisons** made no allegations of ill-treatment by prison staff; indeed, a number of them commented favourably on the manner in which they were treated by prison staff.

44. As regards **Zenica Prison**, the CPT is deeply concerned by a series of allegations of large-scale, organised and systematic ill-treatment of prisoners by prison officers during and after an "anti-riot operation", carried out on 21 February 2003, which aimed to segregate some 50 "organisers and leaders" of a riot which had taken place in the establishment on the night of 11/12 February 2003.²⁶

45. The prison management confirmed that, after the persons concerned were roused from their dormitories in Pavilions I and III during the early morning hours (5.20 a.m.) of 21 February 2003, 24 of them were segregated in Pavilion II²⁷ for a period of 90 days, and the remaining 26 transferred to other prisons (Bihać, Mostar, Sarajevo, and Tuzla). Some 170 prison officers - a number of them from other Federation prison establishments (Mostar, Sarajevo, and Tuzla, in addition to Zenica) - took part in the operation.

The sole official document furnished by the relevant authorities to the delegation during the visit concerning the riot and subsequent operation was a one-page notice, signed by the Federation Assistant Minister of Justice with responsibility for the execution of criminal sanctions. The document contained no reference to any force which may have been used during the segregation operation.

46. The delegation held individual interviews with many of the inmates who had been segregated or transferred²⁸, and found that their accounts of the events of 21 February and their aftermath were strikingly consistent. It was alleged that prison officers - some of them masked - entered their dormitories and pulled the inmates concerned, in their underwear, out of their beds. The inmates were then allegedly pushed or dragged into the corridors, with their heads pressed down and, in some cases, with hoods placed over them.

²⁶ According to the prison management, some 200 inmates - a third of the prison's population - participated in the February 2003 riot, which resulted in very substantial material damage.

²⁷ This distinct building, offering an official capacity of 88, was used to accommodate prisoners who were considered to present a security risk or serious management and control problems, and in respect of whom segregation ("*usamljenje*") or increased supervision ("*pojačan tretman*") were imposed. Pavilion II also accommodated those inmates undergoing the disciplinary sanction of solitary confinement ("*samica*"), remand prisoners, and administrative detainees (i.e. fine defaulters).

²⁸ Apparently, the inmates who were subsequently transferred to other establishments were also held in Pavilion II (for a period of approximately 8 hours) after being removed from their dormitories.

Reportedly, they were handcuffed tightly with plastic handcuffs and led to Pavilion II through a "gauntlet" formed by a double line of officers, who punched, kicked and beat them with truncheons throughout the operation. The inmates interviewed claimed that the ill-treatment (insults and taunts, blows with truncheons, punches) continued during their placement in Pavilion II. In particular, they alleged that prison officers took them out of their cells at night and beat them in the hallway or in the "dark" cells ("*mračare*") found in the Pavilion, where metal panels covering the windows completely blocked access to natural light, and artificial lighting was kept switched off. Certain inmates claimed that they were placed in those cells for periods up to 7 days, and staff in the Pavilion confirmed that inmates had been placed in them very recently (cf. in this regard paragraph 68). It should be added that the light-blocking metal panels appeared to have been removed from the windows in all but one of the "dark" cells a few days prior to the delegation's visit.

47. In a few cases, medical evidence consistent with the above-mentioned allegations was gathered directly by one of the delegation's doctors from the inmates interviewed (cf. in this regard paragraph 81 regarding the alleged failure by the prison doctor to document injuries prisoners claimed to have sustained as a result of assaults by prison officers).

By way of example, one of the prisoners segregated following the riot continued to display - nearly three months after the segregation operation - injuries consistent with allegations of being handcuffed tightly (a small red healing abrasion on the radial aspect of his right wrist).

48. The CPT considers it essential that a thorough, independent, and impartial investigation be carried out into the events commencing on 21 February 2003 at Zenica Prison. After expressing its concerns regarding the series of allegations of ill-treatment relating to the segregation operation and its aftermath, the delegation called upon the authorities at the end of the visit to ensure that such an investigation is carried out, and to submit a detailed report to the CPT within three months. This request was confirmed in a letter dated 11 June 2003 addressed to the Permanent Representative of Bosnia and Herzegovina to the Council of Europe by the President of the CPT.

49. By letter of 1 October 2003, the authorities provided the CPT with another document prepared by the Federation Ministry of Justice. This four-page document contained a more detailed account of the riot, and a few paragraphs describing the subsequent segregation operation of 21 February 2003. In respect of the latter, it was emphasised that:

"[...]The complete operation, which was well-planned, was carried out very rapidly,²⁹ without any problems, and within the framework provided by law. There were no disciplinary sanctions against prison officers following the riot.

" Forty-seven sentenced persons were placed in the disciplinary block that morning, after which they were examined by the doctor who found that a small number of the inmates displayed minor physical injuries (bruises and scratches) sustained during the operation. There was no need for more serious medical intervention. The doctor found no injuries resulting from the use of batons and the like.

"[...]"

²⁹ The document indicated that the segregation operation was carried out in 40 minutes (from 5.20 am to 6 am).

"A total of 26 sentenced persons who participated in the riot were transferred to other penitentiary-correctional institutions in the Federation of Bosnia and Herzegovina; they were also subjected to medical examinations, during which no injuries were found.

"No prison officers were injured during the operation."

The information provided does not allow the CPT to conclude that, following its delegation's request, any investigation had taken place as regards the alleged ill-treatment of inmates by prison officers in Zenica Prison during the intervention and transfer to Pavilion II on 21 February 2003 and thereafter. **The CPT calls upon the relevant authorities to ensure that a thorough, independent, and impartial investigation into the subject is carried out. The investigation must be capable of leading to a determination of whether force used by prison officers was or was not justified under the circumstances (i.e., both during the operation and following the inmates' placement in Pavilion II) and to the identification and, if appropriate, the punishment of those concerned; in this context, the CPT would like to receive a copy of any written instructions and/or authorisation issued concerning the use of force. All reasonable steps should be taken to secure evidence concerning the incident(s), including inter alia eyewitness testimony, forensic evidence, etc.**

More generally, the CPT considers that the presence of an authority (e.g. senior judicial authorities) - independent from a particular establishment as well as from any special unit which may be carrying out an intervention - would have a dissuasive effect on anyone minded to ill-treat prisoners, and greatly facilitate the investigation of any allegations of ill-treatment and the correct attribution of blame. **The CPT recommends that any future interventions dealing with prison disturbances be monitored by such an authority. Further, inmates should have the right to be examined by a doctor independent from the establishment following such interventions.**

50. A number of the other inmates accommodated in Pavilion II alleged that they had been subjected to ill-treatment similar to that allegedly inflicted upon the suspected organisers and leaders of the February riot.

A prisoner claimed that he had been ill-treated by prison officers ten days prior to his interview with the delegation, upon his transfer to Pavilion II (for reasons unrelated to the February riot). He alleged that a blow inflicted upon the back of his neck while he was standing, handcuffed, had caused him to fall face down on the floor and sustain injuries to his chin and nose, as well as dislodging one of his teeth. He also alleged that, whilst he lay prone, he was repeatedly struck with truncheons and kicked on the body, including the kidney area.

Upon examination by one of the delegation's doctors, he was found to display tenderness in both renal flanks; a missing left upper central incisor, with the state of the adjacent gums indicative of fresh loss of a tooth; on the back of the right leg immediately below the level of the knee, a yellowing purple bruise measuring approximately 6 x 4 cm; and, on the front of the same leg just below the kneecap, a 3 x 2 cm bruised area. In the view of the delegation's doctor, all of those injuries were consistent with the person's allegations of having been assaulted in the manner which he described.

51. With the exception of prisoners who were or had previously been placed in Pavilion II, most prisoners interviewed by the delegation did not have any complaints to make about the manner in which they were treated by prison staff at Zenica Prison.

52. The best possible guarantee against the ill-treatment of prisoners is properly-recruited and trained prison officers, led by appropriately skilled senior officers, who know how to adopt the appropriate attitude in their relations with inmates. Developed interpersonal communication skills are an essential part of the make-up of such staff. Those skills will often enable them to defuse a situation which could otherwise turn into violence. More generally, they will lead to a lowering of tension and raising of the quality of life in the establishment concerned, to the benefit of all concerned.

In this context, the CPT welcomes the emphasis which the Joint Steering Committee for Prison Reform (cf. footnote 24) continues to place on staff training and on improving staff and prisoner relations.³⁰

The CPT recommends that the relevant authorities continue to give high priority to the development of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on the acquisition of interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.

Further, the CPT recommends that the authorities at all relevant levels (State, entity, and local) deliver the clear message that physical and psychological ill-treatment and verbal abuse of prisoners by prison officers are not acceptable and will be dealt with severely.

53. The CPT's mandate is not limited to the prevention of ill-treatment inflicted by prison staff. The Committee is also very concerned when it discovers a culture which is conducive to inter-prisoner intimidation and violence.

In both **Sarajevo** and **Zenica Prisons**, the CPT's delegation heard accounts of inter-prisoner violence and bullying, and certain prisoners appeared to be fearful for their safety. This phenomenon can be attributed in part to the fact that the establishments were understaffed, a problem which was particularly serious at Sarajevo Prison (cf. in this regard paragraph 57).

³⁰

Cf. Action Plan on the Reform of the Prison System in Bosnia and Herzegovina adopted during the 6th meeting of the Joint Steering Committee on Prison Reform (16 May 2003).

By way of example, the delegation interviewed a person in Sarajevo Prison who had been admitted to the establishment five days earlier. The person claimed that on several occasions, four of his fellow inmates assaulted him in their cell. In particular, he alleged that they: punched, kicked and otherwise struck him (including on the nose, right arm and about the kidney area); burned various parts of his body (including his feet and the palm of his right hand) using a lighter and cigarettes; forced him to perform oral sex; attempted anal rape and succeeded in forcing an object into his anus; and threatened to kill him. The delegation immediately brought its concerns for the person's physical and mental integrity to the attention of the prison's management. Three days later, he was moved to another cell; the only written reference in the prison's records as regards any interprisoner intimidation or violence which may have occurred in this case was a notation in the daily logbook to the effect that the transfer was motivated by a fight between the person concerned and one of his cellmates. On examination by the delegation's doctors eight days following that transfer, the person displayed: a 2 x 1 cm scab on the dorsum of the second toe of the left foot; a 4 mm brown-based circular lesion medially on the dorsal aspect of the right foot; a 2 x 1 cm light red based lesion on the lateral aspect of the right heel; two lesions, respectively 12 and 3-4 mm in diameter, on the anterior chest in the midline at the level of the nipples; in the midline of the lower chest, two red-brown areas of bruising, measuring respectively 3 x 2 cm and 4 x 2 cm, with accentuation of the bruising in the form of horizontal lines measuring 1 cm x 3 mm and 1.5 cm x 3 mm; multiple lesions to the posterior aspect of the right forearm; in its mid-part, a 2 x 2.5 cm brown scabbed lesion; on the lateral aspect of the antecubital fossa of the right elbow, a red lesion 5 mm in diameter; a 1.5 x 1 cm lesion - almost completely healed - with two 1-2 mm red foci within it, in the mid-part of the medial aspect of the right forearm; a lesion, mostly healed, with a red centre (5 x 4 mm) and a brown margin, on the lateral aspect of the upper third of the right upper arm; an 8 x 4 cm straw yellow coloured area of bruising on the anterior aspect of the right upper arm, over the biceps muscle; a second straw yellow coloured area of bruising (5 x 5 cm) on the anterior aspect of the right upper arm, at the lower edge of the deltoid muscle; swelling and tenderness upon palpation of the right elbow; on that elbow, a faintly discernible 5 x 0.5 cm purple bruise on the medial aspect of the antecubital fossa; and deviation to the right of the middle part of the nose and to the left of its lower part, as well as pain to the nose upon palpation. In the view of the delegation's doctors, all of those injuries were consistent with the person's allegations of having been ill-treated in the manner which he described.

In another case, it was alleged that a 17-year-old inmate at Zenica Prison had been sexually assaulted by an adult inmate accommodated in the same Pavilion as the minor concerned. Following that incident, the adult prisoner was placed in Pavilion II for 20 days and then transferred to another Pavilion.

54. At Sarajevo Prison, the delegation also gathered information indicative of an apparent lack of care towards a vulnerable 14-year-old boy held on remand³¹ who, in the view of one of the delegation's doctors, was suffering from clinical depression and represented a serious self-harm and suicide risk, in addition to having a history of drug use.

³¹ Cf. in this regard the description of the material conditions for remand prisoners at Sarajevo Prison (paragraph 61 below).

According to the information received, the night before the boy was interviewed by members of the delegation, he attempted to set himself on fire; to prevent this, his cellmate (himself a minor) called a prison officer, who took away the cigarette lighter, and slapped the boy when the latter became agitated. After the prison officer left the area, the boy allegedly began to cut both of his forearms with the edge of a tin can; once again, the boy's cellmate called the officer, who took the boy to a solitary confinement cell and began to handcuff him, but desisted due to the boy's screams and returned him to his cell after slapping him once more. Nothing concerning those nocturnal events had been recorded in the prison's daily logbook. After interviewing the boy, the delegation requested that he be given medical attention; he was then taken to the prison doctor (at noon), after which he was returned to his cell. Once he was back in his cell, he apparently ingested the contents of a shampoo bottle and had to be taken to the doctor again (2.30 pm on the same day). Later that day (around 6.30 pm), the boy reportedly broke his cell window in a further attempt to inflict self-harm. No further action was taken by prison management or staff (including health care staff) with a view to ensuring the boy's safety and preventing further self-harm, until the delegation made a further request to prison management to transfer the boy to a more suitable environment (e.g., a prison hospital). The day after that request, the authorities of the Federation Ministry of Justice informed the delegation that the boy had been released.

In the view of the CPT, the above information would indicate that the management and staff - including the health care team - at Sarajevo Prison were not discharging their duty of care towards the 14-year-old boy, nor towards his cellmate, who was directly exposed to the rapidly deteriorating situation, and was obliged repeatedly to shoulder the burden of attempting to secure the intervention of prison staff.

55. The CPT wishes to emphasise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to ensure their safety and physical integrity and, by implication, to be alert to any potential for harm from other prisoners, as well as to any potential for self-harm. Addressing such phenomena requires that prison staff be alert to signs of trouble, and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of secure custody and care, is a decisive factor in this context. In addition, the prison system needs to address the issue of appropriate classification and distribution of prisoners.

In view of the information gathered during the visit, **the Committee recommends that strategies to combat inter-prisoner violence and self-harm be established and vigorously pursued.** In terms of policies of allocation to cells, dormitories or units ("*kolektive*"), it is especially important that minors (i.e., persons under 18) are accommodated separately from adults (cf. in this regard paragraphs 66 and 105).

As regards the alleged slaps to the minor referred to in paragraph 54, **the CPT recommends that all forms of physical chastisement be both formally prohibited and avoided in practice.** Minors (as well as any other inmates) who misbehave should be dealt with only in accordance with prescribed disciplinary procedures. Self-harm should not be regarded as misbehaviour and should therefore not be subject to disciplinary action; instead, staff should ensure the individual's safety while also seeking to address the reasons for self-harm.

3. Staffing and management issues

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

There must be enough staff to correctly supervise the activities of prisoners and support each other in the performance of their duties; further, management must be prepared to support staff fully in the exercise of their authority. An overall low staff complement which diminishes the possibilities of direct contact with prisoners will certainly impede the development of positive relations; more generally, it will generate an insecure environment for both staff and prisoners. Where staff complements are inadequate, there is a tendency to resort to significant amounts of overtime in order to maintain a basic level of security and regime delivery in an establishment. This state of affairs can easily result in high levels of stress in staff and their premature burnout, a situation which is likely to exacerbate the tension inherent in any prison environment.

57. Inadequate staffing levels constitute a major problem throughout the prison system of Bosnia and Herzegovina. The situation at Sarajevo Prison was particularly dramatic; on average, there were only four prison officers per shift responsible for the entire 164-inmate remand section. Deficiencies were also observed at Zenica Prison, where only 24 prison officers were present from 3 pm to 7 am for a population of 613 prisoners. Consequently, a number of prison officers in different establishments indicated that they frequently felt that their own security was compromised.

58. **The CPT recommends that the relevant authorities conduct a review, without delay, of current staffing arrangements in all prison establishments throughout Bosnia and Herzegovina. The objective should be to ensure that the number of prison officers employed is sufficient to guarantee both staff safety and the physical and mental integrity of inmates.**

59. As regards the keeping of prison records, **the CPT recommends that incidents such as those described in paragraphs 53 and 54 always be duly recorded in prison establishments; such records should include inter alia a description of the incident, the time of occurrence, the names of eyewitnesses, and the decision taken.**

The omissions as regards the recording of the events described in paragraphs 53 and 54 were but two examples of a series of deficiencies found in the keeping of prison records.³² Obtaining even basic information, such as the identity of the prisoners present at a specific time in an establishment, was not always a straightforward matter. Further, the registers at Zenica Prison only recorded the total number (rather than the individual names) of prisoners who were expected to be present in a Pavilion at the beginning of a shift; **the CPT would like to receive the comments of the relevant authorities concerning this practice at Zenica Prison.**

³² There were also deficiencies in recording related to solitary confinement, segregation, and the use of means of restraint (cf. paragraph 113 below).

4. Material conditions

60. The standard of accommodation is central to the quality of life within a prison. First and foremost, cells should offer sufficient living space for the number of persons accommodated, should benefit from good access to natural light and ventilation, and should be equipped with adequate artificial lighting and heating. Sanitary arrangements should be clean and properly separated from the rest of the living space; either a lavatory should be located in cellular accommodation (preferably in an annex) or means should exist to enable prisoners who need to use a lavatory to be released from their cells without undue delay at all times, including at night. It is desirable for running water to be available within cellular accommodation, and prisoners should have adequate access to shower or bathing facilities. Cells should be suitably furnished (bed, table, chair/stool, storage space), all facilities/equipment should be in a good state of repair, and prisoners should be placed in a position to keep their accommodation in an adequate state of cleanliness.

61. The remand section of **Banja Luka Prison** was located on the two upper levels of a three-storey block, and comprised 16 multi-occupancy and 6 single cells, each adequately furnished and with fully partitioned sanitary annexes. The largest in the former category measured 22.5 m². Though it accommodated only five inmates at the time of the visit, the records examined indicated that during certain periods the occupancy level could reach ten; such a level of occupancy would constitute gross overcrowding. As for the single cells, the smallest offered only 3.2 m² living space; this is a totally inadequate size for a prison cell. In many of the cells, poor ventilation exacerbated the deleterious effects of the cramped and somewhat dilapidated conditions.

The remand section of **Mostar Prison** was operating well within its official capacity and had the potential to offer decent conditions of detention, were it not for the inadequate (waist-level) partitioning of toilets in the multi-occupancy cells used to accommodate male prisoners. Shortcomings were also observed as regards the condition of the mattresses and bedding.

The material conditions in the remand section of **Sarajevo Prison** were appalling. The cells were unhygienic and many of them were extremely overcrowded. To give an example, a cell measuring 16.5 m² was recorded as having accommodated as many as 11 inmates in the spring of 2002 and 8 m² cells were accommodating three to four persons at the time of the visit. Moreover, the latter cells - which could accommodate minors - had semi-partitioned sanitary annexes (with lavatories which could not be flushed from inside the cells); this rendered their conditions even worse, the overall impression being that the inmates were living in lavatories.

The delegation also observed that the food provided to remand prisoners (including to minors) at Sarajevo Prison was of a meagre quantity, as well as being of a poor quality. Not surprisingly, several inmates indicated that they relied heavily on food brought in by family members.

Unlike its counterparts, the remand section in **Srpsko Sarajevo Prison** offered dormitory-type (rather than cell-type) accommodation. Though somewhat dilapidated, material conditions in the dormitories were acceptable on the whole.

62. It should be recalled that the remand sections in **Republika Srpska** also had facilities used for holding persons who were formally in police custody (i.e. during the initial 72-hour period before being brought before an investigating judge, cf. paragraph 16). At Banja Luka Prison, the single cells in the remand block were used for this purpose, whereas at Srpsko Sarajevo Prison, there were distinct facilities consisting of nine cells (unoccupied at the time of the visit), located in a separate wing of the building accommodating remand prisoners. As regards the latter cells, access to natural light and artificial lighting were insufficient; moreover, staff acknowledged that there could be problems maintaining acceptable temperatures in wintertime.

63. Material conditions varied in different parts of **Zenica Prison**. A programme of refurbishment was underway in Pavilions I and III; Pavilion V had been completely renovated.

Newly-arrived sentenced male prisoners spent the initial period (anywhere from four days to a month) in a distinct reception section containing three dormitories, which were furnished only with bunk beds and imparted a rather austere appearance. Though their occupancy levels were acceptable at the time of the visit, the dormitories would be overcrowded if all of the bunk beds were full.

After the reception period, prisoners were allocated to Pavilions I or III.

64. Pavilion I was the largest within the prison complex (official capacity: 320; 312 occupants at the time of the visit³³). It was divided into seven large multi-occupancy units ("*kolektive*"), each containing from three to fifteen dormitories, which could accommodate anywhere from two to twenty persons; in contrast, the dormitories in a renovated unit (I-7) were designed for two to four occupants, a far preferable configuration. In addition to dormitories, the units comprised living areas and sanitary facilities. Furnishings were on the whole suitable and included lockers, as well as bunk beds, tables and chairs. However, the unrenovated areas were quite dilapidated, and the damage from the February 2003 riot was evident on the roofs and in the broken windowpanes. Further, Unit I-1, which was used to accommodate older prisoners (over the age of 45), was overcrowded, there being 58 occupants (allocated between three dormitories) for an official capacity of 46. Its living area/television room, equipped solely with a few rows of benches, imparted a rough, worn impression.

65. Pavilion III (official capacity: 63; 42 occupants at the time of the visit) comprised thirteen dormitories. Its refurbishment had just commenced and the material conditions were similar to those observed in the unrenovated parts of Pavilion I.

66. The recently-renovated Pavilion V (official capacity: 118; 94 occupants at the time of the visit) was separated from the other parts of the prison by a gate; it comprised three units and was in a good state of maintenance and repair. The Pavilion accommodated prisoners who had demonstrated good behaviour, and one of its units (capacity: 35) was used for placement of minors and young adults as well as older inmates; though they slept in separate dormitories, those categories of prisoners were invariably associating with each other (cf. in this regard paragraphs 53, 55, and 105).

³³ Unless otherwise noted, all occupancy figures given for Zenica Prison relate to the status on 29 April 2003.

67. The two-storey Pavilion II offered cell-type accommodation with integral sanitation; with an official capacity of 88, it had 72 occupants at the time of the visit. The ground floor was used to accommodate remand prisoners and administrative detainees; the first floor held the prisoners undergoing segregation ("*usamljenje*") or increased supervision ("*pojačan tretman*"), or solitary confinement ("*samica*") as a disciplinary sanction. Most of the cells on each floor measured 10 m² and were used for single or double occupancy (even if its occupants were formally undergoing "solitary" confinement). The exception was a multi-occupancy cell located on the first floor, used for "increased supervision" placements. It measured 21 m² and was accommodating up to 4 prisoners at the time of the visit, which is an acceptable occupancy level. However, the cell was equipped with 8 beds; it is not sufficiently large for such a number of prisoners.

The delegation observed two serious shortcomings in the segregation and disciplinary cells: certain of them had only one bed for two occupants and the toilets were not partitioned (in contrast with the cells on the ground floor). This meant in practice that inmates were sleeping on mattresses placed on the floor, and were obliged to comply with the needs of nature in full view of their cellmates. Such a situation is totally unacceptable.

68. Pavilion II also contained five cells (three on the ground floor and two on the first floor) used for placement of inmates in a state of agitation; one of them was a padded cell (N° 10, on the ground floor). Sheets of paper bearing the inscription "Cell under video surveillance" were attached with tape to the doors of three of the cells (N° 10, on the ground floor, and Nos. 31 and 32, on the first floor); however, given that no monitors had been supplied, there was no operational video surveillance system. Except for an unpartitioned lavatory, the cells were devoid of furnishings or fixtures; staff indicated that mattresses were provided if persons were placed in the cells. As already indicated, metal panels covering the windows in four of the cells had apparently been removed a few days prior to the visit; however, one of the cells (N° 29) still had such a panel, blocking access to natural light. Having regard to the other information gathered during the visit concerning these cells (cf. paragraph 46), **the CPT recommends that immediate steps be taken to ensure that prisoners are never placed in a dark cell for any length of time whatsoever** (cf. in this regard Rule 37 of the European Prison Rules); further, **the metal panel covering the window in cell N° 29 should be removed forthwith.**

69. In the course of a brief visit to the semi-open sections (Pavilions VI and VII), the delegation observed that the material conditions offered to inmates were of a good standard.

70. To sum up, serious shortcomings in terms of material conditions of detention - due to an inadequate infrastructure or to a deterioration of the premises (often exacerbated by overcrowding) - were present in varying degrees in the establishments visited.

As a priority, the CPT recommends that serious efforts be made to reduce occupancy levels in prisons; the aim should be to provide a minimum of 4 m² of space per person. Further, any cells measuring less than 6 m² should be taken out of service as prisoner accommodation. Where necessary, the partitioning of toilet facilities in multi-occupancy cells should also be improved.

As regards the food provided to persons held on remand at Sarajevo Prison, the CPT recommends that its quality be reviewed and its quantity increased substantially, with due regard to the special needs of minors.

More generally, the authorities should take all necessary steps - and explore all available channels - with a view to improving material conditions in prison establishments, having regard to the remarks in paragraphs 60 to 68.

5. Regime

71. A fundamental problem as regards remand prisoners³⁴ in Bosnia and Herzegovina is the total lack of out-of-cell activities offered to inmates.

Neither the 1998 Federation Code of Criminal Procedure nor the 1977 Yugoslav Code of Criminal Procedure contain provisions requiring that remand prisoners be offered a regime of activities; further, only the latter law stipulates that remand prisoners must be offered at least two hours outdoor exercise "if the prison has a suitable fenced area".³⁵ Although it does contain an identical requirement as regards the provision of outdoor exercise,³⁶ the 2003 State Code of Criminal Procedure is itself silent on the issue of a regime of activities for such prisoners.

At the time of the visit, remand prisoners were being held for more than 23 hours a day in their cells (with the notable exception of the remand section in Srpsko Sarajevo). No work, education or sports activities were offered to those prisoners; the deleterious effects of such a restricted regime were exacerbated by the lengthy periods of time for which some persons were being held in remand prisons (in certain cases, up to three years).

In nearly all of the establishments visited, even the legal requirement as to outdoor exercise per day was not being respected. The situation was particularly unsatisfactory at Banja Luka Prison, where prisoners were offered - at best - only a few minutes (10 or so) outside their cells, 4 days a week.

Remand prisoners did, however, have access to reading material; further, most of the cells and dormitories had a radio and television. This being said, watching television and playing board games is no substitute for a proper programme of out-of-cell activities. Such a programme is of crucial importance for the physical and psychological well-being of any prisoner, whether sentenced or on remand.

³⁴ The assessment and recommendation made in paragraphs 71 and 72 are of direct relevance to all remand sections visited, as well as the whole of Pavilion 11 at Zenica Prison.

³⁵ Cf. section 202(1) of the 1977 Yugoslav Code of Criminal Procedure; paragraph (2) of the same section provides that remand prisoners may be permitted to work, if they so request, on approval by the investigating judge and with the consent of prison management, "provided this is not harmful to the conduct of the proceedings". The 1998 Code of Criminal Procedure of the Federation of Bosnia and Herzegovina does not contain a corresponding provision.

³⁶ Cf. section 143(1) of the 2003 Code of Criminal Procedure of Bosnia and Herzegovina.

72. The CPT recognises that the organisation of regime activities in remand prisons is not a straightforward matter, in view of the unpredictable turnover of inmates. Further, the imposition of restrictions on certain remand prisoners, in the interests of the pre-trial investigation, is another complicating factor. However, the current policy of "warehousing" remand prisoners is unacceptable.

The CPT recommends that the authorities take steps, as a matter of urgency, to radically improve the regime activities for remand prisoners. The aim should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; sport). The legislative framework governing remand imprisonment should be revised accordingly and staffing levels increased substantially (cf. in this regard paragraph 71 above).

Furthermore, the CPT calls upon the relevant authorities to immediately ensure that all remand prisoners are offered at least one hour of outdoor exercise every day. The outdoor facilities should be sufficiently large to enable prisoners to exert themselves physically.

73. At the time of the visit, some 60 % of the sentenced prisoners (370 out of 586) at **Zenica Prison** worked in industrial (different types of metalwork, employing up to 200 inmates) or agricultural settings and in general services (kitchen, bakery, laundry, canteen, audio/video broadcasting within the prison, maintenance and gardening, car repairs). The establishment's industrial workshops were dusty relics of another era, equipped with crumbling, outdated machinery, and providing a hazardous work environment. In contrast, working conditions in the other facilities were satisfactory.

A large area with a hard surface was available for sports such as football and basketball; however, at least at the time of the visit, no such games were organised. Instead, inmates were found to be standing or wandering around the sports area in large groups. Prison management indicated that other sports and recreational activities were also offered to sentenced inmates (including bowling, boxing, table tennis, karate, chess, painting, woodcarving, and other crafts), and that occasional film projections and live musical/variety performances (staged by prisoners) were organised in a theatre located in Pavilion I.

A limited number of inmates took part in educational activities.

The CPT would like to be informed of the exact numbers of inmates involved in each of the above-mentioned sports, recreational, and educational activities at Zenica Prison.

74. The fact that Zenica Prison is the only closed prison in the Federation undoubtedly creates obstacles to the delivery of differentiated regimes and treatment programmes tailored to individual inmates and corresponding to variables such as the type of offending behaviour, length of sentence, etc. In this context, the delegation found that there was a lack of differentiation of regimes/treatment programmes for different categories of sentenced prisoners at the establishment or, indeed, a proper system for classification/allocation.³⁷ As far as the delegation was able to ascertain, a coherent policy for the execution of sentences - including a policy for early release and the provision of social support to prisoners - was absent. Further, the role envisaged for the educators was less than proactive.

³⁷ Inmates could be classified in one of three categories (A, B, and C); it would appear that the significance of the latter was limited to the types of privileges (extra visits, leave, etc.) which could be granted. There were no specific criteria for the allocation of prisoners to Pavilions I or III.

The CPT invites the relevant authorities to develop programmes tailored to the profile of different types of prisoners, in light of the foregoing remarks.

75. To sum up, although sentenced prisoners at Zenica Prison did have an appropriate amount of daily time outside their units, there remained a gap between the aspirations professed by management and staff and the programmes of activities which were actually being delivered to many of them; about a third did not benefit from a positive regime which might encourage them to address their offending behaviour. **The CPT recommends that the relevant authorities take the necessary steps to ensure that all prisoners at Zenica Prison have access to an appropriate range of work, educational, sports and recreational activities.**

6. Health care services

76. In the Federation of Bosnia and Herzegovina, the Ministries of Health and Justice had joint responsibility for health care in prisons, whereas in Republika Srpska, the Ministry of Justice had principal responsibility in this area. At the May 2003 meeting of the Joint Steering Committee for Prison Reform, it was agreed to organise a comprehensive assessment of health care in prisons under the auspices of the Council of Europe; specific focal points of the assessment would include institutional structures and the relationship between the Ministries of Health and the prison system.³⁸ The CPT trusts that the following findings, made during its visit, will be taken into account in this domain.

77. Health care staffing levels at **Banja Luka, Mostar and Srpsko Sarajevo Prisons** can be considered as satisfactory, given the relatively small inmate population of these establishments. However, they were inadequate at **Sarajevo and Zenica Prisons**.

The health care team at **Sarajevo Prison** was led by a dentist, and included an internal medicine specialist, a full-time nurse (a second post of nurse was vacant) and a neuropsychiatrist (who attended the prison once a week). It is essential that the second post of nurse be filled without delay. Further, the recruitment of a psychologist would considerably enhance the quality of healthcare in the establishment.

The health care team in **Zenica Prison** consisted of a full-time doctor, a technician and a nurse. Outside their working hours, the technicians and nurses from the forensic psychiatric unit (cf. paragraphs 89) provided cover. Given the size of the inmate population (over 600 prisoners), the healthcare team should benefit from the presence of a second doctor and additional nursing staff.

The CPT recommends that the health care teams at Sarajevo and Zenica Prisons be reinforced in the light of the above remarks.

³⁸ Cf. page 3 of Action Plan on the Reform of the Prison System in Bosnia and Herzegovina adopted during the 6th meeting of the Joint Steering Committee on Prison Reform (16 May 2003).

78. The standard of health care facilities varied widely; they were excellent in **Mostar** and generally very good in **Banja Luka**, but were poor in **Zenica** and **Srpsko Sarajevo Prisons**.

The newly-renovated sick-bay at Mostar Prison was spacious and bright, suitably furnished (including with personal lockers), and was found to display hygienic and well-maintained sanitary facilities. The dentist's office had not yet been fully equipped, but the existing facilities were in very good order. At Banja Luka Prison, the health care facilities were very good but for an unsuitable sanitary cubicle in the sick-bay which had four beds.

Although some efforts had been made to improve the physical facilities at Zenica Prison, their impact was most evident in the corridor and doctor's room (which was not used for medical consultations) rather than in the areas used for prisoners. At Srpsko Sarajevo Prison, the sick-bay unit closed after the war and had been converted into a unit for women prisoners; the physical facility for the health care service had therefore been reduced to a small nurse's room with a contiguous pharmacy/office room.

The CPT recommends that the health care facilities at Zenica and Srpsko Sarajevo Prisons be upgraded.

79. All newly-arrived prisoners should be medically screened as soon as possible after their admission, in particular in establishments which represent points of entry into the prison system. This is of crucial importance inter alia for the prevention of the spread of transmissible diseases, the identification of prisoners who represent a suicide risk, and the timely recording of injuries sustained prior to admission to the prison system.

80. At some of the establishments visited (e.g., Srpsko Sarajevo Prison), there was no guarantee that newly-arrived prisoners would be examined by either a doctor or a fully-qualified nurse. **The CPT recommends that steps be taken immediately - throughout Bosnia and Herzegovina - to ensure that all newly-arrived prisoners are systematically medically screened by a doctor, or a fully qualified nurse reporting to a doctor, within 24 hours of their arrival at a prison establishment.**

81. Prison health care services can also make a significant contribution to the prevention of ill-treatment of detained persons, through the systematic recording of injuries and, if appropriate, the provision of information to the relevant authorities. Any signs of violence observed when a prisoner is medically screened on admission should be fully recorded, together with any relevant statements by the prisoner and the doctor's conclusions. The same approach should be followed whenever a prisoner is medically examined following a violent episode within the prison.

The information gathered by the delegation in the prisons visited indicated that there was room for improvement in this area. Injuries observed during the examination of inmates (whether newly-arrived or not) and allegations made by the latter were not always recorded in a sufficiently detailed manner. Further, procedures for the transmission of such information to the relevant authorities did not appear to be followed in all cases.

A particularly worrying example of an apparent failure to act in the interests of prevention of ill-treatment was found at Zenica Prison, where a number of prisoners interviewed alleged that the doctor not only failed to document injuries they claimed to have sustained as a result of assaults by prison officers, but that he also treated them in an indifferent, disparaging, or offensive manner. The delegation brought those allegations to the attention of the Director of Zenica Prison, indicating that if they were true, they would call into question the suitability of the doctor to practice medicine in a prison environment.

82. The CPT recommends that the record drawn up after a medical examination of a prisoner, whether newly-arrived or not, contain:

- (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him;**
- (ii) a full account of objective medical findings based on a thorough examination;**
- (iii) the doctor's conclusions in the light of (i) and (ii); these conclusions should be made available to the prisoner and his/her lawyer.**

Moreover, the CPT recommends that existing procedures be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner, the record is brought to the attention of the relevant public prosecutor or the investigating judge.

83. The CPT must also stress the importance of observing medical confidentiality in prison establishments (both in the context of examinations and in the keeping of medical records). All medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and - unless the doctor concerned requests otherwise - out of the sight of prison officers. Further, prisoners should be examined on an individual basis, not in groups.

The delegation observed for itself that the aforementioned precepts were not being followed in a number of the establishments visited. For example, prison officers were regularly present during all medical examinations of inmates at **Sarajevo Prison**, as was the case at **Srpsko Sarajevo Prison** when remand prisoners were being examined. At **Zenica Prison**, the medical records were kept in an open filing system, in addition to the lack of confidentiality of medical consultations.

The CPT recommends that the authorities take measures to ensure that the rules of medical confidentiality are strictly respected in all prison establishments in Bosnia and Herzegovina.

7. Zenica Prison Forensic Psychiatric Annexe

84. Zenica Prison Forensic Psychiatric Annexe opened as a temporary accommodation for forensic psychiatric patients in 1996³⁹. It is the only closed forensic psychiatric unit on the territory of the Federation. With an official capacity of 64 beds, it is located on the first floor of Pavilion IV; at the time of the visit, it was accommodating 69 patients.

All patients were admitted to the Annexe following a court order for "mandatory psychiatric treatment and placement in an institution of a closed type" and had been diagnosed as suffering from chronic psychosis, acute psychotic episodes, alcohol psychoses, epilepsy or organic psychosyndromes. Most of them had committed homicides/attempted homicides and would stay in the Annexe for 4 to 5 years (on average).

85. According to the Prison Director, himself a doctor and psychiatrist, the Forensic Psychiatric Annexe is "a huge problem which remains unsolved since 1996". The Director explained that "this temporary facility offered conditions which are worse than the conditions for the ordinary prisoners in the other parts of the establishment", a situation that he described as "absurd". He stated that, "on principle, the Forensic Psychiatric Annexe should not be located within a high security prison".

86. As regards ill-treatment, the delegation received a few allegations that patients were occasionally pushed, slapped, kicked and punched, and very occasionally hit with a baton, the alleged perpetrators most frequently being the guards. **The CPT recommends that staff - including nursing staff - be instructed once again that ill-treatment of patients is not acceptable and will be the subject of severe sanctions.**

87. With regard to material conditions, the 69 patients held in the Annexe at the time of the visit were accommodated in two large rooms (some 110 m² each, respectively with 35 and 31 beds, including bunk beds) and one small room (19 m²; 6 beds, 2 of them bunk), the latter holding "privileged" patients. It is clear from the above that living space per patient was grossly insufficient at the time of the visit⁴⁰ and several patients routinely asked the staff to be transferred into the isolation/seclusion room (8 m²) to gain some private space. Over and above the issue of overcrowding, the CPT must stress that large capacity dormitories are not conducive to the health needs of patients. Provision of accommodation structures based on small groups is a crucial factor in preserving/restoring patients' dignity, and also a key element of any policy for the psychological and social rehabilitation of patients.

88. Bedding, access to natural light and ventilation were globally satisfactory. There was also a relatively large dining area, used as a television/day room. However, the general level of maintenance and hygiene in the Annexe was poor. The patient's bathroom area (only one shower, two floor toilets and one long basin) was particularly filthy and unhygienic. Further, the delegation was informed, both by patients and staff, that the heating system in winter was deficient.

³⁹ Before the 1992-1995 armed conflict, all such forensic psychiatric patients were treated in Sokolac Psychiatric Hospital.

⁴⁰ It should be noted that 75 patients were being held in the Annexe when it was recently inspected by a group of experts of the Ministry of Health in reaction to the CPT's preliminary observations.

To sum up, the material conditions within which the patients were held did not meet hospital standards, in particular as regards hygiene. In addition, the very nature of the facilities in the Annexe left no scope for grouping patients with similar problems/strengths (e.g. acute ward, rehabilitation, etc.) or organising occupational activities, a situation the delegation found detrimental to the patients' treatment, a conclusion fully shared by both the visiting psychiatrist and the Prison Director.

89. At the time of the visit, staff at the Annexe consisted of one visiting psychiatrist (three mornings - 3 to 4 hours - a week), one head nurse and four nurses (the latter on 12 hour shifts), as well as one occupational therapist⁴¹. The head nurse, another nurse, the occupational therapist and a prison officer were present in the Annexe during the morning shift on weekdays, and a nurse and a prison officer at night and week-ends⁴². The delegation was further informed that posts for one full time psychiatrist, one psychologist and one social worker were vacant.

In the CPT's opinion, such staffing levels are totally inadequate to provide an appropriate quality of care to some 70 chronic psychiatric patients, some of whom were disturbed or requiring constant nursing care (geriatric patients/incontinent patients). In addition, nursing staff cover as low as that observed during the visit rendered vulnerable patients even less able to protect themselves, in particular against episodes of inter-patient violence.

90. A very limited number of patients had access to some organised activity; they regularly visited the Prison's training facility (e.g. Information Technology) and followed language courses. In contrast, the vast majority of patients spent their day in total idleness, with no activities apart from cleaning duties, watching television, playing chess or reading. On a more positive note, patients had the exclusive use of a large walled garden/walking area equipped with seats and benches (though no shelter against inclement weather). Patients whose state of health permitted were allowed two hours outdoor exercise every day, plus one additional hour in the main prison "hard surface" recreation ground.

91. Treatment was limited to pharmacotherapy. Haloperidol and fluphenazine depot were mostly used. Clozapine was also available; in this context, the delegation noted that there was no facility for routine blood monitoring of the patients on clozapine. This facility should be guaranteed in order to safeguard the patient's physical safety. As for ECT, the delegation was informed that it had been abandoned a long time ago.

Medical files were kept for each patient and medical confidentiality was guaranteed. However, it was clear that no individualised treatment plans supported by a multidisciplinary team were implemented at the Annexe.

⁴¹ In the absence of appropriate facilities for occupational therapy activities, the "occupational therapist" assisted the nurses on the morning shift.

⁴² At night and during weekends, the nurse was also responsible for covering the prison medical unit.

92. As regards consent to treatment, the delegation was informed that if a patient refused his medication, the nurse would inform the doctor, who would in turn try to persuade the patient, with the involvement of the guard. If this failed, an injection would be given, if the clinical opinion was that the patient must be medicated. Such a situation apparently occurred very rarely (1-2 times per year); nevertheless, the delegation noted that there was no pro-forma, nor second opinion sought.

In the CPT's opinion, patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his consent. It follows that every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

The CPT recommends that specific legal provisions be adopted on this subject, taking into account the above remarks.

93. As already indicated, the Annexe was equipped with an isolation/seclusion room. It included a "net bed" that was sometimes locked shut when in use (referred to as "the cage" by the patients); however, the CPT was informed by letter of 1 October 2003 that the net bed had been taken out of use, following the discussions held on the spot between the Prison Director and the delegation. The CPT welcomes this development.

Conditions in the isolation/seclusion room were in other respects satisfactory; in particular, it had good access to natural light and was equipped with a floor toilet.

The delegation was informed that a separate register had been put in place for the use of means of restraint/isolation in the Annexe some 10 days before the visit. However, there was no written policy on the use of the isolation/seclusion room. The delegation was informed that it was used at the patient's request, or when a patient was acutely disturbed. As regards the latter, it was confirmed that a patient could be placed in the isolation room on the sole decision of a nurse, who would then inform the doctor.

94. Facilities offered to patients for contacts with the outside world were very good. Nearly all patients received visits in a dedicated visit area and access to a telephone was available. The delegation noted that unsupervised visits (including with spouses) were also possible.

95. As already indicated, all patients in the Annexe had been subject to mandatory psychiatric treatment and placement, ordered for an indefinite period (with the exception of 2 patients, sentenced to a specific term). Admission in and release from the Annexe was based on Section 480 of the Code of Criminal Procedure of the Federation. Courts reviewed the order for mandatory treatment and placement every 6 months⁴³; however, the delegation noted that some time could elapse (up to 12 months) before a formal decision was taken. In complex cases, a team of expert psychiatrists from Sarajevo would consider psychiatric recommendations for release.

⁴³ An explicit reference to such a 6 monthly review was made in 60 % of the Court files examined.

Courts could also order the transfer of a forensic psychiatric patient from a closed type institution to an open type institution (e.g. from the Forensic Psychiatric Annexe to a general psychiatric hospital) and this was the most common path for rehabilitation. On release into the community, the court always ordered statutory community supervision, requiring the patient to continue to see a psychiatrist over a given period.

96. The delegation was informed that there was unanimous agreement within the psychiatric and prison system, as well as at a political level, that "this group of forensic psychiatric patients required hospital conditions and that the treatment and conditions in the Zenica Prison Forensic Psychiatric Annexe were not acceptable". The delegation was further informed that the Ministry of Justice of the Federation had allocated 3,000,000 BaM in 2002 to allow relocation of the forensic psychiatric annexe and provision of proper facilities. However, this decision was not implemented, as no municipalities within the Federation were ready to accept such a facility on their territory. At the time of the visit, the situation was still unresolved.

97. At the final talks held in Sarajevo in May 2003, the delegation clearly indicated that "placing mentally disordered patients in 30-bed, overcrowded dormitories in an essentially custodial environment can no longer be tolerated" and expressed its support for the initiative taken by the authorities in 2002 to finance the renovation and relocation programme aimed at remedying the situation, and involving the health authorities to a much greater extent. The delegation asked to receive within three months further information on this issue, including realistically achievable objectives to resolve this urgent matter.

98. On 1 October 2003, the authorities provided the following information to the CPT.

After the CPT's visit, an expert team was set up under the Ministry of Health, which carried out an inspection at Zenica Prison Forensic Psychiatric Annexe. Its findings fully confirm the observations of the CPT's delegation (overcrowded dormitories and lack of space in general, lack of nursing staff, no adequate treatment for the patients, very poor hygiene and deficient heating, etc.)⁴⁴. The expert team came to the conclusion that "conditions for patients [were] extremely inhuman and untenable" and that measures had to be taken urgently to remedy the situation.

In response to this report, the Ministry of Justice and the Ministry of Health of the Federation decided to implement the following urgent measures until a new place is found to relocate the forensic psychiatric institution: improvement of hygiene; reduction of the number of beds in the dormitories; drafting of specific house rules for the Annexe; setting up a register on cases of use of force/restraint; "self-defence" training for staff.

99. The CPT welcomes the efforts made by the authorities to solve, on an urgent basis, some serious deficiencies observed during the visit of its delegation and **would like to receive updated information on the progress made in this domain.**

⁴⁴ It also highlighted the fact that the net bed had been taken out of use.

However, as the authorities themselves acknowledge, this state of affairs cannot be prolonged further. **The Committee therefore recommends that the authorities provide within three months a workable strategy to facilitate the relocation of the Forensic Psychiatric Annexe to a site which could offer the potential to remedy the numerous shortcomings observed by the CPT's delegation.**

100. Until this relocation becomes a reality, and in addition to the measures already announced above (cf. paragraph 98), **the CPT recommends that the authorities take the following immediate steps:**

- to fill the three vacant posts (full time psychiatrist, psychologist and social worker);
- to substantially reinforce the nursing team with properly trained staff;⁴⁵
- to considerably increase the number of patients benefiting from occupational activities;
- to establish an individual treatment plan for each patient, based on a multidisciplinary approach;
- to provide a facility for routine blood monitoring of patients on clozapine, with a view to guaranteeing their physical safety;
- to establish a written policy on the use of isolation/means of restraint in accordance with the criteria set out by the CPT (CPT/Inf (98) 12, paragraphs 47- 50).

As regards material conditions, **the CPT recommends that the Annexe be provided with adequate heating in the winter and that supplementary shower facilities be at the patients' disposal. The outdoor exercise facility should also offer, as far as possible, shelter from inclement weather.**

8. Contact with the outside world

101. It is very important for prisoners to be able to maintain good contact with the outside world. Above all, they must be given the opportunity to safeguard their relations with their family and friends, and especially with their spouse or partner and their children. The continuation of such relations can be of critical importance for all concerned, particularly in the context of prisoners' social rehabilitation. The guiding principle should be to promote contact with the outside world; any restrictions on such contacts should be based on security concerns of an appreciable nature. This is in line with a number of recommendations in the 1987 European Prison Rules, particularly Rule 43, subparagraph 1 and Rule 65, point c.

⁴⁵

In such circumstances, the guard on duty would only provide perimeter security, outside the Annexe facilities.

102. Subject to approval of the investigating judge, remand prisoners in each of the two entities could receive visits from members of their family and other persons.⁴⁶ The information gathered during the visit indicated that investigating judges were exercising their discretion in this area in a fair manner. As for contacts with lawyers, the delegation found that they could be - and were - supervised. Such a practice is contrary to the principle of confidentiality of lawyer-client discussions; in this regard, it is positive that the new State Code of Criminal Procedure requires all visits by lawyers to be "free and unrestricted".⁴⁷ Pending the entry into force of that Code and the harmonisation of the corresponding Codes of the two entities, **the CPT recommends that steps be taken to ensure that visits by lawyers to remand prisoners are unsupervised.**

Visits by relatives to remand prisoners took place, in principle, in booths with glass panels separating inmates from their visitors. The notable exception was Sarajevo Prison, where adult male remand prisoners could be permitted "free visits" (i.e. unsupervised visits from their formal or common-law spouses); however, their female counterparts were not offered the possibility to receive such visits. **The CPT recommends that the possibility to receive "free visits" be extended to female remand prisoners at Sarajevo Prison.** More generally, the CPT considers that closed arrangements should be the exception rather than the rule, and **invites the relevant authorities to introduce more open arrangements for visits to remand prisoners.**

103. Sentenced prisoners in Zenica Prison had the right to receive visits from members of their immediate family and, subject to the approval of the director, from other persons.

In practice, prisoners were entitled to a one-hour supervised visit, once or twice a month, depending on behaviour. In addition, prisoners could receive "free visits" (up to three hours twice a month) and, as a reward for good behaviour, home visits and other types of leave outside the establishment. The facilities used for the different types of visits were found to be of a good standard.

The CPT greatly welcomes the visiting and leave arrangements at Zenica Prison, which are of fundamental importance for the social rehabilitation of a prisoner.

104. The situation as regards telephone contacts and correspondence was, on the whole, satisfactory in the establishments visited. However, given that telephone calls were monitored, inmates who spoke a language with their families which was unfamiliar to prison staff could in effect be deprived of the possibility to maintain telephone contacts with their relatives. In this regard, the CPT wishes to stress the need for a certain flexibility when applying the rules on contacts with the outside world (visits, telephone contacts, and correspondence) to prisoners - including those held on remand - whose families live very far from a particular establishment, and **recommends that the relevant authorities make the necessary arrangements in order to facilitate such contacts.**

⁴⁶ The 1998 Code of Criminal Procedure of the Federation of Bosnia and Herzegovina only mentions the possibility for remand prisoners to receive visits in the context of section 193(1), which governs disciplinary sanctions. The foregoing section provides that an investigating judge may impose the disciplinary penalty of restriction of visits or correspondence to punish a remand prisoner for disciplinary infractions "which may have harmful consequences for the course of the proceedings". In contrast, the 1977 Yugoslav Code of Criminal Procedure has a separate provision focussing specifically on the subject of visits to remand prisoners (cf. section 203(1)).

⁴⁷ Cf. section 144(5) of the 2003 Code of Criminal Procedure of Bosnia and Herzegovina.

9. Issues relating to juveniles

105. The CPT is greatly concerned about the lack of appropriate facilities for minors (i.e., persons under 18) in Bosnia and Herzegovina. Although a unit within Banja Luka Prison was intended for the placement of minors in respect of whom a court had ordered an educational-correctional measure, it had not yet entered into service; as for the Federation, there were no educational-correctional institutions or units with a formalised status.⁴⁸ Instead, minors who had been found guilty of committing a criminal offence were either at liberty, or sent to prison, where they were sometimes placed in the same building as - and associating with - adult inmates (e.g., Pavilion V of Zenica Prison), a situation which undoubtedly undermined the goal of rehabilitating them.

The CPT has also noted with concern that juveniles could be held on remand at the establishments visited. The material conditions of detention of these young prisoners were at times appalling (e.g., at Sarajevo Prison, where up to four minors were held 23 hours and 40 minutes per day in a dilapidated and unhygienic 8 m² cell with a semi-partitioned sanitary annex); moreover, the regime offered to them was no less impoverished than that of adult remand prisoners and, in particular, they were being offered no education. Such a situation is totally unsatisfactory.

106. In the CPT's view, all juvenile prisoners, including those on remand, should be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with young persons. **The CPT recommends that the relevant authorities strive to ensure that juvenile prisoners are held in such centres.**

In the meantime, **the CPT recommends that the necessary steps be taken to ensure that juveniles placed in prisons - including remand prisons - are provided with a full programme of educational activities (including physical education) and are accommodated separately from adult prisoners.**

107. The CPT has noted with interest the attention devoted to juvenile justice policy in the context of the May 2003 meeting of the Joint Steering Committee on Prison Reform.

⁴⁸ However, the Federation authorities informed the CPT that an institution for children and youths located in Sarajevo was, in principle, serving as an educational-correctional institution, but that its "status is not regulated".

10. Discipline, segregation, and means of restraint

108. No disciplinary sanctions against remand prisoners were permissible in the Federation; however, if such a prisoner attempted or plotted escape, or posed a threat to security, he could be separated and/or restrained (with handcuffs) as a security measure.⁴⁹ Depending on the gravity of the disciplinary infraction, remand prisoners in Republika Srpska could be punished with a warning or placement in solitary confinement.⁵⁰

109. Sentenced prisoners in the Federation could be punished with a reprimand, a fine, and/or placement in a "solitary" cell ("*samica*") for up to 20 days. Disciplinary proceedings took place before a commission appointed by the prison director, and the inmate concerned had to be allowed to present his defence. Appeals were possible to the prison director.⁵¹ As for sentenced prisoners who posed a serious threat to security, segregation ("*usamljenje*") up to three months could be ordered by the prison director, with an appeal possible to the Ministry of Justice. Alternatively, such persons could be subjected to increased supervision ("*pojačan tretman*") for up to three months.⁵²

A number of sentenced persons at Zenica Prison indicated that they felt that they had not been afforded the appropriate safeguards in practice, whether in the context of disciplinary proceedings or the imposition of a segregation (or increased supervision) measure. In particular, they claimed that they lacked the opportunity to present an adequate defence or to appeal to a body independent from the prison authorities.

110. In the context of disciplinary proceedings, the CPT recommends that persons facing disciplinary charges:

- be informed in writing of the charges against them and given sufficient time to prepare their defence;
- be permitted to call witnesses on their behalf and to cross-examine evidence given against them;
- be heard in mitigation of punishment, if found guilty by the disciplinary commission;
- have the right to appeal to an authority outside the prison establishment concerned against any sanctions imposed.

⁴⁹ Cf. section 35 of the 1988 Regulations on the House Rules concerning Remand Imprisonment in the Socialist Republic of Bosnia and Herzegovina, which were still being applied in practice in the Federation at the time of the visit.

⁵⁰ Cf. section 31 of the 2001 Regulations on the House Rules concerning Remand Imprisonment in Republika Srpska.

⁵¹ Cf. sections 96 and 97 of the Federation Law on Execution of Sanctions.

⁵² Cf. in this regard sections 173 and 174 of the House Rules of Zenica Prison.

111. As for the measure of segregation (or increased supervision), it is axiomatic that it should not be imposed for any longer than the risk which a particular prisoner presents makes necessary. This calls for regular reviews of the decision to impose the measure. Further, prisoners should as far as possible be kept fully informed of the reasons for the imposition of the measure and, if necessary, its renewal. Consequently, **the CPT recommends that:**

- a prisoner placed in segregation (or increased supervision) or in respect of whom such placement is extended be informed in writing of the reasons therefor (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security);
- a prisoner in respect of whom a segregation (or increased supervision) measure is envisaged be given an opportunity to express his views on the matter;
- the placement of a prisoner in segregation (or increased supervision) be fully reviewed at least every three months;
- prisoners have the right to appeal to an authority outside the prison establishment concerned against the imposition or extension of a segregation (or increased supervision) measure.

112. In the course of its visits to the remand sections of Banja Luka, Mostar, Sarajevo, and Srpsko Sarajevo Prisons, the delegation did not gather any evidence of excessive resort to disciplinary sanctions or means of restraint. Nevertheless, it should be noted that certain remand prisoners at Sarajevo Prison alleged that they had been handcuffed to their bed-frames.

The cells used for isolation or segregation in the above-mentioned establishments were, on the whole, of an adequate size - **with the notable exception of an extremely small (2.4 m²) padded cell at Banja Luka Prison** - and standard.⁵³ However, at Sarajevo Prison, two of the solitary confinement cells had metal rings anchored to the floor; reportedly, there had previously been cases where inmates were secured to the rings with handcuffs.

The Committee considers that, in cases where a prisoner is, or becomes, highly agitated, prison staff should immediately contact a doctor and act in accordance with his or her opinion, rather than shackle the person concerned to furniture or fixtures. In this context, the CPT recommends that the metal rings on the floor of two of the solitary confinement cells at Sarajevo Prison be removed forthwith.

113. The scrupulous recording of any use of solitary confinement or of instruments of physical restraint is a fundamental safeguard against possible abuse, as well as representing an essential tool of good management.

⁵³ Cf. paragraphs 67 and 68 for an assessment of the conditions of the discipline/segregation cells at Zenica Prison.

The information gathered by the delegation indicated that there was much room for improvement in this area at certain of the establishments visited. For example, there were lacunae in the recording of the duration of handcuffing of inmates (Mostar and Sarajevo prisons) and the duration of placement in solitary confinement (Sarajevo and Srpsko Sarajevo prisons); at Zenica Prison, the name of a person undergoing a 90-day segregation measure in Pavilion II was absent from the list of inmates placed in that Pavilion.⁵⁴ Rather than using separate registers to record placements in solitary confinement or the use of means of restraint, the tendency was to record such data in an establishment's daily logbook (e.g., at Sarajevo and Zenica prisons), a method which renders supervision difficult.

The CPT recommends that appropriate steps be taken to ensure that any placement in a solitary confinement or segregation cell and any use of instruments of physical restraint (whether or not this is in a medical context) is duly recorded, with a reference to the grounds and the length of time involved. Preferably, specific registers should be established for the recording of such information (in addition to it being recorded in the individual file of the person concerned).

11. Complaints and inspection procedures

114. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority.

In this regard, a number of prisoners (both remand and sentenced) at Zenica Prison alleged that they lacked information as to the manner in which they could lodge a complaint; further, several alleged that their complaints had not met with any response, which led them to speculate that prison officers were screening their complaints. One inmate claimed that he was discouraged by a senior prison officer from lodging a complaint of alleged ill-treatment by prison officers.

The CPT considers that a procedure which implies that the lodging of a complaint with an outside authority is systematically brought to the attention of the management of the establishment where the prisoner concerned is held, is almost certainly not conducive to his developing a sense of trust in that procedure.

The CPT recommends that the relevant authorities ensure forthwith that all prisoners (both remand and sentenced), throughout the penitentiary systems of each entity, are provided with precise written information (which should be set out in a straightforward manner and available in an appropriate range of languages) on the avenues of complaint available to them, as well as with confidential access to the bodies authorised to receive complaints. Where required, practical measures should be taken to ensure that complaints are transmitted confidentially (for example: installing locked complaint boxes accessible to prisoners, to be opened only by specially designated persons).

⁵⁴ Cf. in this regard paragraph 59 above.

115. The CPT attaches particular importance to regular visits to prison establishments by an independent body (for example, a visiting committee or a judge with responsibility for carrying out inspections) with authority to receive - and, if necessary, take action on - prisoners' complaints and to visit all of the prison's facilities.

The law in each entity provided that a judge of the competent court is required to visit remand prisons at least once a week⁵⁵ and to enter into contact with remand prisoners on a confidential basis, with the purpose of verifying that their basic needs are being met and that they are being treated correctly.

Concerning the regular visits by judges of the competent court, the delegation was not convinced that the objectives set by the relevant laws were being fully achieved, especially as regards confidential access of inmates to the judge. For one, the frequency of such visits was variable; further, when visiting detention areas, judges were usually accompanied by a number of persons, including prison personnel. The latter themselves announced the arrival of the judges and asked prisoners if they wished to speak to them. Such arrangements could well inhibit prisoners from voicing any grievances they might have about the way in which they are being treated.

Consequently, **the CPT recommends that the manner in which visits are carried out by judges of the competent court be reviewed. The judges should not limit their activities to prisoners who expressly request to meet them, but should take the initiative by themselves entering into direct contact with inmates.**

The CPT would also like to be informed whether remand prisoners have the right to send written complaints to judges of the competent court on a confidential basis.

In this regard, the CPT also wishes to note that numerous visits to prisons have been carried out by local Ombudspersons, non-governmental organisations, as well as Council of Europe experts.⁵⁶

⁵⁵ Cf. section 194 of the Code of Criminal Procedure of the Federation of Bosnia and Herzegovina and section 205 of the 1977 Yugoslav Code of Criminal Procedure. The 2003 State Code of Criminal Procedure requires judges to visit remand prisoners at least once every 15 days (cf. section 146).

⁵⁶ Previously, the IPTF (cf. footnote 9) played a significant role in visiting prisons.

C. Psychiatric establishments

1. Preliminary remarks

116. The CPT's delegation visited Sokolac Psychiatric Hospital and Jakeš Institution for the Treatment, Rehabilitation and Social Protection of Chronic Mental Patients. These two establishments fall under the responsibility of the Ministry of Health and Social Affairs of Republika Srpska.⁵⁷

117. Built some 45 years ago, **Sokolac Psychiatric Hospital** is located 2.5 km from the town of Sokolac. Previously functioning as a long-stay asylum for chronic psychiatric patients, its official capacity has gradually been reduced from 500 to approximately 100 beds, and there were plans to reduce it further to a maximum of 70 patients. The Forensic Psychiatric Unit (FPU) can, in addition, accommodate up to 100 patients. At the time of the visit, the hospital accommodated some 250 patients (including 81 patients in the FPU), a number which is well above its official capacity.

The hospital is dispersed over a rather large area and comprises several buildings (wards for patients' accommodation,⁵⁸ occupational workshops, kitchen, laundry, administrative building, etc.). Despite some cosmetic renovation work carried out here and there in the institution after the armed conflict 1992-1995, the hospital was in a general state of disrepair.

The visit mainly focused on the FPU ("open" and "locked" wards), as well as the Male Acute Ward, both accommodating the most demanding and aggressive patients.

118. **Jakeš Institution for the Treatment, Rehabilitation and Social Protection of Chronic Mental Patients** is located in a semi-rural area, near the town of Modriča. It is the only institution of its kind in Republika Srpska, with an official capacity of up to 300 patients. Built just after World War II, it had originally accommodated up to 800 patients on four different sites. However, at the time of the visit, the hospital accommodated some 330 patients (male and female; 200 chronically mentally ill and 130 learning disabled⁵⁹), all brought together on one site.

The Institution extends over a large domain, surrounded by a low fence, and comprises several buildings, including a male and female acute ward (both locked), a geriatric ward, a ward specialised in physical care, other general wards, an occupational therapy building, a central kitchen, a dining-room, a laundry, an administrative building, and several "villas" accommodating the learning disabled patients. A farm on the outskirts of Jakeš (the "Estate") opened at the end of 2002 to function as a pilot de-institutionalisation project.

The delegation paid particular attention to the "locked" acute wards for male and female patients.

⁵⁷ The Forensic Psychiatric Unit at Sokolac Psychiatric Hospital is under the joint responsibility of the Ministry of Justice and the Ministry of Health.

⁵⁸ Male and Female Acute Wards, Male and Female Rehabilitation Wards and, at the FPU, an Acute ("locked") Ward and a Rehabilitation ("open") Ward. There was also a Neurology Ward, which dated back to the 1992-1995 conflict and was to be closed in the near future.

⁵⁹ At the beginning of the armed conflict, in 1992, 236 women and children with learning disabilities who were accommodated on another site - Višegrad - were "temporarily" transferred to Jakeš, a hospital not originally intended for persons with learning disabilities. Eleven years later, most of those patients are still residing at Jakeš, and the children have become adults.

2. Ill-treatment

119. At the outset, it should be clearly stated that the delegation did not receive any recent allegations of deliberate ill-treatment of patients by staff at Jakeš Institution.

In contrast, serious allegations of ill-treatment of patients by staff were received at **Sokolac Psychiatric Hospital**, where patients in the Male Acute Ward alleged they had been pushed, slapped and hit (including with a baton) by members of the health care team. Medical members of the delegation observed physical evidence on at least one patient (depressed nasal fracture and a scar 2 x 1 cm), which was consistent with his allegations of having been recently hit across the bridge of the nose with a baton by a nurse. This was also confirmed by a member of the health care team working in the Unit.

The CPT recommends that measures be taken at Sokolac Psychiatric Hospital, at managerial level, in order to ensure that staff are instructed, by appropriate means and at regular intervals, that: the ill-treatment of patients will not be tolerated; all relevant information regarding alleged ill-treatment will be investigated; and perpetrators of such treatment will be subject to severe sanctions.

120. Nevertheless, the most serious incidents resulting in the injury of patients involved episodes of violence between patients at **Sokolac Forensic Psychiatric Unit (Closed Section)** and in the **Male and Female Acute Wards at Jakeš Institution**. In the latter institution, the delegation received allegations of frequent inter-patient violence, consulted reports and found medical evidence consistent with these allegations in a number of cases. This situation was furthermore fully confirmed by members of nursing staff. Particular reference should be made to two cases involving a patient from Sokolac Forensic Locked Unit and another patient from Jakeš Male Acute Locked Ward, both of whom had committed triple homicides of other patients on these wards during the last four years⁶⁰.

After having examined all the information at its disposal, the delegation is convinced that the situation referred to above is significantly related to the absence of sufficient numbers of staff at all times within these wards (which does not allow for adequate observation or therapeutic intervention), and compounded by wholly inappropriate environmental conditions.

The delegation took note of various measures taken at Sokolac FPU after the homicides, but found no evidence of any such measures at the Male and Female Acute Wards at Jakeš Institution (except the adoption of a specific admission procedure for acute patients). This state of affairs, combined with the above-mentioned circumstances prevailing in the Jakeš Male and Female Acute Wards, led the delegation to conclude that patients' physical safety - and even their lives - remained at risk. A similar conclusion can be reached regarding the safety of the staff, who are clearly highly vulnerable when entering - and also when within - the wards.

⁶⁰ The delegation was further informed that two other cases of violent deaths following episodes of inter-patient violence occurred at the FPU in the previous years.

121. During the talks held in Sarajevo with the authorities at the end of the visit in May 2003, the delegation invoked Article 8, paragraph 5, of the Convention and requested the authorities of Bosnia and Herzegovina to immediately carry out an inspection, under the auspices of the Ministry of Health of the Republika Srpska, concerning the conditions prevailing at Jakeš Male and Female Acute Wards and their effect on safety issues, and to inform the CPT within three months of the results of the inspection and the measures taken in response.

On 1 October 2003, the authorities provided a detailed report to the CPT on the results of the inspection carried out at Jakeš Institution by an ad hoc team established by the Ministry of Health of Republika Srpska. This detailed report confirms the findings made by the CPT's delegation on the spot and highlights a certain number of preliminary measures designed to remedy some of the deficiencies observed. However, no information was provided on measures actually taken to address the safety issues arising out of the prevailing conditions at Jakeš Male and Female Acute Wards. **With reference to Article 3 of the Convention, the CPT calls upon the authorities of Bosnia and Herzegovina to provide that information without any further delay.**

122. The CPT fully recognises that in times of grave economic difficulties, sacrifices may have to be made, including in health establishments. However, the Committee wishes to stress that the duty of care which is owed by staff to those in their charge includes the responsibility to protect them from other patients who can cause them harm.

It is clearly essential that appropriate procedures be put in place in both establishments, in order to avoid such dramatic incidents recurring and to protect certain patients from other patients who might cause them harm. This requires inter alia an adequate staff presence at all times (including at night, weekends and holidays) within the units concerned.

As already indicated, the delegation noted with concern that staffing levels were particularly low in the units where the homicides took place. At Sokolac FPU, the only staff members present during the day to care for up to 100 patients were one forensic psychiatrist⁶¹, one head nurse and another nurse, and two police officers⁶².

At Jakeš Institution, as the delegation itself observed, it was not uncommon for the Male and Female Acute Wards to be left without any nearby staff present, for several hours daily, and the total absence of staff actually within the wards was considered "normal". Direct statements from staff members involved in the monitoring of the acute wards only reinforced the delegation's concerns: "It is better if the patients are alone with no staff present; it is calmer as they organise themselves...." or "It is not necessary to be with the patients at all times. They can knock on the door and let nurses know if there is a problem...".

In the CPT's view, such a low level or outright absence of staff can only contribute to the perpetuation of inter-patient violence and will inevitably put the patients - as well as the staff - at risk (in addition to contravening the principle of duty of care). Such a state of affairs is totally unacceptable; no unit should be left without any supervision by staff.

⁶¹ She was the only certified forensic psychiatrist in Republika Srpska.

⁶² The delegation was informed that there should officially be three psychiatrists, one head nurse and two nurses per shift. The delegation was further informed that some four months per year, only one police officer is present in the Unit.

The CPT therefore recommends that the authorities urgently review, in both establishments, the level of staffing within the respective wards, with a view to reinforcing the presence of qualified staff and ensuring adequate supervision by staff at all times.⁶³

123. At this stage, it should be noted that, with regard to the Sokolac Male Acute Ward and the Male and Female Acute Wards at Jakeš Institution, the CPT is of the opinion that the negative cumulative effects of the deficiencies observed in material conditions, severe lack of staff, and inadequate treatment, combined with lack of supervision resulting in significant inter-patient violence, could well be considered to amount to inhuman and degrading treatment.

3. Patient's living conditions

a. Sokolac Psychiatric Hospital

124. The Forensic Psychiatric Unit was located in buildings on three sides of a large open courtyard/exercise yard, the fourth side being secured by a large fence. The 57 patients on the "open" forensic ward could move freely from their accommodation areas into the exercise yard and, if they had permission, into the hospital grounds. The 24 patients on the "locked" ward were only allowed to leave their ward for some outdoor exercise, at specific times. The delegation noted that approximately one third of the FPU building was derelict and unused.

The "open" ward, which extended over two floors, consisted of a day room (60 m²), equipped with a television, and several large dormitories. However, the occupancy level in some dormitories was relatively high (9 beds in 30 m²) and beds were in close proximity (occasionally touching). The dormitories were clean, but rather austere, as they were not personalised.

The "locked" ward offered less living space for patients. They were confined during the day in a small dining room/day-room (30 m²), equipped with a radio, and only had access to the exercise yard for two hours a day.

In both wards, the sanitary facilities were sufficient in number, generally clean, and patients could have access, on request, to individual lockers which were situated in a separate locker-room.

125. Patients in the Male Acute Ward did not benefit from the same - broadly decent, though very modest - conditions observed in the FPU. The ward was located on the ground floor of a fairly large building and was accommodating 35 patients at the time of the visit. The dormitories offered only cramped living space (five beds in 15 m²; five beds in 17 m²; seven beds in 25 m²). The delegation was informed that three weeks before the visit, staff were obliged to place mattresses on the floor in one bedroom in order to accommodate newly arrived patients and that, on occasion, three patients were sharing two beds pushed together. Moreover, the dormitories were bare and beds and bedding were worn. The day room, equipped with some broken benches and tables, was particularly small (30 m²) for the number of patients it had to accommodate. The general level of maintenance and hygiene in the ward was poor, particularly as regards the sanitary facilities (which were dilapidated and partly blocked with faeces) and did not meet even basic hospital hygiene standards.

⁶³ In such circumstances, the police officers on duty at Sokolac FPU would only provide perimeter security, outside the FPU facilities.

126. The ward had no usable secure outdoor exercise area at its disposal, and many of the patients did not benefit from outdoor exercise. However, certain patients did have access to outdoor exercise, which was organised on the hospital grounds near the unit.

127. The delegation also received many complaints from patients that the wards were not adequately heated in the winter, an allegation which was confirmed by the staff.

128. **The CPT recommends that measures be taken in the Forensic Psychiatric Unit and the Male Acute Ward to:**

- **reduce occupancy levels in the dormitories to an acceptable standard (at least 4 m² living space to be provided for each patient). In this context, it is imperative that every patient has his or her own bed;**
- **immediately offer all patients accommodated in locked units, health permitting, at least one hour a day of outdoor exercise in a reasonably spacious setting, which should also offer shelter from inclement weather;**
- **ensure adequate heating, when necessary;**
- **offer better conditions, in particular as regards space and decoration, in the day-rooms of the respective locked units;**
- **equip the FPU "locked" ward with a television set;**
- **give particular attention to the decoration of patients' dormitories.**

The CPT also recommends that efforts be made at the Male Acute Ward to maintain an adequate level of hygiene in all parts of the ward, including in the sanitary facilities.

Consideration should also be given to the renovation of the unused part of the Forensic Psychiatric Unit, with a view to setting up, for example, workshops aimed at offering occupational activities to patients held in the "locked" ward and to reduce the level of overcrowding in the Unit's dormitories.

129. The CPT would also like to highlight the immediate danger presented by the severe structural problems observed at the patients' refectory at Sokolac Psychiatric Hospital, which had already partially collapsed. **The CPT recommends that immediate measures be taken to ensure that the physical safety of patients taking their meals at the above-mentioned refectory is fully guaranteed.**

130. In addition, **the CPT would like to stress the importance of ensuring adequate perimeter security around the FPU.** Combined with the nature of some of the patients, the poor perimeter security observed by the delegation (items can be easily smuggled through the windows directly to FPU patients, including to those placed in the isolation room in the "locked" ward) poses additional risks to other patients and staff.

b. Jakeš Institution

131. The Male and Female Acute Wards were located together in a distinct building, which was situated at one extremity of the hospital grounds. The building was surrounded by grass and adjacent to a basket-ball/volley-ball playground.

The Male Acute Ward, situated on the first floor of the building, was accommodating 22 patients in two dormitories (respectively, eight beds in 33 m² and eleven beds in 50m²) and a smaller bedroom (three beds in 18 m²). All bedrooms were equipped with bedside tables/lockers and were personalised. Nevertheless, patients spent their day in idleness in their dormitories or in the "dining area" (in reality, the poorly-furnished unit corridor, which measured some 23 m²), watching TV, drinking coffee and smoking cigarettes. The level of maintenance and hygiene of the adjacent sanitary facilities (two showers; three toilets and sinks) left much to be desired.

132. The Female Acute Ward, situated on the ground floor, accommodated 18 patients⁶⁴ at the time of the visit. Each of the two dormitories measured 33 m² and lacked furniture, except for beds (one had seven and the other eight). Some beds were even devoid of sheets, and the state of repair and hygiene of the adjacent sanitary facilities was very poor. Unlike the Male Acute Ward, the female "dining room" (23 m²) was not equipped with a television set.

In addition, the Female Acute Ward was equipped with a small isolation room (9 m², two beds), which was in full view of the largest dormitory.

133. As regards outdoor exercise, patients on both acute wards had only occasional access (for 20 minutes), in small groups, to the hospital grounds, as there was no secure exercise area in the hospital; certain patients benefited from a weekly one-hour sport session.

134. The CPT recommends that measures be taken in the Male and Female Acute Wards to:

- immediately provide all female acute patients with adequate clean bedding;
- immediately raise the level of hygiene in the sanitary facilities to hospital standards;
- offer all patients accommodated in the acute wards, health permitting, at least one hour a day of outdoor exercise in a reasonably spacious and secure setting, which should also offer shelter from inclement weather;
- offer better conditions, in particular as regards space and decoration, in the day-rooms of the respective locked units; moreover, the installation of a television set in the Female Acute Ward should be considered;
- give particular attention to the decoration of the female patients' dormitories.

⁶⁴ The dormitories had a total of 17 beds; at the time of the visit, one patient was sleeping in the isolation room.

135. The CPT would also like to highlight the immediate danger presented by the severe lack of security observed in both acute wards, placing vulnerable patients as well as staff at risk. More precisely, at the time of the visit, neither of the two wards was equipped with systems making direct observation within the wards possible (such as a reinforced glass pane, enabling direct surveillance into the dormitories from the nurses' office; an observation hole in the ward's entrance door, CCTV systems, etc.) or allowing staff to call for support in case of emergency within a ward (cf. also paragraph 152).

The CPT recommends that the management of Jakeš Institution take steps, as a matter of urgency, to improve security arrangements within the Male and Female Acute Wards, in the light of the above remarks.

136. On a more positive note, the delegation took note of the "Estate" project (cf. paragraph 118) at Jakeš Institution and the proposal for the refurbishment of social care facilities in Višegrad, to allow for the gradual return there of female patients suffering from learning disabilities. The CPT welcomes these developments.

4. Treatment and care

a. introduction

137. Psychiatric treatment should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient indicating the goals of the treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication.

It should involve a wide range of therapeutic, rehabilitative and recreational activities, such as access to occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports. Patients should have regular access to suitably-equipped recreation rooms and have the possibility to take outdoor exercise on a daily basis; it is also desirable for them to be offered education and suitable work.

b. Sokolac Psychiatric Hospital

138. The majority of the patients at the FPU suffered from schizophrenia, although 1/3 were said to suffer from learning disability and other mental disorders. As regards the Male Acute Ward, the most common conditions on admission were major psychoses. The Head Doctor confirmed that some 2/3 of the patients in the acute ward were long-stay patients who could not be more appropriately accommodated elsewhere.

139. As already indicated, the Male Acute Ward and the FPU accommodated the most demanding and/or dangerous patients. The majority of the patients in the *Male Acute Ward* were admitted with the assistance of the police, paramedics and/or their families. On arrival, the patient was examined by the psychiatrist on duty and a somatic examination was performed. The main treatment offered to such patients consisted of pharmacotherapy, and only a very limited number of patients had access to occupational therapy. No individual treatment plans had been established.

Patients at the FPU were admitted on a Court order (criminal or petty offences courts) or transferred from prison establishments. The vast majority of the patients stayed in the Unit for an average period of four to five years⁶⁵. Only a very limited number of patients (on the "open" ward) visited the occupational therapy building situated in the hospital, and the treatment relied almost exclusively on pharmacotherapy. Again, no individual treatment plans had been established.

The CPT recommends that individual treatment plans be established for each patient, in light of the comments made above (cf. paragraph 137).

140. The CPT all too often finds that the fundamental components of effective psycho-social rehabilitative treatment are underdeveloped or even totally lacking, and that the treatment provided to psychiatric patients consists essentially of pharmacotherapy. This situation is generally the result of the absence of suitably qualified staff and appropriate facilities or of an outmoded philosophy based on the custody of patients. The FPU and the Male Acute Ward typified this scenario.

The CPT recommends that increased efforts be made at Sokolac Psychiatric Hospital to develop psycho-social rehabilitation in the units visited.

141. With regards to medication, the delegation was informed that there was sufficient quantity, but not enough quality or variety, particularly of appropriate psychotropic medication. The units' psychiatrists confirmed that occasional interruptions to patient's medication - due to finance cuts/supply difficulties - had resulted in the deterioration of patients' mental states.

The CPT recommends that steps be taken to ensure that medication prescribed is in fact provided, and that a regular supply of appropriate medicines is guaranteed at all times.

142. Somatic care was mainly provided by the units' psychiatrists. Nevertheless, a specialist in internal medicine working on-site could visit the unit concerned on the invitation of the psychiatrist. In addition, patients could easily be sent to an outside general hospital if they needed specialist input. However, **there could be problems if patients in the FPU needed expensive medication, as the general hospital would ask the FPU to meet the cost.**

143. The medical records kept in the units appeared to be adequate, as did the protection of medical confidentiality.

⁶⁵ The case of eight "old" patients who had been admitted to the Unit before the 1992-1995 armed conflict and who had been detained in Republika Srpska on the basis of a court order issued in the Federation will be examined later in this report.

c. Jakeš Institution

144. All patients admitted to the Male and Female Acute Wards were chronic psychiatric patients, suffering mostly from psychotic illnesses, who needed extended psychiatric treatment and rehabilitation. They were usually referred by another health institution, a local council, a medical facility or a family member, or by other wards from within the hospital, on the basis of their perceived aggressiveness, self harm risk, or escape risk. After the three homicides which took place on 20 August 2001 in the Male Acute Ward, the hospital management decided to submit all new requests for admissions to a prior screening procedure performed by a special committee, composed of the director of finance, the head neuropsychiatrist, the psychologist and the social worker.

The hospital benefited from the services of one occupational therapist who, however, did not visit the acute wards. Nevertheless, some acute patients were taken twice a week, for one hour at a time, to the occupational therapy building, accompanied by an orderly.

The CPT recommends that efforts be made to increase the number of patients benefiting from occupational therapy activities.

145. As regards medication, the delegation was informed that access to the older generation of psychotropic drugs was provided, but that drugs such as clozapine or the newer generation of antipsychotic medication were not available. As was the case for Sokolac Psychiatric Hospital, **the CPT recommends that steps be taken to ensure that medication prescribed is in fact provided, and that a regular supply of appropriate medicines is guaranteed at all times.**

146. The delegation noted with concern that 24 hour on-site medical cover was not always guaranteed on-site at Jakeš Institution; in order to alleviate this situation, the psychologist and the social worker were included on the 24-hour duty rota.

The CPT recommends that measures be taken at Jakeš Institution to ensure that only health care professionals are included on the medical duty rota.

147. Unlike at Sokolac Psychiatric Hospital, medical records at Jakeš were not well kept. In the two acute wards visited, the delegation found numerous files in which no medical entries had been made for months.

The CPT recommends that measures be taken at Jakeš Institution to ensure that an ongoing record of the patient's mental and somatic state of health is kept in his/her personal medical file.

5. Staff issues

148. Staff resources should be adequate in terms of numbers, categories of staff (psychiatrists, general practitioners, nurses, psychologists, occupational therapists, social workers, etc.), and experience and training. Deficiencies in staff resources will often seriously undermine attempts to offer adequate psychiatric treatment based on an individualised approach; further, they can lead to high-risk situations for patients, notwithstanding the good intentions and genuine efforts of the staff in service.

In some countries, including Bosnia and Herzegovina, the CPT has been particularly struck by the small number of qualified psychiatric nurses among the nursing staff in psychiatric establishments, and by the shortage of personnel qualified to conduct social therapy activities (in particular, occupational therapists). The development of specialised psychiatric nursing training and a greater emphasis on social therapy would have a considerable impact upon the quality of care. In particular, this would lead to the emergence of a therapeutic milieu less centred on drug-based and physical treatments.

149. Medical staff at Sokolac Forensic Psychiatric Unit consisted of one forensic psychiatrist and five nurses (including one head nurse). In addition, the Unit sometimes (several hours per week) benefited from the services of the hospital's psychologist, the occupational therapist, and the social worker (which they had to share with the other Wards). The medical team was reinforced by nine police officers (two per shift) responsible for security issues. As a result, the usual day shift comprised the forensic psychiatrist, one or two nurses and two police officers. In the evenings, at night and at week-ends, only one nurse and one or two police officers were in charge of some 80 patients.

At the Male Acute Ward, the medical team consisted of two psychiatrists and eleven nurses (including a head nurse). The Unit also shared the services of the hospital's psychologist. The morning shift was usually composed of the two psychiatrists, the head nurse and two other nurses.

The Male and Female Acute Wards at Jakeš Institution each benefited from the services of five nurses (though only one nurse was attached to each ward at any time). This presence was reinforced on week-days, in the morning, with a head nurse, responsible for the two acute wards. Psychiatrist cover was provided through regular visits. In addition, there was a limited shared input from the social workers, the psychologist and the occupational therapist.

150. In the CPT's opinion, the medical and nursing complement in the above-mentioned wards/unit was dramatically insufficient, as were the other services provided (psychologist, occupational therapy, social worker). The numerous detrimental effects of this situation (lack of physical safety for both patient and staff, absence of individualised treatment plans based on a multidisciplinary approach, etc.) have already been highlighted. Such staffing levels also tend to generate highly stressful working conditions for the staff and increase the risk of disproportionate reactions by staff towards challenging patients.

The CPT therefore recommends that the relevant authorities carry out an urgent review, in both establishments, of the level of staffing within the respective wards, with a view to reinforcing the presence of qualified medical and nursing staff (cf. paragraph 122). Having regard to the specific duties performed and the number of patients held at the Forensic Psychiatric Unit at Sokolac, the official complement of psychiatrists (i.e. three psychiatrists) and nurses (i.e. three nurses) should be regarded as an absolute minimum.

Other staff (psychologists, occupational therapists, social workers) should also reinforce the existing teams, with a view to increasing the multidisciplinary nature of the treatment provided to the patients.

151. As in other health-care services, it is important that the different categories of staff working in a psychiatric unit meet regularly and form a team under the authority of a senior doctor. This will allow day-to-day problems to be identified and discussed, and guidance to be given. The lack of such a possibility could well engender frustration and resentment among staff members.

In the delegation's view, it was clear that the actual staff complement did not allow such working procedures to function. **The CPT invites the authorities to set up such procedures along with the staff reinforcement.**

152. In order to provide effective treatment, staff also need to be fully confident about their safety. The delegation noted with concern that no specific alarm/call system for staff was installed in the forensic and acute wards visited (cf. paragraph 135). Unsurprisingly, the nurses and the orderlies met in the wards during the visit clearly indicated that they felt unprotected in case of incident. **The CPT recommends that the authorities install alarm/call systems (for example, panic beepers or call buttons) for staff working in the forensic and acute wards.**

6. Means of restraint/isolation

153. In any psychiatric establishment, the *restraint* of agitated and/or violent patients may on occasion be necessary. This is an area of particular concern to the CPT, given the potential for abuse and ill-treatment.

154. The CPT would like to stress that the restraint of patients should be the subject of a clearly-defined policy. Such a policy should make clear that initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control. Staff in such establishments should also receive training in both non-physical and manual control techniques vis-à-vis agitated or violent patients. The possession of such skills will enable staff to choose the most appropriate response when confronted by difficult situations, thereby significantly reducing the risk of injuries to patients and staff.

Further, resort to instruments of physical restraint will only very rarely be justified and must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his or her approval. If, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity. Doctors should always fix time limits when they authorise the use of such instruments (e.g. two hours); further authorisation by a doctor should be sought for their continued use.

The CPT would like to stress that the application of instruments of physical restraint for a period of days cannot have any therapeutic justification and amounts, in its view, to ill-treatment. Instruments of physical restraint should never be applied, or their application prolonged, as a punishment. Moreover, handcuffs are unacceptable as a means of restraint in a psychiatric establishment.

Every instance of the physical restraint of a patient (manual control, use of instruments of physical restraint) should be recorded in a specific register established for this purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. This will greatly facilitate both the management of such incidents and the oversight of their prevalence.

Patients who are physically restrained or placed in seclusion must be supervised regularly; preferably, this should be on a continuous basis.

155. At Sokolac Forensic Psychiatric Unit, means of restraint such as soft restraints or leather straps were not in use. However, the delegation was informed that police handcuffs were used vis-à-vis one patient who committed a triple homicide in the Unit in 2001. In exceptional circumstances, the patient's wrists were handcuffed in front of him, sometimes for four to five days, but were removed to allow him to wash, use the toilet, eat, etc. The patient could also be handcuffed by one wrist to his bed, while staying in the Unit's isolation room.

Police handcuffs were only exceptionally used at the Male Acute Ward, to restrain an agitated patient to his bed frame or a radiator. The medical staff stated that they would prefer to use soft restraint or leather straps, but that these were not available. In both the FPU/Male Acute Ward, the use of means of restraint was under the sole responsibility of the doctor and was recorded in the nurses/guards shift books; however, there was no written policy regulating their use.

156. At Jakeš Male and Female Acute Wards, patients could be strapped to their beds in very exceptional circumstances. This measure was applied on the doctor's decision/approval, for no longer than 2 to 3 hours, and was recorded in the ward report books. As was the case in Sokolac, no written policy existed regulating their use.

157. The CPT recommends that a clearly defined policy on the use of means of restraint be immediately drawn up in the two establishments visited, as well as in any other such establishment in Bosnia and Herzegovina, taking into account the criteria set out in paragraph 154. Moreover, police handcuffs should not be used to restrain patients in psychiatric establishments; if necessary, approved soft restraints or leather straps should be made available.

The CPT also invites the authorities to consider using single accommodation when applying means of restraint to patients, in order to avoid this being done in the presence of other patients and visitors (though this should not be to the prejudice of the close supervision required by such patients).

158. *Isolation rooms* were used for placement of agitated/violent patients at Sokolac FPU and Jakeš Female Acute Ward. Material conditions in the latter were satisfactory; however, at the FPU, the conditions in the isolation room were more austere and the temperature was cold. A guard/nurse usually placed the patient in isolation and the doctor on duty was consulted for approval. No specific register was kept on use, but the episode was recorded in the guards/nurses shift books. The CPT recommends that a written policy be established on the use of isolation, in accordance with the criteria set out by the CPT in its 8th General Report (cf. paragraphs 49 to 50 of CPT/Inf (98) 12).

7. Safeguards

159. On account of their vulnerability, the mentally ill and mentally disabled warrant much attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment/special institution should always be surrounded by appropriate safeguards.

160. As already indicated (cf. paragraph 139), patients were admitted to Sokolac FPU via three main routes (i.e. criminal courts, petty offences courts or transfer from prison).

Patients sentenced for a criminal offence could be detained at the FPU under Article 59 (compulsory psychiatric treatment) or Article 61 (compulsory drug and alcohol treatment) of the Criminal Code of the Republika Srpska. Such placements were of indefinite duration and patients usually stayed in the Unit for 3 to 5 years. Discharge from the Unit was made under Article 220 of the Law of Enforcement of Criminal Sanctions. Patients deemed to be mentally ill and alcohol dependent could be sentenced under Article 190 of the Law on petty offences to a fixed measure of up to 6 months treatment in a psychiatric unit. In both cases above, patients did have the right to be assisted by legal representatives and could appeal against the measure within 15 days.

Patients could also be transferred to the FPU from a prison establishment. If a patient was detained on remand, the visiting psychiatrist could suggest his/her transfer to the Court, which would then make use of Article 242 of the Law on Criminal Procedure. As regards sentenced prisoners, the delegation was informed that such transfers did not involve a judicial process.

161. The delegation also noted the presence at the FPU of a few patients from the Federation, detained under Article 480 of the Code of Criminal Procedure of the Federation. As far as the delegation could ascertain, their detention seemed to be procedurally correct, in that the Federation Courts requested and ordered renewal of detention in Sokolac FPU. However, it was unclear whether both Entities had signed an Inter-Entity Agreement allowing such practices. **The CPT would like to receive more information on this issue.**

162. Civil patients at Sokolac Male Acute Ward and Jakeš Male and Female Acute Wards were so-called "voluntary" patients, as there was no civil legislation determining their detention (if they refuse to stay voluntarily). Their admission/placement was at the sole discretion of the doctor(s), with no recourse to legal criteria, nor the possibility of legal challenge⁶⁶.

163. The delegation was informed that a Mental Health Act was being prepared in Republika Srpska, which should remedy the above-mentioned situation. **The CPT would like to receive a copy of this draft Act. It recommends that the authorities take steps to ensure that the draft Act is in conformity with the criteria set out by the CPT in its 8th General Report concerning the safeguards to be offered to patients in the context of involuntary placement (cf. paragraphs 51 to 57 of CPT/Inf (98) 12).**

⁶⁶ The delegation was informed that prior to the armed conflict of 1992-1995, patients in need of involuntary hospitalisation were examined by a Commission (consisting of a doctor, the head doctor and the hospital director), who would eventually admit them against their will, a Court being informed within 48 hours. Such procedures had not been followed for many years.

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

164. Many of the persons deprived of their liberty interviewed by the delegation indicated that they had been treated correctly by police officers, both at the time of their apprehension and during the time they were held in a police establishment. Nevertheless, a number of persons interviewed in different parts of the country did allege that they had been physically ill-treated. Most of those allegations related to ill-treatment at the time of apprehension; however, a not insignificant number of persons interviewed alleged that they had been ill-treated by uniformed police or criminal inspectors in the course of police questioning.

The types of ill-treatment alleged included beatings, consisting of punches, kicks and blows on various parts of the body with batons, metal rods, plastic-coated metal cables or baseball bats. Unlabelled objects of this kind were found in a number of police station offices used for questioning suspects.

In a few cases, the delegation gathered supporting medical evidence - consistent with the persons' accounts of ill-treatment - either by examining the medical records opened on the persons' admission to a remand prison, or through direct observations made by the delegation's doctors. More generally, health care staff in certain remand prisons confirmed that, in their experience, a number of the persons admitted to their establishments following a period in police custody do allege police ill-treatment as well as displaying injuries consistent with those allegations.

165. The CPT has recommended that the relevant authorities as well as senior police officers regularly instruct police officers that: ill-treatment will not be tolerated; all relevant information regarding alleged ill-treatment will be investigated; and perpetrators of such treatment will be subject to severe sanctions.

The best possible guarantee against ill-treatment is for its use to be unequivocally rejected by police officers; this implies strict selection criteria at the time of recruitment of police officers and the provision of adequate professional training. Another very effective means of preventing ill-treatment lies in the diligent examination by all competent authorities of all relevant information regarding alleged ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint. The CPT has made detailed recommendations on these subjects.

166. As regards formal safeguards against the ill-treatment of detained persons, the CPT attaches particular importance to three rights for persons deprived of their liberty by the police: the right of those concerned to have the fact of their detention notified to a close relative or third party of their choice, the right of access to a lawyer and the right of access to a doctor. In terms of the formal legal framework, certain of these safeguards were already in place in both entities at the time of the visit; further, they were incorporated in the 2003 State Code of Criminal Procedure. However, there appeared to be a wide gap between the formal legal provisions and their practical application.

The Committee has recommended that measures be taken to ensure that each of the above-mentioned rights is guaranteed in law and rendered fully effective in practice; further, it has recommended that a form setting out those rights be given systematically to all persons apprehended by the police at the very outset of their custody. The form should be available in an appropriate range of languages.

167. Custody in police establishments in Bosnia and Herzegovina is of relatively short duration; nevertheless, certain elementary material requirements must be met. Conditions of detention in the establishments visited were found to vary considerably; the CPT has recommended that the state of cellular accommodation in all police stations be reviewed, having regard to the general criteria set out in the Committee's report.

B. Prisons

168. The vast majority of remand prisoners interviewed in Banja Luka, Mostar, Sarajevo and Srpsko Sarajevo prisons made no allegations of ill-treatment by prison staff; indeed, a number of them commented favourably on the manner in which they were treated by prison staff. As for Zenica Prison, most prisoners interviewed by the delegation did not have any complaints to make about the manner in which they were treated by prison staff, with the notable exception of many of the prisoners who were or had previously been placed in Pavilion II.

169. The CPT is deeply concerned by a series of allegations of large-scale, organised and systematic ill-treatment of prisoners by prison officers during and after an operation, carried out on 21 February 2003, which aimed to segregate some 50 "organisers and leaders" of a riot which had taken place in Zenica Prison ten days earlier. The delegation held individual interviews with many of the inmates who had been segregated in Pavilion II or transferred to other prisons in the context of that operation, and found that their accounts of ill-treatment were strikingly consistent. In a few cases, medical evidence consistent with the above-mentioned allegations was gathered directly by the delegation's doctors from the inmates interviewed.

The CPT has called upon the relevant authorities to ensure that a thorough, independent, and impartial investigation is carried out into the events which commenced on 21 February 2003 at Zenica Prison. The investigation must be capable of leading to a determination of whether force used by prison officers was or was not justified under the circumstances, and to the identification and, if appropriate, the punishment of those concerned.

The Committee has also recommended that any future interventions dealing with prison disturbances be monitored by an authority which is independent from the establishment concerned as well as from any special unit which may be carrying out the intervention. The presence of such an authority would have a dissuasive effect on anyone minded to ill-treat prisoners, and greatly facilitate the investigation of any allegations of ill-treatment and the correct attribution of blame.

170. More generally, the CPT has recommended that the relevant authorities continue to give high priority to the development of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on the acquisition of interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation.

171. The duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to ensure their safety and physical integrity and, by implication, to be alert to any potential for harm from other prisoners, as well as to any potential for self-harm. Addressing such phenomena requires that prison staff be alert to signs of trouble, and both resolved and properly trained to intervene when necessary. In addition, the prison system needs to address the issue of appropriate classification and distribution of prisoners.

In view of the information gathered during the visit, in particular at Sarajevo and Zenica Prisons, the CPT has recommended that strategies to combat inter-prisoner violence and self-harm be established and vigorously pursued. In terms of policies of allocation to cells, dormitories or units, it is especially important that minors (i.e., persons under 18) are accommodated separately from adults.

171. The climate in a prison is largely dependent on the quality and resources of its personnel. In this connection, inadequate staffing levels constitute a major problem throughout the prison system of Bosnia and Herzegovina. The CPT has recommended that the relevant authorities conduct, without delay, a review of current staffing arrangements in all prison establishments, with the objective of ensuring that the number of prison officers employed is sufficient to guarantee both staff safety and the physical and mental integrity of inmates.

172. Serious shortcomings in terms of material conditions of detention - due to inadequate infrastructure or to deterioration of the premises (often exacerbated by overcrowding) - were present in varying degrees in the establishments visited, the worst conditions being observed in the remand section of Sarajevo Prison. The CPT has made various recommendations designed to address this problem. As a matter of priority, serious efforts must be made to reduce occupancy levels in prisons; the aim should be to provide a minimum of 4 m² of space per person. As a result of information gathered in Pavilion II of Zenica Prison, the CPT has also recommended that immediate steps be taken to ensure that prisoners are never placed in a dark cell for any length of time whatsoever.

173. A fundamental problem as regards *remand prisoners* in Bosnia and Herzegovina is the total lack of out-of-cell activities offered to inmates. At the time of the visit, remand prisoners were being held for more than 23 hours a day in their cells (with the notable exception of the remand section in Srpsko Sarajevo). In nearly all of the establishments visited, even the legal requirement as to outdoor exercise was not being respected.

The organisation of regime activities in remand prisons is not a straightforward matter, in view of the unpredictable turnover of inmates. However, the current policy of "warehousing" remand prisoners is unacceptable. The CPT has recommended that the authorities take steps to radically improve the regime activities for remand prisoners. The aim should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; sport). Measures must be taken immediately to ensure that all remand prisoners are offered at least one hour of outdoor exercise every day.

Sentenced prisoners at Zenica Prison did have an appropriate amount of daily time outside their units. However, there remained a gap between the aspirations professed by management and staff and the programmes of activities which were actually being delivered to many of the inmates; about a third did not benefit from a positive regime which might encourage them to address their offending behaviour. The CPT has recommended that the relevant authorities take the necessary steps to ensure that all prisoners at Zenica Prison have access to an appropriate range of work, educational, sports and recreational activities.

174. Health care staffing levels at Banja Luka, Mostar and Srpsko Sarajevo Prisons can be considered as satisfactory, given the relatively small inmate populations of these establishments; however, they were inadequate at Sarajevo and Zenica prisons. The standard of health care *facilities* varied widely; as for the precepts of *medical confidentiality*, they were not always followed. The CPT has made recommendations to address the shortcomings observed. It has also made recommendations designed to reinforce the contribution made by prison health care services to the *prevention of ill-treatment of detained persons*, through the systematic recording of injuries observed during the examination of newly-arrived inmates and following a violent episode within the prison.

175. Serious deficiencies were observed by the CPT's delegation at the Zenica Prison Forensic Psychiatric Annexe. Material conditions in which the patients were held did not meet hospital standards, staffing levels were totally inadequate, and treatment for the vast majority of patients was limited to pharmacotherapy. These findings were subsequently confirmed by an expert team set up under the Ministry of Health.

The CPT has recommended that the authorities provide a workable strategy to facilitate the relocation of the Annexe, and that in the meantime certain immediate measures be taken, such as reinforcing staffing levels, providing occupational activities and individual treatment plans, establishing a written policy on the use of seclusion and means of restraint, as well as improving material conditions.

176. The CPT has also made a number of recommendations and comments regarding a variety of other prison issues of relevance to its mandate: contact with the outside world; issues relating to juveniles; discipline, segregation, and means of restraint; and complaints and inspection procedures. The Committee has in particular recommended that the relevant authorities strive to ensure that juvenile prisoners are held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and with suitably trained staff.

C. Psychiatric establishments

177. The delegation did not receive any recent allegations of deliberate ill-treatment of patients by staff at Jakeš Institution. In contrast, serious allegations of ill-treatment of patients by staff were received at Sokolac Psychiatric Hospital, where patients in the Male Acute Ward alleged they had been pushed, slapped and hit (including with a baton) by members of the health care team. Other information gathered supported the allegations. The CPT has recommended that it be made clear to staff at Sokolac that the ill-treatment of patients will not be tolerated.

178. Nevertheless, the most serious incidents resulting in the injury of patients involved episodes of violence between patients at Sokolac Forensic Psychiatric Unit (Closed Section) and in the Male and Female Acute Wards at Jakeš Institution. Particular reference should be made to two cases involving a patient from Sokolac Forensic Locked Unit and another patient from Jakeš Male Acute Locked Ward, both of whom had committed triple homicides of other patients on these wards during the last four years. It is essential that appropriate procedures be put in place in both establishments, in order to avoid such dramatic incidents recurring and to protect certain patients from other patients who might cause them harm. This requires inter alia adequate staff presence at all times (including at night, weekends and holidays) within the units concerned. The CPT has recommended that the authorities urgently review, in both establishments, the level of staffing within the respective wards, with a view to reinforcing the presence of qualified staff and ensuring adequate supervision by staff.

179. The living conditions in the Forensic Psychiatric Unit at Sokolac Psychiatric Hospital were broadly decent, though very modest. However, the Male Acute Ward offered only cramped living space and did not meet even basic hospital hygiene standards. Deficiencies were also observed at the Male and Female Acute Wards of Jakeš Institution, e.g. as regards the general state of repair and hygiene; the female ward was particularly poorly furnished. Detailed recommendations addressing these matters have been made in the report.

The CPT has also highlighted the immediate danger presented by the severe lack of security at the Male and Female Acute Wards of Jakeš Institution, which placed vulnerable patients as well as staff at risk.

180. The Committee has made a number of remarks concerning treatment and care. For example, it has recommended that individual treatment plans be established and psycho-social rehabilitation developed at Sokolac Psychiatric Hospital. As for Jakeš Institution, it has recommended that the number of patients benefiting from occupational therapy activities be increased, and that an ongoing record of patients' mental and somatic state of health be kept in their personal files. As regards both establishments, it has recommended that steps be taken to ensure that a regular supply of appropriate medication is guaranteed at all times.

181. As regards staff issues, the CPT was struck by the small number of qualified psychiatric nurses among the nursing staff in the psychiatric establishments visited, and by the shortage of personnel qualified to conduct social therapy activities (in particular, occupational therapists). Reference has already been made to the Committee's recommendation that the relevant authorities carry out an urgent review, in both establishments, of the level of staffing in the respective wards. The Committee has also highlighted that the development of specialised psychiatric nursing training and a greater emphasis on social therapy would have a considerable impact upon the quality of care. In particular, this would lead to the emergence of a therapeutic milieu less centred on drug-based and physical treatments.

In order to provide effective treatment, staff also need to be fully confident about their safety. The CPT has therefore recommended that alarm/call systems be installed for staff working in the forensic and acute wards visited.

D. Action on the CPT's recommendations, comments and requests for information

182. The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I.

183. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the authorities of Bosnia and Herzegovina:

- i. to provide **within six months** an interim response giving details of how it is intended to implement the recommendations and, as the case may be, providing an account of action already taken (N.B. the Committee has indicated the urgency of certain of its recommendations);
- ii. to provide **within twelve months** a follow-up response providing a full account of action taken to implement the recommendations.

The CPT trusts that it will also be possible for the authorities of Bosnia and Herzegovina to provide, in the above-mentioned interim response, reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

184. In respect of two specific issues raised in the report, the CPT has requested the authorities of Bosnia and Herzegovina:

- i. to provide **without any further delay** information on the measures actually taken to address the safety issues arising out of the prevailing conditions in the Male and Female Acute Wards at Jakeš Institution for the Treatment, Rehabilitation and Social Protection of Chronic Mental Patients (cf. paragraph 121);
- ii. to provide **within three months** a workable strategy to facilitate the relocation of the Zenica Prison Forensic Psychiatric Annexe to a site which could offer the potential to remedy the numerous shortcomings observed by the Committee's delegation (cf. paragraph 99).

APPENDIX I

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

A. Police establishments

Preliminary remarks

requests for information

- detailed information concerning the functions and powers of the State Ministry for Security relating to deprivation of liberty (paragraph 12);
- up-to-date information on the legal framework governing police custody, including as regards the entry into force of the new Criminal Codes and Criminal Procedure Codes of the Federation of Bosnia and Herzegovina and the Republika Srpska (paragraph 14).

Torture and other forms of ill-treatment

recommendations

- the relevant authorities of the Federation of Bosnia and Herzegovina and the Republika Srpska, as well as senior police officers, regularly to instruct police officers that: ill-treatment will not be tolerated; all relevant information regarding alleged ill-treatment will be investigated; and perpetrators of such treatment will be subject to severe sanctions (paragraph 20);
- police officers to be reminded in an appropriate manner that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for them being struck (paragraph 21);
- items of property seized during criminal investigations to be entered in a separate register, properly labelled (identifying the case to which they refer) and stored in a dedicated property store (paragraph 22);
- a very high priority to be given to professional training for police officers of all ranks and categories, taking into account the remarks in paragraph 23. Experts not belonging to the police should be involved in this training (paragraph 24);
- an aptitude for interpersonal communication to be a major factor in the process of recruiting police officers and, during the training of such officers, considerable emphasis to be placed on acquiring and developing interpersonal communication skills (paragraph 24);

- whenever criminal suspects brought before an investigating judge or public prosecutor at the end of police custody or thereafter allege ill-treatment by the police, the judge or prosecutor should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge or prosecutor should order a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment (paragraph 25).

requests for information

- confirmation that objects of the kind enumerated in paragraph 18 have been removed from all police premises where persons may be held or questioned (paragraph 22);
- all relevant developments related to police selection and training in Bosnia and Herzegovina since the beginning of the year 2003 (recruitment criteria; training strategy; curricula; etc.) (paragraph 24);
- further information on the new complaints system in the Federation of Bosnia and Herzegovina, and whether similar arrangements exist or are envisaged for Republika Srpska and the District of Brčko (paragraph 26).

Safeguards against the ill-treatment of persons deprived of their liberty

recommendations

- appropriate action to be taken to ensure that the right to notify a close relative or third party of the fact of one's detention is rendered fully effective in practice, as from the very outset of deprivation of liberty. The exercise of this right may be made subject to certain exceptions designed to protect the legitimate interests of the police investigation. However, such exceptions should be clearly defined and strictly limited in time, and resort to them should be accompanied by appropriate safeguards (e.g. any delay in notification of custody to be recorded in writing with the reasons therefor, and to require the approval of a senior police officer unconnected with the case or of a prosecutor) (paragraph 28);
- the necessary steps to be taken to ensure that the right of access to a lawyer is guaranteed in both law and practice. For this right to be fully effective in practice, appropriate provision should also be made for persons who are not in a position to pay for a lawyer. The CPT suggests that the relevant Bar Associations be consulted in this context (paragraph 29);

- specific legal provisions to be adopted on the right of persons in police custody to have access to a doctor. Those provisions should stipulate inter alia that:
 - a person taken into police custody has the right to be examined, if he so wishes, by a doctor of his own choice, in addition to any medical examination carried out by a doctor called by the police authorities;
 - all medical examinations of persons in police custody, whether carried out on police premises or in a health care facility, are to take place out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers;
 - the results of every examination, as well as any relevant statements by the person in custody and the doctor's conclusions, are to be recorded in writing by the doctor and made available to the detained person and his lawyer (paragraph 30);
- a form setting out their rights to be given systematically to all persons apprehended by the police, at the very outset of their custody. The contents of this form should reflect, inter alia, the rights referred to in paragraphs 27 to 30. The form should be available in an appropriate range of languages. Further, the persons concerned should be systematically asked to sign a statement attesting that they have been informed of their rights (paragraph 31);
- the necessary steps to be taken to rectify the shortcomings observed as regards the information actually being recorded in the standardised custody registers ("*Evidencija o lišavanju slobode*") (paragraph 32).

Conditions of detention

recommendations

- appropriate action to be taken to remedy the deficiencies observed in the cell at Pale Police Station (paragraph 34);
- the state of cellular accommodation in all police stations in Bosnia and Herzegovina to be reviewed, having regard to the criteria set out in paragraph 33 (paragraph 34).

requests for information

- the action taken in respect of the basement cells in Mostar Centar and Široki Brijeg police stations (paragraph 34).

B. Prisons

Preliminary remarks

requests for information

- updated information on the formal legal situation concerning the issues covered in paragraphs 35 to 39 (including in due course, copies of any new laws) (paragraph 39).

Ill-treatment

recommendations

- a thorough, independent, and impartial investigation to be carried out as regards the alleged ill-treatment of inmates by prison officers at Zenica Prison during the intervention and transfer to Pavilion II on 21 February 2003 and thereafter. The investigation must be capable of leading to a determination of whether force used by prison officers was or was not justified under the circumstances (i.e., both during the operation and following the inmates' placement in Pavilion II) and to the identification and, if appropriate, the punishment of those concerned. All reasonable steps should be taken to secure evidence concerning the incident(s), including inter alia eyewitness testimony, forensic evidence, etc. (paragraph 49);
- any future interventions dealing with prison disturbances to be monitored by an independent authority. Further, inmates should have the right to be examined by a doctor independent from the establishment concerned following such interventions (paragraph 49);
- high priority to continue to be given to the development of prison staff training, both initial and ongoing. In the course of such training, considerable emphasis should be placed on the acquisition of interpersonal communication skills. Building positive relations with prisoners should be recognised as a key feature of a prison officer's vocation (paragraph 52);
- the authorities at all relevant levels (State, entity, and local) to deliver the clear message that physical and psychological ill-treatment and verbal abuse of prisoners by prison officers are not acceptable and will be dealt with severely (paragraph 52);
- strategies to combat inter-prisoner violence and self-harm to be established and vigorously pursued. In terms of policies of allocation to cells, dormitories or units ("*kolektive*"), it is especially important that minors (i.e., persons under 18) are accommodated separately from adults (paragraph 55);

- all forms of physical chastisement to be both formally prohibited and avoided in practice. Minors (as well as any other inmates) who misbehave should be dealt with only in accordance with prescribed disciplinary procedures. Self-harm should not be regarded as misbehaviour and should therefore not be subject to disciplinary action; instead, staff should ensure the individual's safety while also seeking to address the reasons for self-harm (paragraph 55).

requests for information

- a copy of any written instructions and/or authorisation issued concerning the use of force during the "anti-riot operation" carried out at Zenica Prison in February 2003 (paragraph 49).

Staffing and management issues

recommendations

- a review to be conducted, without delay, of current staffing arrangements in all prison establishments throughout Bosnia and Herzegovina. The objective should be to ensure that the number of prison officers employed is sufficient to ensure both staff safety and the physical and mental integrity of inmates (paragraph 58);
- incidents such as those described in paragraphs 53 and 54 always to be duly recorded in prison establishments; such records should include inter alia a description of the incident, the time of occurrence, the names of eyewitnesses, and the decision taken (paragraph 59).

requests for information

- the comments of the relevant authorities concerning the practice at Zenica Prison described in paragraph 59 as regards the recording of prisoners present in a Pavilion (paragraph 59).

Material conditions

recommendations

- immediate steps to be taken to ensure that prisoners are never placed in a dark cell for any length of time whatsoever (paragraph 68);
- the metal panel covering the window in cell N° 29 of Pavilion II at Zenica Prison to be removed forthwith (paragraph 68);

- serious efforts to be made to reduce occupancy levels in prisons; the aim should be to provide a minimum of 4 m² of space per person. Further, any cells measuring less than 6 m² should be taken out of service as prisoner accommodation. Where necessary, the partitioning of toilet facilities in multi-occupancy cells should also be improved (paragraph 70);
- the quality of food provided to persons held on remand at Sarajevo Prison to be reviewed and its quantity increased substantially, with due regard to the special needs of minors (paragraph 70);
- all necessary steps to be taken - and all available channels to be explored - with a view to improving material conditions in prison establishments, having regard to the remarks in paragraphs 60 to 68 (paragraph 70).

Regime

recommendations

- steps to be taken, as a matter of urgency, to radically improve the regime activities for remand prisoners. The aim should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; sport). The legislative framework governing remand imprisonment should be revised accordingly and staffing levels increased substantially (paragraph 72);
- immediate steps to be taken to ensure that all remand prisoners are offered at least one hour outdoor exercise every day. The outdoor facilities should be sufficiently large to enable prisoners to exert themselves physically (paragraph 72);
- the necessary steps to be taken to ensure that all prisoners at Zenica Prison have access to an appropriate range of work, educational, sports and recreational activities (paragraph 75).

comments

- the relevant authorities are invited to develop programmes tailored to the profile of different types of prisoners, in light of the remarks in paragraph 74 (paragraph 74).

requests for information

- the exact numbers of inmates involved in sports, recreational, and educational activities at Zenica Prison (paragraph 73).

Health care services

recommendations

- the health care teams at Sarajevo and Zenica prisons to be reinforced (paragraph 77);
- the health care facilities at Zenica and Srpsko Sarajevo prisons to be upgraded (paragraph 78);
- immediate steps to be taken - throughout Bosnia and Herzegovina - to ensure that all newly-arrived prisoners are systematically medically screened by a doctor, or a fully qualified nurse reporting to a doctor, within 24 hours of their arrival at a prison establishment (paragraph 80);
- the record drawn up after a medical examination of a prisoner, whether newly-arrived or not, should contain:
 - (i) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him;
 - (ii) a full account of objective medical findings based on a thorough examination;
 - (iii) the doctor's conclusions in the light of (i) and (ii); these conclusions should be made available to the prisoner and his/her lawyer (paragraph 82);
- existing procedures to be reviewed in order to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner, the record is brought to the attention of the relevant public prosecutor or the investigating judge (paragraph 82);
- measures to be taken to ensure that the rules of medical confidentiality are strictly respected in all prison establishments in Bosnia and Herzegovina (paragraph 83).

Zenica Prison Forensic Psychiatric Annexe

recommendations

- staff - including nursing staff - to be instructed once again that ill-treatment of patients is not acceptable and will be the subject of severe sanctions (paragraph 86);
- specific legal provisions to be adopted on the subject of consent to treatment, taking into account the remarks in paragraph 92 (paragraph 92);
- the authorities to provide within three months a workable strategy to facilitate the relocation of the Forensic Psychiatric Annexe to a site which could offer the potential to remedy the numerous shortcomings observed (paragraph 99);

- the following immediate steps to be taken:
 - fill the three vacant posts (full time psychiatrist, psychologist and social worker);
 - substantially reinforce the nursing team with properly trained staff;
 - considerably increase the number of patients benefiting from occupational activities;
 - establish an individual treatment plan for each patient, based on a multidisciplinary approach;
 - provide a facility for the routine monitoring of the blood of patients on clozapine, with a view to guaranteeing their physical safety;
 - establish a written policy on the use of isolation/means of restraint in accordance with the criteria set out by the CPT (CPT/Inf (98) 12, paragraphs 47- 50).
(paragraph 100);
- the Annexe to be provided with adequate heating in the winter, and supplementary shower facilities to be at the patients' disposal. The outdoor exercise facility should also offer, as far as possible, shelter from inclement weather (paragraph 100).

requests for information

- updated information on the progress made in solving some of the serious deficiencies observed during the visit (paragraph 99).

Contact with the outside world

recommendations

- steps to be taken to ensure that visits by lawyers to remand prisoners are unsupervised (paragraph 102);
- the possibility to receive "free visits" to be extended to female remand prisoners at Sarajevo Prison (paragraph 102);
- the necessary arrangements to be made in order to facilitate contacts (visits, telephone contacts, and correspondence) between prisoners - including those held on remand - and members of their families who live very far from a particular establishment (paragraph 104).

comments

- the relevant authorities are invited to introduce more open arrangements for visits to remand prisoners (paragraph 102).

Issues relating to juveniles

recommendations

- the relevant authorities to strive to ensure that juvenile prisoners are held in centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with young persons (paragraph 106);
- pending the setting up of such centres, the necessary steps to be taken to ensure that juveniles placed in prisons - including remand prisons - are provided with a full programme of educational activities (including physical education) and are accommodated separately from adult prisoners (paragraph 106).

Discipline, segregation, and means of restraint

recommendations

- persons facing disciplinary charges:
 - to be informed in writing of the charges against them and given sufficient time to prepare their defence;
 - to be permitted to call witnesses on their behalf and to cross-examine evidence given against them;
 - to be heard in mitigation of punishment, if found guilty by the Prison Director;
 - to have the right to appeal to an authority outside the prison establishment concerned against any sanctions imposed (paragraph 110);
- a prisoner placed in segregation (or increased supervision) or in respect of whom such a measure is extended to be informed in writing of the reasons therefor (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security) (paragraph 111);
- a prisoner in respect of whom a segregation (or increased supervision) measure is envisaged to be given an opportunity to express his views on the matter (paragraph 111);
- the placement of a prisoner in segregation (or increased supervision) to be fully reviewed at least every three months (paragraph 111);

- prisoners to have the right to appeal to an authority outside the prison establishment concerned against the imposition or extension of a segregation (or increased supervision) measure (paragraph 111);
- the metal rings on the floor of two of the solitary confinement cells at Sarajevo Prison to be removed forthwith (paragraph 112);
- appropriate steps to be taken to ensure that any placement in a solitary confinement or segregation cell and any use of instruments of physical restraint (whether or not this is in a medical context) is duly recorded, with a reference to the grounds and the length of time involved. Preferably, specific registers should be established for the recording of such information (in addition to it being recorded in the individual file of the person concerned) (paragraph 113).

comments

- a padded cell at Banja Luka Prison was extremely small (2.4 m²) (paragraph 112);
- in cases where a prisoner is, or becomes, highly agitated, prison staff should immediately contact a doctor and act in accordance with his or her opinion, rather than shackle the person concerned to furniture or fixtures (paragraph 112).

Complaints and inspection procedures

recommendations

- the relevant authorities to ensure forthwith that all prisoners (both remand and sentenced), throughout the penitentiary systems of each entity, are provided with precise written information (which should be set out in a straightforward manner and available in an appropriate range of languages) on the avenues of complaint available to them, as well as with confidential access to the bodies authorised to receive complaints. Where required, practical measures should be taken to ensure that complaints are transmitted confidentially (for example: installing locked complaint boxes accessible to prisoners, to be opened only by specially designated persons) (paragraph 114);
- the manner in which visits are carried out by judges of the competent court to be reviewed. The judges should not limit their activities to prisoners who expressly request to meet them, but should take the initiative by themselves entering into direct contact with inmates (paragraph 115).

requests for information

- whether remand prisoners have the right to send written complaints to judges of the competent court on a confidential basis (paragraph 115).

A. Psychiatric establishments

Ill-treatment

recommendations

- measures to be taken at Sokolac Psychiatric Hospital, at managerial level, in order to ensure that staff are instructed, by appropriate means and at regular intervals, that: the ill-treatment of patients will not be tolerated; all relevant information regarding alleged ill-treatment will be investigated; and perpetrators of such treatment will be subject to severe sanctions (paragraph 119);
- the level of staffing at Sokolac Forensic Psychiatric Unit (Closed Section) and in the Male and Female Acute Wards at Jakeš Institution to be reviewed urgently, with a view to reinforcing the presence of qualified staff and ensuring adequate supervision by staff at all times (paragraph 122).

requests for information

- information to be provided without any further delay on measures actually taken to address the safety issues arising out of the prevailing conditions at Jakeš Male and Female Acute Wards (paragraph 121).

Patient's living conditions

recommendations

- measures to be taken in the Forensic Psychiatric Unit and the Male Acute Ward at Sokolac Psychiatric Hospital to:
 - reduce occupancy levels in the dormitories to an acceptable standard (at least 4 m² living space to be provided for each patient). In this context, it is imperative that every patient has his or her own bed;
 - immediately offer all patients accommodated in locked units, health permitting, at least one hour a day of outdoor exercise in a reasonably spacious setting, which should also offer shelter from inclement weather;
 - ensure adequate heating, when necessary;
 - offer better conditions, in particular as regards space and decoration, in the day-rooms of the respective locked units;
 - equip the Forensic Psychiatric Unit's "locked" ward with a television set;
 - give particular attention to the decoration of patients' dormitories(paragraph 128);

- efforts to be made at the Male Acute Ward at Sokolac Psychiatric Hospital to maintain an adequate level of hygiene in all parts of the ward, including in the sanitary facilities (paragraph 128);
- immediate measures to be taken to ensure that the physical safety of patients taking their meals at the patients' refectory at Sokolac Psychiatric Hospital is fully guaranteed (paragraph 129);
- measures to be taken in the Male and Female Acute Wards at Jakeš Institution to:
 - immediately provide all female acute patients with adequate clean bedding;
 - immediately raise the level of hygiene in the sanitary facilities to hospital standards;
 - offer all patients accommodated in the acute wards, health permitting, at least one hour a day of outdoor exercise in a reasonably spacious and secure setting, which should also offer shelter from inclement weather;
 - offer better conditions, in particular as regards space and decoration, in the day-rooms of the respective locked units;
 - give particular attention to the decoration of the female patients' dormitories (paragraph 134);
- steps to be taken by the management of Jakeš Institution to improve, as a matter of urgency, security arrangements within the Male and Female Acute Wards, in the light of the remarks in paragraph 135 (paragraph 135).

comments

- consideration should be given to the renovation of the unused part of the Forensic Psychiatric Unit at Sokolac Psychiatric Hospital, with a view to setting up, for example, workshops aimed at offering occupational activities to patients held in the "locked" ward and to reduce the level of overcrowding in the Unit's dormitories (paragraph 128);
- it is important to ensure adequate perimeter security around the Forensic Psychiatric Unit at Sokolac Psychiatric Institution (paragraph 130);
- the installation of a television set in the Female Acute Ward at Jakeš Institution should be considered (paragraph 134).

Treatment and care

recommendations

- individual treatment plans to be established for each patient at the Forensic Psychiatric Unit and Male Acute Ward at Sokolac Psychiatric Hospital, in light of the comments made in paragraph 137 (paragraph 139);
- increased efforts to be made at Sokolac Psychiatric Hospital to develop psycho-social rehabilitation in the units visited (paragraph 140);
- steps to be taken at Sokolac Psychiatric Hospital to ensure that medication prescribed is in fact provided, and that a regular supply of appropriate medicines is guaranteed at all times (paragraph 141);
- efforts to be made at Jakeš Institution to increase the number of patients benefiting from occupational therapy activities (paragraph 144);
- steps be taken at Jakeš Institution to ensure that medication prescribed is in fact provided, and that a regular supply of appropriate medicines is guaranteed at all times (paragraph 145);
- measures to be taken at Jakeš Institution to ensure that only health care professionals are included on the medical duty rota (paragraph 146);
- measures to be taken at Jakeš Institution to ensure that an ongoing record of the patient's mental and somatic state of health is kept in his/her personal medical file (paragraph 147).

comments

- there could be problems if patients in the Forensic Psychiatric Unit at Sokolac Psychiatric Institution needed expensive medication, as the general hospital would ask the FPU to meet the cost (paragraph 142).

Staff issues

recommendations

- the level of staffing within the Forensic Psychiatric Unit and Male Acute Ward at Sokolac Psychiatric Hospital and the Male and Female Acute Wards at Jakeš Institution to be urgently reviewed, with a view to reinforcing the presence of qualified medical and nursing staff. Having regard to the specific duties performed and the number of patients held at the Forensic Psychiatric Unit at Sokolac, the official complement of psychiatrists (i.e. three psychiatrists) and nurses (i.e. three nurses) should be regarded as an absolute minimum (paragraph 150);

- at Sokolac Psychiatric Hospital and Jakeš Institution, other staff (psychologists, occupational therapists, social workers) should also reinforce the existing teams, with a view to increasing the multidisciplinary nature of the treatment provided to the patients (paragraph 150);
- alarm/call systems (for example, panic beepers or call buttons) to be installed for staff working in the forensic and acute wards at Sokolac Psychiatric Hospital and Jakeš Institution (paragraph 152).

comments

- the authorities are invited to set up working procedures as described in paragraph 151 along with the staff reinforcement (paragraph 151).

Means of restraint/isolation

recommendations

- a clearly defined policy on the use of means of restraint to be drawn up immediately at Sokolac Psychiatric Hospital and Jakeš Institution, as well as in any other such establishment in Bosnia and Herzegovina, taking into account the criteria set out in paragraph 154. Moreover, police handcuffs should not be used to restrain patients in psychiatric establishments; if necessary, approved soft restraints or leather straps should be made available (paragraph 157);
- a written policy to be established on the use of isolation, in accordance with the criteria set out by the CPT in its 8th General Report (cf. paragraphs 49 to 50 of CPT/Inf (98) 12) (paragraph 158).

comments

- the authorities are invited to consider using single accommodation when applying means of restraint to patients, in order to avoid this being done in the presence of other patients and visitors (though this should not be to the prejudice of the close supervision required by such patients) (paragraph 157).

Safeguards

recommendations

- steps to be taken to ensure that the draft Mental Health Act of Republika Srpska is in conformity with the criteria set out by the CPT in its 8th General Report concerning the safeguards to be offered to patients in the context of involuntary placement (cf. paragraphs 51 to 57 of CPT/Inf (98) 12) (paragraph 163).

requests for information

- on the signing of an Inter-Entity Agreement on involuntary placement in psychiatric establishments or special institutions (paragraph 161);
- copy of the draft Mental Health Act being prepared in Republika Srpska (paragraph 163).

APPENDIX II

**LIST OF THE GOVERNMENTAL AUTHORITIES AND INTERNATIONAL
ORGANISATIONS WITH WHICH THE CPT'S DELEGATION
HELD CONSULTATIONS**

A. State authorities

Ministry of Foreign Affairs

Mladen IVANIĆ	Minister
Lidija TOPIĆ	Deputy Minister

Ministry for Human Rights and Refugees

Ivica MARINOVIĆ	Deputy Minister
Minka SMAJEVIĆ	Principal Liaison Officer to the CPT

Ministry for Security

Bariša ČOLAK	Minister
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Ministry of Justice

Niko GRUBEŠIĆ	Deputy Minister
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B. Federation of Bosnia and Herzegovina

Ministry for the Interior

Mevludin HALILOVIĆ	Minister
Dragoljub TOMIĆ	Inspector (Liaison Officer to the CPT)

Ministry for Health

Tomo LUČIĆ	Minister
Vesna ŽULJEVIĆ-SERTIĆ	Expert Adviser (Liaison Officer to the CPT)

Ministry for Justice

Rešad FEJZAGIĆ	Assistant Minister responsible for the execution of criminal sanctions
Željko BOŠNJAK	Inspector for the execution of criminal sanctions
Ahmo ELEZOVIĆ	Inspector for the execution of criminal sanctions

C. Republika Srpska

Ministry for the Interior

Zoran ĐERIĆ
Petar ŠIKMAN

Minister
Inspector (Liaison Officer to the CPT)

Ministry for Justice

Saud FILIPOVIĆ
Strahinja ČURKOVIĆ

Minister
Assistant Minister responsible for the execution of
criminal sanctions
Inspector (Liaison Officer to the CPT)

Milan KOSOVIĆ

Ministry for Health

Marin KVATERNIK
Stevan JOVIĆ

Minister
Assistant Minister (Liaison Officer to the CPT)

D. International Organisations

European Union Police Mission (EUPM)
International Red Cross Committee (ICRC)
Office of the High Representative (OHR)
Organisation for Security and Co-operation in Europe (OSCE)