



Building free of torture and impunity societies in Western Balkans



International Rehabilitation Council for Torture Victims

RIGHTS OF PERSONS DEPRIVED OF LIBERTY IN THE PRISON SYSTEM OF MONTENEGRO AND OTHER CLOSED INSTITUTIONS



Building free of torture and impunity societies in Western Balkans
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Publisher

Edina Hasanaga Čobaj

Editor

Milan Radović

Project Cooperators

Boris Raonić

Zoran Vujičić

Blažo Crvenica

Ivana Drakić

Translation

Jelena Ristović

Print and design

Copy centar DOO, Podgorica

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PREVIOUS INFORMATION

Project “Building Free of Torture and Impunity Societies in Western Balkans” implemented Youth Initiative for Human Rights (YIHRMN, member of Civic Alliance) as the leading partner and partners Youth Initiative for Human Rights Serbia (YIHRSR), Albanian Rehabilitation Center for Trauma and Torture Victims (ARCT) and International Rehabilitation Council for Torture Victims (IRCT) from Denmark. The European Union financially supported the project. Implementation of the project started in November 2013, and shall last until September 2016.

Goal of the project is to contribute to the society without torture through civil society activities directed towards torture and other cruel, inhuman and degrading treatment or punishing, and promotion of international standards, especially Optional Protocol with the UN Convention against Torture and Other Cruel, Inhuman and Degrading Punishments or Treatments (OPCAT). The project aimed to promote human dignity in prisons, through elimination of torture and inhuman treatment of vulnerable persons in prisons in Montenegro, Serbia and Albania.

Specific goal was to improve access to adequate legal services for the risky category of prisoners, in order to achieve significant changes in practice of officials in prisons. Among other matters, the project envisaged research activities and documenting of cases of torture, inhuman and degrading treatment or punishing and provision of free legal aid to convicted persons. In January 2014, YIHRMNE organized training “Monitoring of prisons for persons deprived of liberty, conducted by civil society”, aimed to improve the quality of visits. The training led George Tugushi, expert and member of the Committee for the Prevention of Torture (CPT). Participants in this training were representatives of NGO sector, who participated in project implementation. During the training, focus was on international standards and challenges of monitoring, the role of civil society organizations, and capacities and practice of NPM in Balkan countries and the European Union.

Continuation of this report elaborates results of these activities and depicts the situation at the time of monitoring visits to closed institutions in Montenegro.

Besides these activities, in the frame of this project, YIHR organized trainings for the prison staff and medical staff in prisons, and for the law and medicine students, trainings for improvement of NGO capacities in this area, through exchange of experience and regional access. Study visits were also organized in the frame of the project.

Monitors who participated in these visits were: Boris Raonić, Edina Hasanaga Čobaj, Milan Radović, Zoran Vujičić, Admir Hadžibegović, Gezim Čobaj, Arijeta Dacić, Adnan Striković, Mirko Kalezić, Dejan Bašanović, Marta Jovićević, Jelena Raičević, Dijana Milošević, Danijela Radović, Biljana Alković, Milica Gačević, Andrijana Jokanović, Jovana Šebek, Elvis Beriša, Sabra Decević, Fuad Čekić, and Maida Burdžović.

YIHR is grateful to all the people who contributed to development of this report and to officials of institutions, who worked on monitoring of respect of human rights of persons deprived of liberty, for cooperation and readiness to improve the level of readiness.

METHODOLOGY

Methodology we used to provide information for this report was based on Memorandums on Cooperation with competent public institutions, national regulations and previously developed methodology of Youth Initiative for Human Rights (YIHRMNE) and its partners.

Activities were directed on researching and documenting of cases on human rights violation through regular monitoring of premises and conditions in Institution for Enforcement of Penal Sanctions (ZIKS), on provision of free legal aid for victims of torture and inhuman treatment, communication with ZIKS officials, medical staff, and regional exchange of experience.

On 14 February 2014, YIHRMNE signed Memorandum on Cooperation with ZIKS and Ministry of Justice. Memorandum prescribed the rights and duties of signatories for the project implementation period, with the aim to contribute to respect of human rights and freedoms of sentenced persons, prescribed by the Constitution of Montenegro, ratified international conventions and agreements, and national regulations. Among other matters, Memorandum defined form of cooperation and communication when statements and facts on violation of human rights of prisoners in ZIKS occur. Furthermore, this document envisaged prospects for regular and extraordinary monitoring visits to joint premises and cells for accommodation of sentenced persons; conversation of monitoring team with employees and persons deprived of liberty, with their approval and without presence of official persons. At the end, Memorandum defined duties of YIHRMNE to organize education workshops for officers of ZIKS.

YIHRMNE, Ministry of Interior – Police Directorate, and Supreme Public Prosecution Office signed on 18 November 2015, Memorandum on Cooperation that prescribed improvement of protection from torture, inhuman and degrading treatment or punishing in Montenegro. Goal of this Memorandum was to contribute to faster and more efficient implementation of recommendations of international expert bodies and committees, and improvement of cooperation of national institutions and civil society, with the aim to increase the level of respect of human rights of persons deprived of liberty by the Police Directorate.

Some of these activities prescribed by the Memorandum implied unannounced visits to police stations and security centers of the Police Directorate. Trained monitors of YIHRMNE participated in these visits, who had right to communicate with persons deprived of liberty, without police officers. At the same time, they had the insight into all premises of these institutions and right to review documentation on detention or

deprivation of liberty, respecting the principles of identity protection, and after the approval of people related to data.

YIHRMNE used the techniques of researching on the terrain, press clipping, legal analysis, interviews, SOS phone line, and official reports of public institutions and international organizations. For the need of this report, information were collected until 10 May 2016.

RESUME

When it comes to respect of rights of persons deprived of liberty and conditions of places of deprivation of liberty, the progress was made in comparison with the earlier period.

On the other side, number of cases of human rights violation was registered, starting from serious violations such as torture and abusing, over poor and inadequate conditions, where persons deprived of liberty were placed; until disrespect of international and national defined rules and standards.

ZIKS

Ministry of Justice and ZIKS made significant progress in terms of respect of human rights of persons deprived of liberty and conditions of places of deprivation of liberty. New administration of ZIKS is devoted to creation of better conditions and is opened for cooperation with NGOs dealing with human rights. Significant number of officers of ZIKS uses force and other competences in accordance with the law. However, we registered cases of torture and inhuman treatment and punishing. For that reason, it is important to continue with education, to change practice and improve material conditions and efficient implementation of alternative sanctions and security measures. Competent public institutions, primarily Prosecution Office, have to conduct urgent, impartial and efficient investigations that will lead to sanctioning of committers, after reports for torture and inhuman treatment. Also, competent bodies in ZIKS should conduct disciplinary measures and determine responsibility of all committers, according to allegations on human rights violation. This practice should be used in case in January 2015, when officers revenged to sentenced persons for assaults on them.

Some parts of ZIKS are overcrowded, which is opposite to international standards. European Court of Human Rights already said that overcrowded prisons were serious problem, according to the Article 3 of the European Convention for Protection of Human Rights and Fundamental Freedoms. Standard recommended by CPT is four square meters. When it comes to this matter, we should mention the verdict of the Court in case Bulatović against Montenegro. For that reason, it is important to continue with measures for resolving of problem related to overcrowded capacities in ZIKS.

In some parts of prison violence and intolerance between convicted persons often occurs. Administration of ZIKS should restrain violence among prisoners. Officers should not encourage violence and should react on all cases of violence among convicted persons. They are obliged to inform administration about all cases of violation.

Prison medical staff and complete health care protection should be under competences of Ministry of Health. Although health care protection is improved and number of medical workers rose, continuation of reforms is still important for adequate health protection of convicted persons. Good cooperation with health system in community is needed, primarily with Clinical Center of Montenegro, so that sentenced persons can receive adequate and timely protection.

Duties of employees at the health care service for prisoners can often come in conflict with the interests of prison administration and security. For that reason, and in order to avoid hard situations of ethical issues, their independence has to be guaranteed. Thus, CPT believes that such a staff largely acts in accordance with prevailing manners for provision of health protection in community on liberty. “Whatever the formal position under which a prison doctor carries on his activity, his clinical decisions should be governed only by medical criteria. The quality and the effectiveness of medical work should be assessed by a qualified medical authority. Likewise, the available resources should be managed by such an authority, not by bodies responsible for security or administration.” (CPT standards, Paragraph 72)¹

Conditions for adequate and dignified staying of persons with disabilities in prisons, have not been provided. Thus, all facilities under the competence of ZIKS should be in accordance with standards. Also, adequate treatment has not been provided for drug addicts. Methadone therapy is not available for people who did not start to use it before arrival in prison. Programs directed towards treatments of drug addiction do not exist, neither do self-help groups. It is important to develop efficient resocialization programs, in cooperation with all institutions and nongovernmental organizations, because the number of prisoners is still very high. After leaving the prison, convicted persons feel confused, scared, and helpless. Such feelings, and facing the problem they have, are reasons of recidivism among this population and their return to prisons.

It is also important to continue with the trainings for officers of ZIKS, who work in security service and do very responsible and risky jobs. When it comes to these programs, it is important to emphasize prohibition of discrimination and torture, prevention of conflict, and communication skills, treatment of juveniles deprived of liberty and on implementation of new legal regulations. Number of employees in all sectors should be higher, especially in the security sector, but also professional staff such as psychologists, pedagogues, and social workers, aiming to rehabilitation and resocialization.

¹ CPT Standards <http://www.cpt.coe.int/en/documents/eng-standards.pdf>, page 46

Police Directorate

Rights of persons deprived of liberty by Police Directorate officers, still have not been guaranteed in practice, besides relatively good legislative and institutional framework for the control of work of the police and although material conditions have been improved. Thus, it is important to respect fundamental human rights at the time of depriving of liberty. Competent bodies in the Ministry of Interior and Police Directorate should regularly send messages that torture and inhuman treatment of citizens by officers, will not be tolerated. Police Directorate should cooperate with all public institutions and bodies, such as Basic Public Prosecution Office and the Council for the civil control of work of the police, and should also regularly report about the police officers who illegally acted and violated human rights. This is especially related to cases of torture and inhuman treatment after the protests in October 2015. Prosecution Office and the Police should identify all police officers who violated human rights during protests and process their responsibility.

Conditions in premises for detention of persons deprived of liberty are improved, but, in some police stations conditions are still concerning and need urgent activities on reconstructing and building of new premises. Registers kept by police officers have not been standardized and the practice is different. Some registers still miss, such as special registers of medical assistance, required by persons deprived of liberty.

Institution Komanski most

Significant progress has been made in terms of respect of rights of residents of the Komanski most Institution for People with Special Needs. YIHR supports that children are no more residents of this Institution. Our proposal is that Ministry of Labor and Social Welfare and Institution Komanski most, in cooperation with other competent bodies, should provide users free legal aid and possibility to reconsider decision on their accommodation in the Institution, before competent court and to be regularly informed about this. At the same time, we suggest that the decision on prolongation of accommodation should be timely considered by competent court, no matter if the procedure has been initiated by the user itself. Improvement of staff capacities, primarily medical staff, should be continued. Regular training programs should be introduced for all employees as well.

Special Psychiatric Hospital

Almost 50% of persons, who do not demand further treatment, are accommodated in this institution. This largely makes work of this institution hard and at the same time prevent other patients, who need help, to receive adequate medical protection and good conditions. Therefore, the country should develop the social care system and provide adequate alternatives for persons who are accommodated in this hospital but do not

need further treatment. YIHR reminds that the Committee for Economic, Social and Cultural Rights gave the same suggestions to Montenegro in 2014. This would increase the number of patients who would participate in therapeutic and rehabilitation activities, adapted to their needs, and the specter of such activities would also be extended. It is also important to improve the number of employees, primarily medical staff, and to establish adequate security system, in accordance with CPT recommendations.

INSTITUTION FOR EXECUTION OF CRIMINAL SANCTIONS (ZIKS)

INTRODUCTION

Institution for Execution of Criminal Sanctions (ZIKS) is under the auspices of the Ministry of Justice. The following sanctions are executed in ZIKS: imprisonment sentence, 40 years imprisonment sentence, juvenile prison, security measures for treatment of alcoholics, security measures for treatment of drug addicts, security measure for presence of accused person in criminal proceeding – detention, and also psychiatry observing and expertise.

Structure of ZIKS has organizational units – Detention and Rehabilitation Center Podgorica (KPD), Remand prison, Facility for short term prison sentences, Prison Bijelo Polje, Health care service, and Center for Education of Staff.

During the project implementation, monitoring team conducted 21 visits. YIHR organized monitoring visits in cooperation with NGO “4Life”, LGBT Forum Progress, Social Inclusion Institute, Association of Paraplegics, and NGO ROM “Walk with us-Phiren amenca”. We also included representative of Islamic community and court medical experts in monitoring visits. During visits we monitored and researched acting of officers of ZIKS towards persons deprived of liberty, conditions, treatments, job engagement and free time, health protection and other elements important for every-day functioning in ZIKS.

During the project implementation, YIHR achieved good communication and cooperation with representatives of Ministry of Justice and ZIKS. Our impression is that goals of the project were clear and understood, thus representatives the Ministry and ZIKS took the partner attitude during the project implementation. All prison officers were kind, open and willing to cooperate. However, in January 2015 monitoring team did not receive approval to visit accused persons who were moved from the prison in Podgorica in the prison in Bijelo Polje, because they participated in the incident on 14 January 2015.² We were informed that the visit to these people could not take place at the time of prosecutorial investigation of the incident and while accused persons were in solitaries. We were told at the same time, that Police Department, Public Prosecution Office and Protector of Human Rights and Freedoms were informed about this event.

Although YIHR was approved to visit convicted persons, who participated in the incident, a month after the incident, authorities in ZIKS should allow independent bodies

and human rights organizations to visit sentenced persons, especially those who might be at risk of torture or revenge of officers, because of the incident, such as this one, where mentioned persons participated. More about this incident see the part Torture.

ZIKS is the institution for detainees and sentenced persons, health protection, treatment, and reintegration of prisoners, professional training and work of prisoners, professional development of officers of the Institute and for other affairs.

Monitoring team visited Detention and Rehabilitation Center (KPD) in Podgorica, medical facilities, Female Prison, Remand prison, Prison for Short Sentences, and Bijelo Polje Prison.

MATERIAL CONDITIONS

a. General information

Although number of sentenced persons and detainees reduced in comparison with the previous period (before 2013), prison is still overcrowded. On monitoring visit day, number of prisoners was from 1,110 to 1,440. As representatives of ZIKS told us, overall capacities of ZIKS was 1,350 places – out of this number, 655 in KPD Podgorica, 350 in Remand prison, 185 places in Prison for Short Sentences, and 160 places in Bijelo Polje Prison. Almost 1,100 persons served sentence and capacities were one thousand places. However, some cells were overcrowded and smaller than 4 square meters for living, not counting the space that has sanitary addition.

During monitoring visits (from 2014 until the middle of 2016) material conditions significantly improved. A lot of failures we noticed, in terms of material conditions, authorities of ZIKS solved during the project implementation. However, monitoring team noticed that some cells, bathrooms, and medical facilities in Bijelo Polje Prison were inadequately equipped, so their adaptation and reconstruction were recommended. Authorities of ZIKS required reconstruction of eight premises – cells of prisoners, bathroom and medical facility. YIHR supports attitude of ZIKS and efforts they made to improve material conditions.

The most comprehensive work was done during the adaptation of 120 square meters space, for the needs of the prison, for sentenced juveniles, in the frame of KPD Podgorica.

Among other things, reconstruction was conducted in pavilion A, where the roof was repaired, new prison kitchen was built and equipped, reception ward was reconstructed, three accommodation premises, medical facility, dentist facility, two treatment premises, three accommodation rooms and two cells, and part of the roof. In the pavilion B, bathroom for prisoners was adapted, space for work of officers and employees in the prison kitchen. In the pavilion D, bathroom and the kitchen, which prisoners use, was thoroughly adapted. In the Female Prison part of the roof was adapted; and room for the family visits was also equipped. Bathroom was adapted in semi-open section, two rooms were

adapted for the family visits, space for the gym was extended and the roof construction was settled, tennis court was also arranged. Juvenile prison was also adapted (two bedrooms, one cell for persons with disabilities, one solitary, office for employees and a hall). In the remand prison was adapted flat roof, and hydro isolation, accommodation space and toilet were also reconstructed, which is used by juveniles in detention, two rooms for the hospital facilities were reconstructed and equipped, and also the space for walk of detainees. For the needs of persons with disabilities, a ramp has been settled.

Conditions for accommodation and work of prisoners were also improved in Bijelo Polje Prison, where seven cells were reconstructed. Out of this number, four cells had four beds each, and three cells had three beds each. Bathroom with the shower and medical facility were also adapted. Eight cells were reconstructed in Remand prison. Two premises for religion rituals were reconstructed and fully equipped, premise for family visits was also reconstructed and equipped, and two solitaires as well. In the closed section of Bijelo Polje prison, walk path was covered with concrete and walls were painted. This section also has a new gym, which is closed and covered and the accommodation with specific content was also arranged.

Libraries in prisons in Podgorica and Bijelo Polje were supplied with 586 new books.

b. Detention and rehabilitation center Spuž (KPD)

Material conditions in the Pavilion F of KPD are at satisfying level. Monitoring team noticed that each convicted person has its own bed. Three to four prisoners were accommodated in cells. Each floor has bathrooms, and as prisoners said, they always have warm water. They also said they could take a shower any time they want. Each cell has a toilet and central heating.

Monitoring team visited the kitchen, which was in the final construction phase. The kitchen is large and has modern technical equipment. As it was planned, sentenced persons shall work in this kitchen.

Entrance in the kitchen is provided for persons with disabilities. Considering that employment of sentenced persons with disabilities in the kitchen is possible, it is important to adapt the kitchen for their free movement. For example, it is important to adapt at least one of three toilets in the frame of the kitchen.

New kitchen that was not put in function at the time of monitoring visit, has technical possibilities for preparation of food, for Muslims. According to the contract between the Government and Islam community, which was signed on 30 January 2012, the Government obliged on provision of food for members of Islam community in Institution for Execution of Criminal Sanctions, in accordance with the needs of believers. Members of Islam community, who were members of monitoring team, recommended separate

preparation of food and placing the food in separate refrigerators. Considering the fact that in Montenegro exist meat producers who had certificate from competent agencies to respect these requirements, public call for tenderers should emphasize that products should fulfill halal standards. When the kitchen becomes operational, it is important to engage one representative of Islam religion in the kitchen.

Representatives of ZIKS said that they had good cooperation with all religious communities in Montenegro and that all religious communities had rituals when they celebrate significant days. Clerics come few times a week in ZIKS, at the request of prisoners. Except this, library in ZIKS has adequate religious literature that is available for prisoners. This literature has been donated by the above mentioned religious community, according to good cooperation. At the time of certain holidays, prisoners are allowed to eat adequate food. In this manner, and for all cases, acting towards prisoners is in accordance with Law on execution of imprisonment sentences, fines, and security measures. Premise for religious rituals and prayers is placed in this part of the building. In cooperation with ZIKS, Islam community organizes arrival of their cleric who leads the Bayram prayer. In the past year, clerics of Islam community lead joint prayer every Friday. As representatives of Islam community in the monitoring team concluded, management of ZIKS expressed understanding for this.

For the needs of collective prayers has been used the premise that was used for visits. As monitoring team concluded, this premise fulfills the needs of Islam community. The existing facility is temporarily adapted to this purpose, because of the project that exists for construction of multifunctional space that would be used for collective prayers. As we were informed, the project has already been developed.

Persons who use wheelchairs cannot not use the premise intended for religious rituals, because the entrance has three stairs without a ramp. A ramp should be constructed at the entrance of the premise, which will have a rail with the handhold, or religious rituals should be done in the premises adapted for persons with disabilities.

c. Facility for short term prison sentence

Only sentenced males are placed in the Facility for short term prison sentences. In this prison are also accommodated persons from the southern and central region, sentenced for misdemeanor; and foreign citizens as well.

As we were informed, the prison has four blocks, two sections, and 198 beds. During the visit, 127 persons were in the prison. In semi-open section were 81 persons, while 46 were at the closed section. Semi-open section has the largest number of cells (14), while closed section has nine premises. Cells had at least four, but some of them had nine beds.

In the frame of the prison is disciplinary section with three solitaires, which were in poor condition. At the time of the visit, we noticed that ten prisoners were accommodated in some cells. These prisoners are sentenced to six month imprisonment. Last year, 1300 persons were placed in this prison.

Employees in this institution said that the prison was overcrowded, which was serious problem. At the moment of monitoring visit, 60% of prisoners worked in prison.

d. Remand prison

Visit to Remand prison took place on 26 February 2016. On a day of visit, 270 detainees were at the Remand prison. We were informed that accommodation capacities for 350 persons included 81 cells. Out of this number, 12 were women and one juvenile, who was 17 years old at the time of monitoring visit. Juvenile was accommodated in the cell intended for juveniles.

Main problem of this prison is large number of people in detention, overcrowded cells, lack of protocol, such as the protocol on fixation, lack of registers, lack of employees in all services, even in health care service, and finally, although conditions have been improved, additional investment and reconstructions are needed.

Although monitoring team was informed that the number of detainees was smaller than accommodation capacities, monitoring team noticed that some cells were overcrowded. In a cell that has less than 29 square meters (space with the toilet, metal construction that extends to the window and does not allow communication through the window) eight people were accommodated. Security officers told us that sometimes number of prisoners in this cell is higher, even more than ten persons. At the same cell, of the same size, only four people were accommodated. **Management of this prison should consider proportional allocation of detainees, in order to respect standard of minimum four square meters on one prisoner.**

In a solitary that has seven square meters, two detainees were placed. Usually two persons are placed in solitaires.

One cell of 29 square meters was under reconstruction, and as we were informed, three persons were accommodated in it. During the monitoring visit, one solitary was empty. As the officers told us, this cell should be renovated. However, visiting this solitary, we noticed it was in a very poor condition. Windows in each cell of the Remand were protected from the inside with a metal cage, which prevents detained persons to come close to the window. Officers explained that prevents detainees to communicate with someone outside. Monitoring team noticed moisture on the walls of some cells. Windows were small, thus, daylight was reduced, there was lack of ventilation and some cells were not tidy and clean.

Hygiene articles are shared on a weekly level. Labor engaged detainees do not have right to free hygiene articles.

One convicted person complained to monitoring team that he did not receive clean bed-sheets, pillow and a blanket when he arrived in prison.

Article 26 of the Rulebook on detailed rules for enforcement of detention defines that detainee has the right on taking a bath once in a week (on Saturday or Sunday). The exceptions are detainees who are allowed to take a bath often, due to their health reasons. It was also stated that in practice, taking a bath is allowed more often, even for labor engaged persons. According to detainees, conditions in bathrooms should be improved, because they do not have towel hangers and shelves for shampoos.

Members of the monitoring team noticed that safeguards smoked in halls. Such practice should be prohibited, with clear orders from authorities in ZIKS.

In the part of the prison with women, three to four detainees were accommodated. Except beds, these cells have tables and TVs. Cells were poorly aired, with poor daily light. All detainees had access to showers, on a daily level. **Attitude of the European Court of Human Rights is:** “The Court repeats that Article 3 requires the State to ensure that detention conditions are compatible with respect for human dignity, that the manner and method of the execution of the measure do not subject the detainees to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, their health and well-being are adequately secured” (see the verdict Bulatović against Montenegro, paragraph 120).

The questionnaire we conducted during the visit to the Remand prison contained the question on conditions in detention. Out of 13 persons who gave answers, only one person responded that conditions in cells were not good, while two persons said that the hygiene was poor. Access to job and labor engagement were assessed as the worst, as well as health care protection and food. Only one person had remarks on relations of officers of ZIKS and detainees.

e. Female prison

After monitoring of Female Prison, the impression is that the conditions of accommodation in prison were satisfactory. Cells were in good condition, numerated, clean and ventilated, color of walls was pleasant. Cells did not have bathrooms, but only toilets and washstands. Bathrooms were separated. Only four shower cabins were in the bathroom, and one washing machine. We were informed that prisoners had the right to take a shower every time they need, but were obliged to inform the Chief of the Section about that.

Number of women in the prison during the monitoring visit was almost 25. In this prison are accommodated women for criminal and misdemeanor offences. There are no separate cells, but all of them are accommodated together. Overall capacities were 37 beds and two more beds in disciplinary department (solitaries). Size of cells is between 16 and 25 square meters. Female part of the prison has a joint premise that has benches, TV and a fridge.

Among female prisoners were minorities. They did not complain on treatment of officers, and behavior of other female prisoners. We noticed that Roma women were accommodated together in a cell. As we were told, that was done on their requirement, in order to make their communication easy, because some of them did not know Montenegrin language.

As female prisoners did not have sport equipment in previous period, the prison obtained exercise equipment they used. Premise for visits is at the same time used as the office of the Chief of Department. Exercise equipment is also placed here, and this premise also serves as the working premise.

Female prison also has a library, with almost 1200 books. Literature is various, starting with the belletristic, books about the preparation of food, and wide range of manuals. One female prisoner is employed at the library and receives compensation for this job. On a day of visit, a woman with a baby was at the Female Prison. A cell where mother with a baby was accommodated was adequate, with a crib, and other baby care equipment. Chief of the Female Prison informed us that they took care about regular controls, whether there was enough food for the baby, and if the medical care was received timely, when it was necessary. Women accommodated in the prison with a baby did not complain on treatment of officers or conditions in prison.

f. Bijelo Polje Prison

Prison in Bijelo Polje is divided on Remand and Prison for short term sentence. Building of the prison is in the center of the town, in a very busy location. Persons from eleven municipalities at the north of the country, were accommodated in this prison. In this prison are also accommodated persons for criminal and misdemeanor offences. However, the exceptions are persons that have been transferred from the prison in Podgorica for security reasons, or convicts from the northern part of Montenegro, due to their poor financial conditions, who asked to be transferred and be closer to their hometown. Two prisoners escaped in 2015. J.Z. from Mojkovac escaped on 7 October 2015, on his way to visit seriously ill family member. Basic court in Bijelo Polje punished Goran Šćekić, former Head of Prison in Bijelo Polje to six months imprisonment sentence, because of abuse of official position. This punishment will be executed, if this person does not commit new criminal act in the next two years. Head of the escort security S.D. and officers D.T. and S.A. were punished to three months imprisonment sentence each, because they

make escape possible for J.Z. their punishment will be executed if they commit new criminal act.

In another case, prisoner I.V. escaped from the prison in Bijelo Polje, on 24 December 2015. He came into the possession of the official gun, disarmed guards and escaped from the prison. The proceeding is in course.

During the monitoring visit, conditions in this prison were not satisfactory. The building is too old and cells were overcrowded and had the moisture problem. During the monitoring period, authorities conducted adaptation and renovation of the prison, which significantly improved conditions. All of this is described in the section a. General information.

As the competent ones in prison in Bijelo Polje said, construction of new prison in Bijelo Polje for up to five years has been planned by the Action Plan for 2012. However, construction of the building has not started until the end of the project and monitoring.

Ambulance facility was especially critical. The kitchen also did not fulfill technical conditions. Daily light in most cells was weak. Size of cells was 30 to 36 square meters. Four to eight prisoners were accommodated in cells, which depends on size of a cell. Ramps for persons with disabilities were put on the entrance of cells. Ramps do not satisfy technical standards. The prison has two floors, seven cells and 56 beds. Detention has 14 cells, and seven solitaires. Two cells have five beds; three cells have three beds, two cells four beds, and two cells that have two beds each. Cells have central heating. Only one person was in a solitary. Authorities of this prison told us that solitaires were rarely used. Solitaires had weak daily light, and damaged floor. In a time of monitoring visit, we were informed that solitary was used once in three months.

Nine foreigners, from Serbia were in detention. One foreigner served imprisonment sentence. Foreign citizen serves imprisonment sentence, together with other convicts, because the prison does not have a part intended for foreigners.

All cells have bathrooms, and as we were informed by prisoners, warm water is always available. They are also allowed to take a shower any time they want.

Prisoners said they had the right to use mobile phones every day, from 15:00 to 22:00 p.m.

A prisoners we talked to during the monitoring visit did not have objections and did not complain on quality of food. Hygiene in the kitchen was satisfactory. Prison in Bijelo Polje has no laundry, except the laundry for bedsheets. For that reason, families of prisoners take their clothes during the visit and wash the clothes at home. The warehouse has a washing machine for work clothes of employees in the kitchen, but foreigners are approved to use washing machines, as their families are not able to bring them clean

clothes. Prisoners receive clean bedsheets and pillowslips, but monitoring team noticed that their bedsheets were clean.

We were informed that religious rituals were respected and the food in that regards is also adapted. As the doctor said, they took care about the food for diabetics. One of the prisoners worked as the assistant in the kitchen to professional chef. They have different fridges in the warehouse, for separating the beef meat from pork, due to religious differences between prisoners.

g. Accommodation and conditions for persons with disabilities who serve sentence

Article 5 of Law on execution of imprisonment sentences, fines, and security measures that has been adopted in June 2015, prescribes that discrimination of person sentenced to imprisonment has been prohibited, and also discrimination of persons sentenced to 40 years imprisonment, fine and security measure, according to other grounds such as health condition and disability. Article 27 defines that prisoners with disabilities shall be accommodated in the manner that shall be suitable to the type and level of disability.

Although facilities have been adapted lately, in order to be approachable to persons with disabilities, inaccessible premises for persons with disabilities are still large problem. This was concluded after the visit of all parts of ZIKS. A number of barriers were evident and persons with disabilities face with discrimination.

For example, in the entrance of the hall in the Pavilion F of KPD in Podgorica was the ramp for overcoming of height difference – stairs. According to the Rulebook on conditions and manner of adapting facilities for access and movement of persons with disabilities, this ramp should be longer. Also, the exit that leads to the yard of Pavilion F does not have a ramp, although there are two stairs. Thus, persons with disabilities, who use wheelchairs, cannot move alone on their way to the yard. A gym is in the yard, and this part also does not have a ramp although there is one stair. Cell in the ground floor of F Pavilion, adapted for persons with disabilities, had a toilet with a shower, chair for a shower, a sink, a mirror, and a hanger on the right side of the toilet, which serves for help to a person who uses wheelchairs. Holder on the access side of the toilet has not been done yet. Three beds were in the cell, and two of them used persons with disabilities. The practice is that a person who has no physical or other problems helps a person with disabilities, which we support. This is the only cell in F Pavilion intended for persons with disabilities. We also think that two persons should be accommodated these cells, because if one person uses wheelchairs, the space in the cell is small.

After monitoring of cell intended for person with disabilities, in the female prison we noticed that toilet had inadequate dimensions. Employees explained that this has not been adapted, because they did not have persons with disabilities in the female prison, and added they surely plan to construct it in the following period. Person who uses

wheelchair can move in the yard of the female prison. Movement of a person with disabilities is not possible through the hall in the ambulance. The entrance in the ambulance also has a stair, so it is important to build a ramp for independent arrival of persons who use wheelchairs. During our visits, there were no persons with disabilities and the cell was empty.

Monitoring team found out that three persons with disabilities were in the Facility for short term sentences.

In the entrance of this Facility were several stairs and a ramp for movement of persons who use wheelchairs. However, the ramp has not been built in accordance with standards of accessibility and handrails have not been placed. Persons who use wheelchairs hardly move through the yard of this prison, because of the land ground.

Semi-open Section of the Facility for short term sentences has a cell envisaged for accommodation of persons with disabilities. The cell has four beds and three persons with disabilities were accommodated in this cell and a person that has no physical problems. This person was obliged to help his inmates with disabilities, when they need help. Two persons were with lower extremity amputation (one person with both legs amputated and another person with one amputated leg). The third person used crutches for a walk, because of a leg injury. Representatives of ZIKS said that the cell for persons with disabilities was renovated and adapted to the standards of CPT after our visit.

During the visit to Prison in Bijelo Polje, there were no persons with disabilities who served sentences or were in detention. Earlier, there was a person with disabilities who served sentence (person with one amputated leg). Notwithstanding the facts, the prison was not adequately adapted for accommodation of persons with disabilities. Persons with disabilities faced with a number of barriers in this prison. For example, at the entrance of one service premise was a five centimeters high stair. In the part where persons who serve sentences were accommodated, one of the cells was envisaged for persons with disabilities. At the entrance in this cell was a ramp with handholds. The width of the ramp was satisfactory, but was very sloppy. This means that a person, who uses wheelchairs, cannot use it on its own, without a risk to drop out of the wheelchairs. In this cell, eight persons who serve imprisonment sentences were accommodated, but were not persons with disabilities. It is important to introduce practice which would entail accommodation of few prisoners with persons with disabilities in the cell, so that can move smoothly and spend time there. Also, at the entrance of a cell intended for accommodation and sport activities of persons who serve sentence, was a ramp with the handrail that serves to help users of wheelchairs. Like the ramp at the entrance of accommodation room, even this one is not in compliance with accessibility standards.

After our visits and given recommendations, prison administration built two ramps for movement of persons who use wheelchairs.

h. Juvenile accommodation

In the part of F Pavilion is separated section for juveniles. On a visit day, there were four juveniles. Part for juveniles has six cells. Five cells were empty, and four sentenced juveniles were accommodated in one cell, which was approved after their request. Persons in juvenile prison are adult and shall serve sentence in this part until they reach 23 years of age. Two of them were sentenced to 20 years imprisonment, one person on ten years imprisonment sentence and one person was sentenced to shorter imprisonment sentence.

During the visit, we spoke with one convicted juvenile, who said that conditions in prison were good, and that officers did not maltreat them. He said that they go for a walk two to three hours a day. Only objection was lack of good gym and exercising equipment.

Work on construction of a new prison in Podgorica is in final phase. We were informed that this part of the prison would have all conditions for adequate treatment of juveniles. This prison is completely separated from other parts where adults are accommodated. During the visit, monitoring team noticed that work on a new prison, especially work on accessibility for persons with disabilities were not adequate. The entrance of the prison has a sloppy ramp. Thus, it is important to extend it and put the fence with the handrail. One cells envisaged for persons with disabilities is under reconstruction. Toilet in this cell should also be fully adapted to the needs of persons with disabilities.

Prison in Bijelo Polje does not have separate part intended for juveniles (except one cell in detention, for juveniles). During the conversation with the Head of the prison, and officer from department for treatment, we found out that during the reception, juveniles are not separated from other detainees, but the professional service takes care where these persons will be placed.

Recommendations:

- ◆ Although lot of things were done in terms of improving of conditions in ZIKS, renovation and adaptation of all premises should continue. In this manner, accommodation in these cells would be adequate, and in accordance with adopted international standards in human rights area.
- ◆ Monitoring team concluded that some parts of ZIKS were overcrowded, which is opposite to international standards. The European Court of Human Rights said that overcrowded prison is serious problem, according to Article 3 of the European Convention for the protection of human rights and fundamental freedoms. Standard recommended by CPT was minimum four square meters. (see the verdict of the Court in the case Bulatović against Montenegro, related to these matters)
- ◆ All facilities, cells, toilets, yards, kitchens and other, where persons with disabilities should be accommodated, should be adapted in accordance with the Rulebook on elaborated conditions and the manner of adapting of facilities for access and move-

ment of persons with disabilities. It is also important to adapt sufficient number of cells for persons with disabilities in all parts of ZIKS. During the implementation of these activities, management of the prison should communicate and cooperate with nongovernmental organizations, which protect rights of persons with disabilities, aiming at adequate adapting of facilities for persons with disabilities.

- ◆ It is important to improve conditions for accommodation of juveniles in the Prison in Bijelo Polje and separate them from juveniles. Until then, juveniles should be accommodated in the Remand prison in Podgorica.
- ◆ It is important to take care about allocation of women in cells, in order to avoid accommodation according to their nationality, which may cause the gap between Roma and other female prisoners. If communication is the reason of their separating, then, at least one female prisoner should be accommodated in cell with other female prisoners who are of Roma nationality.
- ◆ Bearing in mind that more prisoners complained on lack of hygiene material, it is important to provide enough of these means for all persons deprived of liberty.
- ◆ The Rulebook should be amended and define that detainees have the right to take a bath more time during the week, and at least two times a week, as defined by the European prison rules of the Council of Europe. It is also important to provide conditions in bathrooms (hangers for towels, shelves for shampoos and soaps, etc.)
- ◆ Additional space should be constructed for exercising and if necessary, it should be covered for adequate working out.

TORTURE AND RIGHTS OF PERSONS DURING DEPRIVATION OF LIBERTY

Number of reported cases of torture and violations is smaller than in previous period. Officers of ZIKS passed more education programs, and new management of ZIKS sent messages that torture would not be tolerated.

However, cases of torture occurred during the period of reporting. Case from January 2015 especially concerns, when officers of ZIKS revenged to prisoners after assault on them. Also, the questionnaire we did with prisoners showed statements that indicated on human rights violations. One prisoner said that it was not examined by the doctor, after the reception in detention, three persons were not informed about their rights, one person felt discriminated, one person was subjected to psychological and another one said he was subjected to physical violence in prison.

Three verdicts for torture were rendered before European Court of Human Rights. Two verdicts were related to ZIKS. When it comes to verdict in case Bulatović violation of right was determined for poor conditions and duration of detention. As per case Milić/Nikezić, it was determined that the decision of the Public Prosecutor on rejecting of criminal charges was not based on adequate assessment of all relevant facts, especially taking into account the findings of Ombudsman and disciplinary procedure, and evidence on excessive use of force and injuries.

Incident – 14 January 2015

After the incident that happened in ZIKS on 14 January 2015, during monitoring visit to this institution, monitoring team spoke to five sentenced persons who participated in this incident. Our team wanted to collect more information about possible violations of human rights after the incident. We spoke to Ž.L., G.D., D.P., M.K., and J.D. Monitoring team talked to each prisoner individually and without officers of ZIKS.

They spoke about violations and abuse of power of officers of ZIKS.

During the conversation we found out that prisoners were tied and beaten day after the incident.

Quotation 1: “During the transferring to a solitary, we were tied and thirty people beaten and tied. We did not resist. After that, a doctor came in a solitary to do medical examination. I was tied for the first three days. They put the lights on and let the water, so I could not sleep. The doctors did not do medical examination, except that I got painkillers. After six to seven days, a forensic expert examined me and photographed the injuries. Some of them were not visible at that moment.”

Quotation 2: “The next day, on 15 January at 10:00 in the morning they took me to disciplinary ward, in the walking section. Five or six safeguards beat me all over my back, ten times or more, with truncheon. They also hit me while we were passing through the hall that was not covered by cameras. After that, they took me to a solitary. I was in constant fear that safeguard would come and beat me again. I felt bad, especially because I did not know what would happen in future. I expected every moment someone to come and beat me.”

Other prisoners also confirmed that prisoners were beaten after the incident. Interviewers also said that during the first two, out of three days, they were tied in in a solitary. Guards only released them to do their physiological needs. As they said, guards would let the water so they could not sleep and left the light on. One of the interviewers said that in the mentioned period, guards entered in solitaries suddenly, beat them and humiliated them.

Quotation 3: “From time to time, a guard would come in beat me and humiliated me. I was tied three days. Court and medical expert examined me after sixth day. They let the water, and if they would see that I wanted to fall asleep, they would let the water even harder. At night, when they would pass near the solitary, they would hit the door so strong, to keep me awake and tortured me in that manner.”

Quotation 4: “I did not participate in the incident, but few days before I had a problem with officers, so I was beaten like other prisoners, before I was taken to a solitary. Court and medical expert told me that I was hit by the truncheon 18 times.”

This prisoner told us that he had been taken to Emergency center. After the examination of a doctor, it was confirmed that his pleural was injured. Two other interviewers said that they were not examined by the doctor after the incident. A doctor came two or three days after they were taken to a solitary. On their personal request, they took pain relief medication and tranquilizers.

During the conversation, we found out that the practice is usually that safeguards are present during the examination in the ambulance. This practice is opposite to CPT recommendations.

Quotation 5: “That day, a doctor came to do the examination, two or three hours after the incident. I did not tell him anything, because I was afraid of consequences, as one of the officers was present during the examination.”

Moreover, and according to statements of convicted persons, good practice applied Basic Public Prosecutor and Doctor of Forensic Medicine, and officers of ZIKS were not present during their interrogation and investigation. Also, in according to recommendations, prosecutor examined convicted persons about injuries and undertook further steps.

Quotation 6: “Prison guards were not present during the examination of the Prosecutor. The Prosecutor asked me to take off my shirt and then he saw my wounds and then registered it. He asked for my medical record, but he found nothing in it... that day, at almost 18:00 p.m. doctor Dragana Čukić arrived with the Prosecutor. Prosecutor introduced himself, said that I had spoken to his deputy in the Prosecution office. Doctor Čukić recorded and photographed all injuries. During all this procedure, guards were not in the premise. Afterwards, I did not face with torture, but I was still in a solitary and stayed there 30 days.”

One of the interviewers asked for the visit to a psychiatrist, but, as he said, this was not approved. In one case, examination of the court and medial expert followed six or seven days after the incident. After this time, injuries withdrawn, as the convicted said. He added that the doctor had registered more than 18 strong hits.

Interviewers confirmed that a representative of the Institution of Protector of human rights and freedoms (Ombudsman) visited them after the incident.

Institution of the Protector concluded in the Opinion from 24 November 2015, the following: “According to statements of convicted persons, analysis of experts and all defined facts and circumstances, Protector of human rights and freedoms in Montenegro, has concluded that officers of ZIKS unjustifiably used force and means of coercion against sentenced persons: D.P., D.D., P.D., G.D, B.L., V.Z., S.V, M.S., L.L., M.K., D.J., Ž.L., and M.K. on 14 January 2015 after 17:00 p.m. in disciplinary section, and on 15 January 2015. **Officers also tortured them with inhuman and degrading treatment and thus violated their human rights.**”

In comparison with sentenced D.J., Ž.L., and M.K. and considering the intensity of used force, means of coercion, and seriousness of consequences – bodily injuries they received, inhuman and humiliating treatment, represent – torture.

Acting of officers of ZIKS contained all elements of abuse, inhuman and humiliating treatment: participation of officers, intention for punishing, helplessness of victim, while the fourth element – intensity of pain, that separates abuse from torture, differs from victim to victim.”

The Protector recommended: “Management of ZIKS should undertake measures, without a delay, for identification and determination of responsibilities off all officers of ZIKS who used force and truncheons against D.J., D.P., Ž.L., D.D., P.D., G.D., B.L., V.Z., S.V., M.K., M.S., L.L., and M.K., on 14 January 2015, after 17:00 p.m., in disciplinary section of KPD in Podgorica and on 15 January.

That ZIKS should provide consistent respect of national regulations, confirmed international treaties and generally accepted rules of international law related to persons deprived of liberty, or to provide respect of their rights.

That doctors of ZIKS should regularly write time (hours and minutes) when examination takes place, in reports on examinations of sentenced persons.

ZIKS is obliged, no later than 15 days, since the day of reception of this Opinion, to send the report to protector of human rights and freedoms, on undertaken measures and activities for execution of recommendations.”

Institution of Protector of human rights and freedoms informed YIHR, on 12 May 2016, that besides the initiated criminal proceeding against officers, the following has been undertaken:

“Through different training, Management of ZIKS provided consistent respect of national regulations and generally accepted international treaties.

More trainings on different topics were organized in Center for Education of Staff, organizational unit of ZIKS, (Introduction to work, Acting of officers of ZIKS in extraordinary and incident situation...).

When it comes to recommendation saying that prison doctors do not write time when the examination takes place in reports on examination of sentenced persons, Management ordered to all doctors to regularly write in their records the time when the examination takes place.”

A trial to nine prisoners for the attack on guards of ZIKS started on 26 March 2015, before Basic court in Danilovgrad. G.V., S.V., M.S., D.D., V.Z., P.D., D.P., and L.L, were accused for the incident in ZIKS that took place on 14 January 2015.

Basic court in Danilovgrad sentenced G.V., S.V., and V.Z. to five years imprisonment each for attack on official person and inflicting of serious bodily injuries; D.D. and L.L. on four years and ten months each; M.K., D.P., M.S., and P.D. were sentenced to two years and seven months each, for attack on official person. Overall punishment is 35 years.

According to findings of YIHR, sentenced persons filed complaints on verdict.

Trial to officers of ZIKS for torture over prisoners started on 22 February 2016. Officers B.N., B.D., P.R., R.B., I.V., M.V., M.R., D.V., P.Đ., D.K., were accused for beating up and torture of prisoners: S.V., L.L., P.D., B.L., Ž.L., D.P., G.D., M.K., V.Z., and M.S. The first hearing was postponed because of absence of one of lawyers. The following trial was also postponed because of absence of an accused person. Even the third trial, which was planned for 13 April 2016, did not take place, as one of the lawyers of officers requested exemption of the judge who judged to convicted prisoners for assault on officers in the same incident on 15 January 2015. New trial has been appointed for 18 May 2016.

Beating of convicted L.L.

Convict L.L. told YIHR researcher that A.B., officer of ZIKS punched him in the chest on 19 January 2015, in front of the building of KPD in Podgorica. L.L. said that both his hands were tied on his back. As he said, officers A.B. took him out from the car and punched him in the chest with a fist. In this incident, officer inflicted L.L. serious injuries such as sternal fracture with dislocation and bruises on his skin.

A.B. officer of ZIKS was punished before Basic court in Danilovgrad, on six months imprisonment sentence for inflicting serious bodily injuries to prisoner L.L.

This incident happened only few days after the incident in January 2015, when prisoners and officers fought. L.L. participated in this incident as well.

Case of convicted M.Š.

M.Š. reported to YIHR that officers of ZIKS attacked him on 20 December 2013, and inflicted him serious bodily injuries such as nose fracture, and few minor injuries. M.Š. pointed out officer G.Đ.

M.Š. also complained on relations with doctors and claimed that he could not get the approval for medical treatment in Clinical Center Podgorica (KBC).

M.Š. said he introduced Prison Management with these statements, and also Ministry of Justice, Ombudsman, Head of the Prison for short sentences and Law office “Jovović, Mugoša and partners”.

In response from 9 December 2015, ZIKS said that convicted person M.Š. served 45 days imprisonment sentence. The response also stated that that M.Š. attacked the officer G.Đ. and punched him. G.Đ. returned with the punch and the physical conflict continued and lasted for 15 seconds, until arrival of other officers of ZIKS who defeated M.Š.

Basic Prosecution Office in Podgorica stated in response to YIHR on 21 December 2015, that this Office filed indictment on 2 December 2014 against accused officer G.Đ. for the criminal act abuse from Article 166a, where M.Š. was damaged person.

Basic court in Danilovgrad informed YIHR that in the procedure after the indictment filed by the Prosecution, first instance decision has been made for execution of criminal act , against accused G.Đ. The response also said that the complaint on the first instance decision was filed and that the criminal case was in Higher court on deciding on complaint. The response did not mention is the verdict was convicting of acquitting.

Maltreating of Roma

Other concerning statements on violations, YIHR received during the visit to KPD – F Pavilion, from convicted persons. They said that maltreatment of prisoners, primarily prisoners of Roma nationality, occurred in offices used by officers. This office is in the ground floor, in the part where cells of convicts were placed, the first on the left side. Statements indicate that this was humiliating treatment and physical abuse. Management of ZIKS denied these allegations. Monitoring team recommends that this premise should be equipped by video surveillance, so that similar statements can be checked in the future, which would have preventive character.

Fixation means

According to official data of ZIKS on enforcement of means of coercion, fixation means were used in 19 cases, physical force was used in 22 cases, and the truncheon was used in three cases.

Fixation means has always been used when it comes to transferring of persons and taking them to trials.

There are no written rules on fixation, at the moment. Representatives of ZIKS told YIHR that rules on this matter would soon be adopted and that they were working on this issue. They also keep the registry on using of fixation. As we were informed during the visit, Remand prison once in a month sends the registry to the Management of ZIKS, which sends this information to Ministry of Justice.

YIHR monitoring team was informed that they received means for human fixation and that the training for officers was organized for its use.

One detainee mentioned in the questionnaire that in October 2015, one person was tied during detention in Security Center Podgorica, and that his hands were tied behind his back. As he told us, he stayed two more days in detention in Security Center in Podgorica, from 22 to 24 October 2015.

Case of sentenced R.Lj

Protector of human rights and freedoms made Opinion on 29 December 2015, and concluded that rights of sentenced R.Lj. were violated, because officers of ZIKS used means of coercion in Disciplinary section – fixation with metal handcuffs, 19 days in a row, from 20 August 2015 until 7 September 2015.

The Protector acted after the report of father of R.Lj.

The Opinion stated that the convicted person was tied to bed with both of his hands, with handcuffs, and both of his legs were tied with bandages. One hand was released after five days, and the rest of the time he spent tied, in the same position. He fed alone, lying and only with one hand released. Access to water and a toilet was difficult. For all of that time, he injured both his hands. Protector assessed that the use of means of coercion was too long – fixation of convicted R.Lj. that lasted more than 19 days. Fixation that lasted for days, its consequences (injuries on hands), physical and mental suffering of R.Lj. and his fear, derangement and inferiority, represent inhuman and degrading treatment. Such an acting towards convicted person has all elements of inhuman and degrading treatment: participation of officers, helplessness of victim, and intensity of pain.

Among other matters, the Protector also recommended that Ministry of Justice, in accordance with international standards, should prescribe rules on use of means of coercion – fixation of mentally ill persons, drug addicts and other persons in situation of crisis (at the time of deprivation of liberty), official person who gives orders, or approves execution of measures, reasons for the use of measures, maximal duration of measures, manner of the control of undertaken measure, and necessary registry that follow the use of measures.

According to findings of YIHR, ZIKS initiated the procedure for prescribing of rules on use of means of coercion.

Violence among prisoners

Violence among prisoners is present and YIHR received this information from both prisoners and officers of ZIKS.

Convicted K.F. told us during the visit that he faced with torture few times, from another prisoner G.A. with whom he shared the same cell. According to K.F. he was paralyzed in that period and he could not speak, which G.A. used and physically abused him and raped him several times. K.F. said he was transferred to F section when other prisoners and guards noticed what had happened. After that, K.F. he faced no abuses afterward. YIHR reported this case to Basic Public Prosecution Office and to the competent bodies in ZIKS. Prosecution responded to YIHR that it had initiated investigation and characterized the act as abuse from Article 166a of the Criminal Code of Montenegro.

During the visit, monitoring team noticed intolerance among prisoners. One of the female prisoners told us that the largest problem were conflicts among other female prisoners, which often ruins relations in that part of the prison. We were informed that discrimination was present among female prisoners, in case if the prisoner is of Roma or other nationality (Islam, for example), or that verbal insulting was present such as humiliating, threatening, insulting related to hygiene or physical appearance (obesity or color of the skin). We were also told that fights were part of everyday life and that sometimes end in physical fights. Female prisoners usually avoid to report fights to heads or guards, because they were afraid of big troubles.

Recommendations:

- ◆ Cases of torture, violation, and inhuman treatment of persons deprived of liberty in ZIKS still occur. Competent bodies in ZIKS and Ministry of Justice should continue to send clear messages that torture will not be tolerated, and all reported cases will result in initiated proceedings for determining responsibility. Prosecution Office should conduct urgent and objective investigations of all statements on serious human rights violations in ZIKS, such as the incident in January 2015. Basic court in Danilovgrad should provide efficient trial for officers of ZIKS, for the incident in January 2015, without further delays.
- ◆ Bearing in mind that we received serious doubts for violations on national basis, especially towards Roma population, it is important for all premises, such as the office in F pavilion in KPD Podgorica, to have video surveillance, so that similar statements can be checked in the future, which would be of preventive character.
- ◆ Management of ZIKS should adopt and implement the protocol on fixation and self-injury should not be sanctioned as disciplinary measure. If fixation of a prisoner is needed, than this should be done in infirmary, under constant surveillance of medical staff, surely not in a solitary in disciplinary section. Fixation that lasts for days cannot be justified by medical point of view, and it leads to abuse.
- ◆ Management of ZIKS should prevent violence among prisoners. Officers should avoid encouraging of violence and should react on every case that leads to violence among prisoners.

HEALTH CARE

When it comes to health care, significant progress was made during the project implementation and monitoring. More health care workers were employed, and a number of ambulances were reconstructed.

Health care system in ZIKS is under the competence of Ministry of Justice. YIHR has indicated for years that for health care was important to be in the framework of Ministry of Health. In that manner, independence of work of medical staff would be provided, health protection would be of a better quality, and health care institutions would deal with the surveillance. Management of ZIKS said that registration of prison health care ambulances in the network of public health care institutions was in course, so, Ministry of Health and Administration for Inspection Affairs were responsible for surveillance and control of work of Health care service of ZIKS. However, work out of public health care system stays the problem, so there is no connection with other units of health protection, and have no insight in the history of illness of patients.

Four doctors were employed in the framework of health care service of ZIKS (three on limited time, one on unlimited time), 17 nurses and technicians. Doctors were divided into two shifts. Three doctors work in the first shift, but one doctor works in the second shift. Technicians work in three shifts. One shift lasts for 12 hours. During the visit, one of them was at the sick-leave, so they were forced to work in 24 hours long shifts. Monitoring team received the information that soon would be published the call for reception of new employees. Also, one physiotherapist, pharmacist, lab technician, a dentist and a dentist nurse were engaged. Psychiatrist comes twice a week. Examinations in ZIKS do psychiatrist and a doctor of internal medicine two times in a week. We had the insight into the protocol, a according to the protocol, psychiatrist did 161 examinations.

Health care ambulance is in the Remand prison. When it comes to material conditions, they have two premises. One premise serves for examinations, and another one for the therapy. The second premise has medicaments and other medical means are kept in accordance with the prescribed rules. Medicaments are locked in the locker, as well as medical documentation. Premises were clean and ventilated. At the moment of visit, they had sufficient medicaments, bit sometimes, lack of specific medicaments occurs. Medicaments which families bring to prisoners are firstly left at the reception where the doctors take them and then keep at the ambulance and give to patients when they needed.

In terms of medical equipment, they had EKG, X-rays (which was damaged at the moment of visit), ultrasound, sterilizer, equipment for physical therapy, ambulance vehicle with necessary equipment and medicaments, but did not have defibrillator. Administration announced procurement of one such instrument, while we visited Prison in BijeloPolje, which was also recommendation of CPT, during their last visit. Building of special prison hospital has not started yet, and there are no conditions and means for that.

As we were told, the first medical examination takes place during the reception of a prisoner in ZIKS, but not later than the first 24 hours. After medical examination, medical record is opened and third parties do not have access to it. The next examination takes place once in a week. Prisoners told us that sometimes they waited medical examination even ten days. However, the longest is waiting of surgeries out of ZIKS, and as some of officers and prisoners said, sometimes it used to be years long.

The procedure for receiving health care protection in ZIKS is as follows: a prisoner asks from the guard/commander to visit a doctor, using the application. Until 15:00 p.m., a doctor visits a prisoner during a day, except when it comes to Prison in Bijelo Polje, when examinations take place after 19:00 p.m. After 15:00 p.m., a nurse/technician is ready to decide, in communication with a doctor, on sending a prisoner in Clinical Center or on postponing this for the next day. Guards of the pavilion with whom members of the monitoring team talked to, said they were keeping the registry of requests for visit to a doctor. Health care record has to be fulfilled during the first visit to a doctor. The prisoner can indicate, but is not obliged, to explain the reason of his sentence in prison. Specific registry is kept, if this is about injuries. We were informed that a note is made for each injury, in three copies – one copy has to be submitted to the commander of the pavilion, another one is kept in the health registry, and the third one in the register of injuries. **There is no such practice for regular informing of prison management about injuries.** Also, the CPT recommendation is that there is no periodic statistics of injuries, which would be submitted to the prison management and/or the Ministry of Justice.

Medical history and objective findings are more elaborated than earlier, with more precise descriptions than previously. According to CPT recommendations, doctors should write the conclusion if the objective findings are in correlation with the medical history. This practice currently does not exist, and patients are sent to court and medical experts only after the request of a judge or prosecutor.

Medical staff complained about the conditions of work and the amount of salary. They believe that their colleagues, who are under the competence of Ministry of Health, are in better position. One of the doctors told us that there were approximately 150 medical examinations per week. Nurses and technicians are working overtime, but in the absence of any of them, the situation is considerably complicated.

The budget for the procurement of medications is almost 100,000 euros annually, which often results in deficit of medications. An additional problem occurs if doctors often do not have access to previous medical records, because they are not connected to the over-all health system.

During the monitoring visit, the prisoners usually had objections on health care. From an interview with one of the prisoners, we found out that he obtained medicaments from home, because ZIKS did not have them. Another prisoner told us that he had a se-

rious neurological disease, and that he was without treatment a few days. The prison doctor denied the allegation and said only one medicine lacked, but the patient was given an alternative.

Regarding confidentiality between doctor and patient, this segment is still at a low level. Doctors and middle medical staff said that the guards were almost always present during the examination of a prisoner. This is contrary to the recommendations of CPT, by which **medical examinations of prisoners must be carried out so that officers cannot hear or see it, unless the doctor requests opposite.** The doctors justified the need for presence of official inspector, saying that it was uncertain which prisoner can cause a danger, and when they would need protection of officers.

Talking to doctors, monitoring team found out that a doctor should give consent for sending a prisoner in a solitary. Even this practice is opposite to recommendations of CPT.

“Medical practitioners in prisons act as the personal doctors of prisoners and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. The practice of prison doctors certifying whether a prisoner is fit to undergo solitary confinement as a punishment (or any other type of solitary confinement imposed against the prisoner’s wishes) is scarcely likely to promote that relationship. This point was recognized in the Committee of Ministers’ Recommendation Rec (2006) 2 on the Revised Prison Rules; indeed, the rule in the previous version of the Rules obliging prison doctors to certify that prisoners are fit to undergo punishment has now been removed. The CPT considers that medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement, except where the measure is applied for medical reasons.” (CPT standards, page 37, paragraph 62).

A prisoner who served sentence in prison in Bijelo Polje, said that waiting on routine examinations was too long. He got the opportunity to do the blood analysis after his third requirement.

Patients who need medical examination of the specialist, are usually sent to Clinical center Podgorica. After the request of the patient, they may be sent to a doctor in private practice, if it is needed. One prisoner in Prison in Podgorica waited more than eight months to hernia surgery. Only after the interests of YIHR in this case, the prisoner was operated in the Clinical Center in Podgorica. Prisoner D.Đ. told to monitoring team that at the time of visit, he was serving two years and two months imprisonment sentence. He was arrested on 2 October 2014. Before that, in August 2014, he had ulcer surgery. After the surgery, near the cut, appeared hernia that had a size of the adult fist, at the time of visit. As he said, he did not have hernia before surgery. D.Đ. told to monitoring team that sometimes he gets pains, which is why he could not sleep well. The doctor in ZIKS told him he could not do the exercising, or any physical activities. D.Đ. claimed he had waited seven months on adequate response of competent bodies. He also said that,

because of the pain that he could no longer tolerate, he called his father to inform NGO sector and ask for help. After his father addressed YIHR, and after our visit and recommendations to provide adequate health care, the surgery took place at the end of 2015. Monitoring team welcomes the efforts ZIKS had made to resolve concrete statements in this case. However, YIHR believes that convicted persons do not receive timely health care because of lack of correlation of ambulance in prison with public health care institutions out of prison. Health protection has fastened when nongovernmental organization showed interest, which causes concern, because it failed seven months although a prisoner indicate on health problems.

During the conversation, we found out that there were more prisoners with similar health problems, who wait few years on surgery. Among other matters, sometimes happens that a prisoner is transferred to Clinical center in Podgorica, on appointed surgery, but the doctor who appointed it, went to a sick-leave or business trip, and another doctor does not want to undertake the responsibility for this patient. For that reason, prisoner returns to ZIKS and the procedure for surgery preparation repeats. A prisoner told us that officers of ZIKS suggested him to find someone who could help him get the timely surgery.

After monitoring visits, the impression is that health care protection in ZIKS is grounded only to curative medicine, that there is no strategy about preventive medicine and preventive medical examinations.

Brochures and informatory about health and health care protection, hygiene, are not shared, but this should be taken into consideration in future, according to CPT recommendations. CPT also recommended that that at the reception in prison, prisoners should receive a brochure that would inform about health care services that serve as the reminder on basic hygiene measures. Considering the fact that doctors are too busy with medical examinations, there is no time to work on prevention, so, lack of such a brochure additionally reduces importance of the prevention.

At the moment of monitoring visit, gynecologist was not employed. Examinations of female prisoners are organized at the Health care center Podgorica, at the selected gynecologist. Female prisoners who use right to marital visits are not given contraceptive medications.

Prisoner R.B. told to the monitoring team that two months ago, he wrote to the Head of health care service, for the reception, due to his health problems, but he did not receive answer. YIHR checked this information in management of ZIKS. Management told us that it was rights that R.B. wrote application for the reception of the Head of health care service, but after the visit and our question, he said that he did not need the reception anymore. During the visit, this prisoner told to monitoring team that he had serious health problems.

Status of drug addicts in prison is weak, because they do not have provided adequate treatment, not possibility for treatment of infective diseases, such as hepatitis B, hepatitis C. There are no groups in the prison, for self-help, intended to addicts. The prison also lacks the program directed towards improvement of motivation to start with the treatment.

Testing on infective diseases, concretely on hepatitis B and hepatitis C and HIV, is not the procedure at the reception of prisoners. Also, there is no testing on presence of psychoactive substances (PAS). There are no clear data on when the testing on PAS took place, and examinations of specialists for addiction diseases, for the eventual correction of doses, and monitoring of general condition of addicts.

Testing is on voluntary basis and after the request of prisoners or proposal of a doctor. Therefore, the exact number of persons with infective diseases cannot be determined, out of the overall number of addicts at the reception. Medical examination of new prisoners is important, especially because of spreading of infective diseases, injuries at the moment of reception and the overall health of prisoners and staff in prison.

There is no precise number of users of psychoactive substances, and no precise data about the number of women and men. Some addicts are on methadone program. On a day of visit, one addict was transferred to Special Psychiatry Hospital – Dobrota. This person was on a methadone therapy. Registers on use of methadone therapy do exist. We found out that there was no precise register by diagnosis for addicts, and types of addiction.

When it comes to registered persons with hepatitis B, C or HIV, hepatitis B was registered in case of two persons, hepatitis C in case of 18 persons, hepatitis B and C had one person, while two persons were HIV positive. On our question about the treatment of drug addicts with infective diseases, we were informed that addicts did not receive any treatment but only substitutional therapy.

Overall number of prisoners that have been issued with mandatory psychiatry treatment in the closed type of institution is 51. Approximately, nine persons are in Special psychiatry hospital in Dobrota, while others are accommodated in ZIKS. As large number of them needed continuous monitoring, their adequate medical protection was not provided.

Immobilization means, and the implementation protocol, according to recommendations of World Health Organization (WHO) do not exist in practice.

Considering the specific characteristics of population in ZIKS, and often psycho pathology of prisoners that varies from light neurotic to serious mental illness, this part of health protection should be supported by both human resources and various educations of employees. Adequate diagnostics, continuous treatment, bio-psycho-social access should improve the overall treatment of prisoners, in order to prevent new criminal acts and make the return of prisoners in the community. Early recognition of mental illness would make overall treatment of prisoners easier. Rehabilitation and resocialization

treatments of drug addicts do not exist, nor psychosocial activities, or group and individual psycho-therapies.

Prison ambulance in Bijelo Polje was not equipped in accordance with the needs and requirements of prisoners. After the given recommendation, the ambulance was reconstructed. Even after that, the ambulance did not receive EKG, X-rays, ultrasound, or defibrillator.

The ambulance does not have permanently employed doctor. One doctor has been employed by service contract. Management of the prison told us that Management of ZIKS issued public calls few times, for reception of doctors in Bijelo Polje Prison, but there were no doctors interested for this position. Prison doctor works every day, from 19:00. There are no doctors specialists in the prison, and for each specialists examination, prisoners are sent to the hospital in Bijelo Polje.

Two medical technicians are employed in the ambulance, except the doctor. Medical technicians work in shifts, 12 hours in two days. This number of employees is insufficient, so, they always stand ready even if they are not at work, because they have to respond in the case of need.

Clinic for persons infected by HIV and hepatitis C does not exist in prison. Also, there are no organized debates and lectures for all prisoners, so they can find out more about important information on these viruses.

The prison does not have psychiatrist or psychologist. During the conversation with medical technician we found out that large number of prisoners suffered from mental illnesses and that they use the therapy intended for these illnesses. Unfortunately, prisoners cannot communication with psychologist and psychiatrist within the prison institution, which is serious difficulty, considering the number of prisoners who have mental illness.

Recommendations:

- ◆ Prison doctors and overall health protection should be under the competence of Ministry of Health. Activities on connecting of health care services with the health care system should be fastened, and the system of effective control of quality should be developed and implemented by Ministry of Health, in order to provide good care in prisons. Also, European Prison Rules, prescribe that health service in prisons should be organized in prisons in correlation with general health service of the community or the country.
- ◆ Urgent communication between Ministry of Health on one side, and Ministry of Justice and ZIKS on the other side, so that prisoners can obtain health protection out of ZIKS timely, and on time when surgeries and medical examinations are appointed. European Prison Rules define the following: “Medical services in prison

shall be organized in close relation with the general health administration of the community or nation” (see European Prison Rules, 40.1); “All necessary medical, surgical and psychiatric services, including those available in the community, shall be provided to the prisoner for that purpose” (40.5); “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation” (40.3); and “Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals, when such treatment is not available in prison” (46.1).

- ◆ Providing brochures and other information with information on existence and manner of work of health care service in prison.
- ◆ Health care ambulance should be equipped with modern and functional medical equipment that is needed for provision of adequate health care to prisoners.
- ◆ Improving capacities of health care workers, both doctors and other medical staff. It is important to employ the psychiatrist, who will work full time, like CPT recommended in the Report 2013, paragraph 57.
- ◆ Work practice of medical technicians that lasts 24 hours, should be immediately stopped. More people should be employed.
- ◆ Officers of ZIKS should not be present during medical examination of prisoners, unless security of medical staff is violated. In that case, heads should be introduced with this, in order to approve officers to be present during medical examinations, and to do the record in that case.
- ◆ Practice where a doctor gives approval saying that a prisoner is capable for a solitary, should be stopped. A doctor should be informed about persons who are supposed to be taken to solitary, and visit them as soon as possible.
- ◆ Organize first aid trainings for both medical technicians, and prison guards, who would be able to react immediately, until professional medical aid arrives.
- ◆ Arriving to prison, in the frame of routine health examination, done by doctors, testing on psychoactive substances, infective diseases, concretely hepatitis B and C and HIV should be done.
- ◆ Employment of professional staff is needed (psychologists, pedagogues, social workers...) who would provide psychosocial assistance and support to persons deprived of liberty.
- ◆ Create the Registry of drug addicts at the level of the prison; Provide for addicts substitutional methadone therapy, is professional staff consider this as important.
- ◆ Organize regular individual and group psycho therapies, group rehabilitation treatments and resocialization of addicts;
- ◆ Provide medical treatment and monitoring of condition of addicts infected by hepatitis B and hepatitis C;
- ◆ Establish separate organizational unit in the frame of ZIKS, for voluntary arrival of addicts in the treatment of addiction, educate the staff for work in the Drug Free Unit, and create treatment programs in this unit;
- ◆ Provide measures for obligatory treatment of addicts, committers of crime acts, which is unduly organized due to the lack of accommodation capacities in Psychiatry Hospital in Kotor.

EMPLOYEES

Number of employees in ZIKS is 454. Out of this number, 443 employees work on indefinite contract, 11 are engaged on fixed term contracts that lasts 24 months. When it comes to structure of employees in Podgorica, 11 people are employed in the cabinet, 20 in Treatment Service, four people in Center for Education, and five persons in Service for general affairs. Health care service has 15 employees, Security service has 292 employees and Labor Sector has 44 employees. Structure of employees in Bijelo Polje is as follows: Treatment Service has six employees, one person works at the Health care service, and 53 people work in Security Service.

In the Report for 2013, CPT recommended higher number of security officers and that officers should regularly attend trainings on prevention of conflicts and communication skills, and also to deal with juveniles deprived of liberty.

On the other side, ZIKS organized on its own, or in cooperation with other public institutions, international organizations, and nongovernmental organizations in this period, larger number of trainings for employees.

Trainings that were organized for officers who started to work in ZIKS, were on basic knowledge on organization and manner of work of ZIKS, its role, and duties of job position they have been allocated.

Significant part of trainings was devoted to prevention and prohibition of torture and inhuman and degrading treatment or punishing, execution of security service, acting in extraordinary and incident and use of coercion means. Trainings attended employees in health care services, among other matters, on fixation of patients and medical examination of prisoners, in accordance with new instructions, and international standards. However, bearing in mind the practice that showed that significant number of security officers and medical staff did not act in accordance with international standards in human rights area, it is important to continue with education of officers. It is desirable to develop the training program that would be organized by ZIKS and Center for education of staff that functions within ZIKS, as organizational unit.

After adopting of new Law on execution of imprisonment sentences, fines and security measures, which came into force on July 2015, training with the focus on implementation of new Law was organized in ZIKS.

In Department for realization of treatment in Bijelo Polje Prison, were employed only two persons, special pedagogue and a lawyer (prentice). Although number of prisoners in Bijelo Polje Prison was relatively small, professional staff that facilitates treatment with prisoners is insufficient. There were no social workers, psychologists who are also of key importance when assessment of persons has to be made at the reception or during development of plans for treatment realization.

There are no programs directed towards encouraging of positive changes and resocialization; work of treatment realization is based mostly on counseling, help in drafting applications, complaints and similar. Prison management informed us that the new Rulebook on systematization of job positions in ZIKS envisaged job position for psychologist, pedagogue, or social worker in Bijelo Polje Prison in Treatment Sector, and that these job positions would be fulfilled after the advertisement via Human Resources Management Authority.

Recommendations:

- ◆ Continuation with trainings for officers of ZIKS, who work in security service and do highly responsible and risk jobs. Special accent of these programs should be on prohibition of discrimination and torture, prevention of conflicts, communication skills, treatment of juveniles deprived of liberty and on implementation of new legal regulations.
- ◆ Employment, in accordance with systematization, of professional staff: psychologists, pedagogues, and social workers, aiming to rehabilitation and resocialization of prisoners.
- ◆ Increase the number of prison guards, in KPD Podgorica, in accordance with earlier recommendations of CPT.
- ◆ Develop programs directed towards encouraging of positive changes and resocialization, so that the work of treatment facilitators would not be only on counseling, help in application drafting, complaints and similar matters.

DISCIPLINARY MEASURES AND SOLITARY

The Report of ZIKS for 2015 stated that 480 disciplinary procedures were initiated against persons deprived of liberty that year. According to this report, prisoners mostly breached a discipline by possessing different prohibited means, for violation of house rules, rejecting orders of high officers and organized fights.

Article 108 of Law on execution of imprisonment sentences, fines and security measures, defines that for disciplinary misdemeanor, among other matters, may be sanctioned with up to 14 days in a solitary.

In this manner, recommendation of CPT given in the Report for 2013, has been respected, which said that maximal punishment of staying in a solitary should not exceed 14 days for committed misdemeanor.

Law on execution of imprisonment sentences, fines and security measures and the Rulebook on house order defines that disciplinary procedure is initiated by written statement filed by official person, no longer than three days since the day it has found out for disciplinary offense. Head of the organizational unit or a person he authorizes in open debate,

leads the disciplinary proceeding and makes decisions. In disciplinary proceeding, for serious disciplinary misdemeanor, convicted person may have a lawyer by its own choice and expenses, who shall be engaged within 24 hours, since submitting of disciplinary application. If convicted person does not provide a lawyer, it may require officer of the Institution, authorize for provision of free legal aid, to represent it during the proceeding. A lawyer is obliged to monitor the course of the proceeding, in terms of violation of rights of convicted person. Article 112 of Law on execution of imprisonment sentences, fines and security measures defines that in disciplinary proceeding, a prisoner has the right to propose evidence, ask questions to witnesses and experts, and give objections on their statements and written evidences. In this manner, recommendation of CPT, given in the report for 2013, has been respected, saying that convicted persons in disciplinary proceeding should have the right to invite witnesses for its own benefit and to examine evidence presented against them. Representatives of ZIKS said that such practice has already been implemented, although new Rulebook on house order has been adopted.

Law on execution of imprisonment sentences, fines and security measures defines that after conducted disciplinary proceeding, and determining of facts, Head of organizational unit decides on disciplinary responsibility no later than 48 hours. This decision has to be given to convicted person. Convicted person has the right to file objection on decision on punishment to Director of ZIKS, no later than three days.

Monitoring team said that Remand prison has five solitaires. One prisoner placed in a solitary said he was five months in a solitary on his personal request, and that he was accommodated with one more prisoner in that premise for five months.

Officers of ZIKS told us that this was not isolated case and that Management of this Institution met requirements of prisoners to be placed in solitary. On the other side, there are prisoners punished to solitary confinement, but they sometimes wait to be free, and then serve the sentence. **In this manner, purpose of punishing by solitary, becomes an issue, therefore, such policy should be changed.**

Female prison has disciplinary section with two solitaires. Solitary confinement has been rarely imposed in this part of the prison. During our visits, this happened once in three months. Size of a solitary is eught square meters.

Case of discrimination of convicted X.Y.

Convicted X.Y. filed a complaint to Institution of Protector on work of ZIKS and Management of KPD in Spuž, saying he was discriminated because of his health condition. He explained he was HIV positive and for that reason he was placed in a solitary for a long time, and therefore, separated from other prisoners. X.Y. complained he did not have adequate conditions for accommodation and that he needed health care and treatment in that institution.

Protector assessed: “Placing convicted X.Y. for a long time, unjustifiably, and without proper reason isolated, separated from other prisoners, disenables his socialization in the environment he has been accommodated, as one of important needs of every human being and bring him in unequal position in comparison to other convicted persons, which leads to segregation as the form of discrimination...”

Protector also recommended that Management of ZIKS should provide conditions for X.Y., without a delay, to serve sentence under the same conditions as other prisoners, as long as his health condition allows. It has been recommended that Management of ZIKS should provide appropriate education of staff and prisoners about HIV/AIDS, rights of persons who suffer from this disease and its consequences.

CONTACT WITH THE OUTER WORLD, WORK AND RECREATION

a. Visits

Law on execution of prison sentences, fines and security measures defines that a prisoner has the right to visits by marital and extramarital partners, children, parents, brothers, sisters and close relatives, he had determined at the reception in prison for serving the sentence, or 40 years imprisonment sentence, twice in a month, for two hours. Extraordinary visit is permitted to a prisoner after the approval of a person leading the prison, once in a month, for 30 minutes, in groups with two.

Prisoner may be allowed special visit, after the approval of the person in charge of the prison, if thus contributing to achievement of the purpose of serving imprisonment sentence, or forty years prison sentence, and to reintegration of prisoners into society, or if the visit serves to solve personal, legal or business issues a prisoner cannot resolve in writing or through a third party, or which cannot be delayed until the release of prisoners from the prison, twice in a month for 30 minutes.

Besides above mentioned types of visits, a prisoner has the right to family visit by marital of extramarital partner and children, which takes place in the premise, especially intended for this, without surveillance, once in a month for three hours.

A prisoner also has the right to visits of lawyers, notaries, and representatives of non-governmental organizations dealing with protection of human rights of prisoners, according to Memorandum on Cooperation. Visits can take place without ZIKS officers. Also, a foreign prisoner, in addition to above mentioned visits, has the right to visits of representatives of diplomatic-consular missions of the origin country, or the country or organization that protects its interests.

KPD in Spuž has three premises intended for so called marital visits. Two premises have been reconstructed, and the third one has not been yet. We were informed that reconstruction of that premise was planned.

Monitoring team had the insight into one premise that was reconstructed. The entrance in this cell has a step that disenables independent entering of persons who use wheelchair.

The cell was clean and tidy, acclimatized, with new mattresses but old pillows. Prisoners were allowed to use their own bed-sheets. Privacy of persons who use cells is not possible, because of their position.

Cells have bathrooms. They also have toilets that are not accessible to persons with disabilities.

After the given recommendations on conditions that should be provided for family visits, Management of ZIKS adapted one premise in for family visits, with the part intended for children.

In premise for visits in Remand prison in Podgorica and Bijelo Polje Prison were set a glass and a phone, which disenables direct contact between detainees, or persons who serve imprisonment sentence and people who come to visit them.

Detainees have the right to visits once in a week in Remand prison, when the court, which has decided on detention, approves visits. Family visits are not possible, except over the glass and in premises where large part of visits take place, so the intimacy is not possible. Marital and extramarital visits are not possible, although approved for persons who serve imprisonment sentence.

Premise for visits of children is in the hall, where all the people who arrive in Remand prison usually pass, such as lawyers, family members, all officers. However, the door are made of glass and do not provide intimacy of children and parents, who have the right to visits.

Remand prison has the room for communication with lawyers, but this premise does not have conditions for private conversations, due to communication of other lawyers and their clients.

Regular visits for convicted persons in Prison in Bijelo Polje take place on Saturdays and last for 60 minutes. Visits for detainees take place on Thursday and also last for 60 minutes. Extraordinary visits are organized after the approval of prison authorities. Room for visits is large, with video surveillance, equipped by phone, and between visitors and prisoners is placed the glass. Official person is always present, except when it comes to visits of lawyers, when official person stands behind the door.

Room for family visit is large, spacious; it has toys for children and new furniture. Children's visits are organized once in a week. Monitoring team was informed that in one premise for family visits sometimes two visits take place at the same time. Visits usually last for an hour.

This prison does not have special premise for marital visits. When we indicated on this and gave recommendation, monitoring team was informed that the premise was adapted for this type of visit.

b. Work

According to data of ZIKS, approximately 350 persons work. They have the right to compensation for work, which has been determined in the amount of at least 30% of minimal net income, in accordance with regulations on work. Basic income for employed imprisoned persons was from 36,50 to 50 euros, at the monthly level.

Out of the overall number of sentenced women (averagely 25) who serve sentence in female prison, 16 of them are employed. Women are engaged on job positions such as cleaning in the building of the Prison Management and organizational units, laundry room, library, gardening, and sewing.

In this prison, NGO Association of old crafts and skills “Nit” from Podgorica, implements the project whose main goal is rehabilitation of prisoners, through training of old crafts and similar skills, improving the quality of their lives, reducing of social exclusion, and creating of better conditions for life after the prison. In the frame of the project, five workshops should be organized: workshop for knitting, embroidery, painting on the wood, decoupage, making of toys, and packing of products. The project envisaged participation of 30-45 people.

As monitoring team had the insight into situation and capacities of Bijelo Polje Prison, we concluded that prisoners spend most of the time on their cells. There are so little social activities for persons accommodated in this prison. Only 14 have jobs, and they usually do cleaning and maintenance of yard, assisting in the kitchen and canteen. There is improvised carpenter workshop that is not adequately equipped.

c. Recreation

Sentenced persons and detainees have right to two hours long walks in the open section, where they have the access to the gym.

In the Facility for short term prison sentences, prisoners spend their free time only by using of the gym and walking in the yard. The space is small and there are no technical possibilities for organization of sport activities. Prisoners usually express desire for reading books. The prison has a library and prisoners use books they receive from family members during the visit. It is important to enrich the prison library, in order to improve the quality of free time of prisoners. This Facility does not have a laundry. Prisoners wash their clothes and bedsheets, or their family members bring them clean clothes and bedsheets. This prison does not have separate premise equipped by computers, and one of the prisoners

whom we interviewed, complained on this. According to the given activities, we can conclude that prisoners usually spend most of the time in their cells, without structured time, which is negatively reflected on their effect of accommodation in prison.

Detainees have the right to one hour long walk, twice a day. However, detainees said that currently they had one walk that lasted for an hour, and another one that lasted half an hour. On Thursdays and Fridays, at the time of visits, it is possible to organize only one walk. Officers explained us that the reason was insufficient number of officers, who would secure walks and visits.

Other activities are not organized in detention. On sites intended for walk, it is only possible to walk, because of lack of conditions, for example, for playing basketball, football, or similar. Bikes that were obtained for exercising did not work, at the time of monitoring visit.

Bijelo Polje Prison does not have enough space and technical possibilities for sport activities. The prison has the space for recreation, with the table tennis. During the visit, this prison did not have a library, but was afterwards equipped, after the recommendation of monitoring team. However, prisoners were allowed to bring books or their families could bring them.

Right to religion has been improved. During the visit to Bijelo Polje Prison and the kitchen of this prison, we noticed that the food was separated, and stored and prepared in certain manner. In direct communication with persons deprived of liberty, we were informed that the specific food treatment for members of Islam religion had been respected. On the other side, there was no isolated premise that would serve for the prayer. Monitoring team recommended that two premises should be adapted for this. Management of ZIKS informed us afterwards, that this recommendation was respected.

Recommendations:

- ◆ Monitoring team supports the efforts that have been made in a view of investing in material conditions, in terms of exercising the right to family visits and visits for children. It is important to improve material conditions for the right to visits, in order to provide physical contact between family members and with lawyers.
- ◆ It is important to develop and develop the program for work engagement and activities during the free time, in order to improve the quality of life of sentenced persons and detainees.
- ◆ We support adaptation and renovation of premises intended for marital visits. We invite authorities of ZIKS to reconsider adoption of the plan for replacing of marital premises in Prison in Spuž, for the purpose of respecting the right to privacy. One of the three premises for marital premises should be adapted to persons who use wheelchairs, in accordance with accessibility standards.

- ◆ Visits should be organized in the manner that would provide privacy, and officers should not be present during visits.
- ◆ Family visits in BijeloPolje Prison should be organized in the manner that would not affect privacy, and if this is not requirement of prisoners and their families, they should not be collective.

POLICE FACILITIES

a. Police stations

YIHR had good cooperation with Ministry of Interior and Police Directorate, during the implementation of the project “Building Free of Torture and Impunity Societies in Western Balkan”. At the end, cooperation was formalized through the Agreement supported by Supreme Public Prosecution Office. Goal of the Agreement is improvement of protection from torture, inhuman and degrading treatment and punishing in Montenegro; contribution to faster and more efficient implementation of recommendations of international expert bodies; improvement of cooperation of public institutions and civil society, aiming to improve the level of respect of human rights of persons accommodated in the closed type of institutions. Some of the activities envisaged by this document, imply unannounced visits to police stations and Security Centers of the Police Directorate; communication with persons deprived of liberty without police officers, and insight into all premises within these institutions, and insight into documentation on detention, or deprivation of liberty, respecting the principles of protection of identity and receiving the approval of persons to whom these data are related.

Monitoring team visited Security Centers in Podgorica, Berane, Bar, and Security Center in Rožaje, Cetinje, Danilovgrad and Ulcinj.

Since CPT gave recommendation in 2008, material conditions have improved significantly. Material conditions in Security Center Podgorica are the best. The Center has a new building that fulfils all standards.

Security Center Podgorica has separate entrance for persons deprived of liberty, which provides them privacy and respect of dignity in that moment. After the transport to Security Center, these persons have to be searched, in the part that is under video surveillance. Two officers were present during the visit of the monitoring team, who told us, after the search, that they meet persons deprived of liberty with guaranteed fundamental human rights and freedoms, according to the Constitution of Montenegro, Criminal Procedure Code, Law on Internal Affairs and International Conventions, which define this area. Although officers meet them with their rights, there are written forms in Montenegrin (Serbian/Bosniak/Croatian), Albanian, Roma, Russian, English, Italian, and German language. We were informed that this information list is given to each person deprived of liberty, and that it is also put on the inner side of the door, of each detention premise, which monitoring team saw during the visit. This paper is signed by the officer and detainee who, with its signature, confirms that it has been introduced:

- ◆ that it has been deprived of liberty,
- ◆ with reasons for deprivation of liberty,
- ◆ that it is not obliged to give a statement,
- ◆ that it may engage a lawyer,
- ◆ that its family may be informed, after its request,
- ◆ that diplomacy-consular mission may be informed, when it comes to foreign citizens,
- ◆ that it has the right to free legal aid,
- ◆ that it has the right to medical assistance by a doctor engaged by the Security Center or a doctor he/she chooses on its own expense,
- ◆ that it will receive meals in regular time,
- ◆ that it will have access to water.

There is the protocol by which is registered if detained person contacts someone. If detainee refuse to do so, it also has to be registered and signed by detainee.

Nevertheless, in practice we registered the cases when such practice was not respected. During the visit to Remand prison, we organized 13 questionnaires with detainees. Out of 13 of them, ten detainees told us that their lawyer was not present when they gave statements at the police and when they signed it. Two detainees said they had problems when they needed medical aid, when they were at the police premises, while five of them had problems when they wanted to inform their families about detention. In relation to this, M.M. addressed YIHR on 22 December 2013, and said that his rights were violated at the moment of deprivation of liberty and while he was in detention at the Security Center in Podgorica. M.M. said he was not allowed to use his mobile phone, toilet and cigarettes in detention at the Security Center in Podgorica. M.M. also said he had health problems and that he was not allowed to contact his family members and a lawyer to inform them about his detention. YIHR reported this case to competent institution for the control of work of the police. On 30 June 2015, Council for the Civil Control of Work of the Police confirmed that rights of M.M. were violated while he was in detention. The Council concluded that his rights were violated because he was not allowed to contact his family or the right to inform his family and other close people on facts about his detention was not provide to M.M.; he was also exposed to inhuman treatment and inadequate conditions of accommodation, because he was not allowed to use a toilet.

Two persons said they were subjected to physical violence while they were taken to detention, while four of them were subjected to physical violence at the police station. Two persons said they were subjected of psychological violence while they were taken to detention, and three of them at the police station.

All questioned detainees said that nobody asked money from them in order to get mild sentence, better treatment in a cell or earlier release, at any time from the moment of arrest.

Security Center Podgorica has eleven premises:

- ◆ Seven for male adults (one cell with three beds, one cell with five beds and five cells with one bed),
- ◆ One for females
- ◆ One for juveniles
- ◆ One premise for providing emergency medical assistance

Premises fulfill the standards, in terms of square footage. Their width is more than two meters and the ceiling height is more than 2,5 meters. Artificial light is adequate (for reading), and they also have good natural, daily light. Each premise is equipped with a bed, small wooden table, and a washbasin with water. Each cell has the electric bell. Toilets are not in these cells, and toilets for men and women are separated. There is a toilet that is adapted to the needs of persons with disabilities. Each toilet has a shower cabin.

Although monitoring tea noticed that a blanket was not clean, which probably occurred during the vomiting of person deprived of liberty, hygiene in detention premises and toilets is relatively good. **However, detention premises should always be clean and ventilated, especially before arrival of new persons deprived of liberty.**

Security Center Berane – detention premises in the Center are in the basement of the building. There are two premises, for men and women. When it comes to square footage, premises satisfy condition with the minimum of four square meters. Each premise has two beds and a table, which are fixed to the floor. Printed copy of the European Convention on Human Rights and Fundamental Freedoms was on the table. As police officers told us, when capacities were full, new persons deprived of liberty are sent to Bijelo Polje. Premises are ventilated and floor is clean. However, monitoring team noticed that blankets and mattresses were not clean. Toilets are on the next floor, and are shared by both arrested persons and officers. Toilets do not have hot water, and do not have condition for a shower.

Security Center Bar has two premises. The first one has three beds, and each one has clean bed-sheets, and a blanket. This premise has a washbasin with a faucet. It is spacious and full of daily light. Another premise has a bed with clean bed-sheet and a faucet that works from the outside, meaning that a detainee has to ask a policeman to let water. This premise is also ventilated; it is smaller and has the small part that lets the daily light. There is a toilet between these two premises, which, as we were informed, is used by both detainees and police officers.

Security Center Rožaje has two premises for detention; one for men and another one for women. Premises have two beds each, one table and a washbasin. Beds and tables are fixed well, premises are ventilated and clean, and hygiene is satisfactory. A toilet is

next to the detention premise. Heating system does not function well, and monitoring team also noticed that. Officers also admitted that heating system in this part did not function appropriately.

Security Center Danilovgrad has two detention premises. One has one bed, while another one has two beds. One-bed premise has eight square meters, and another one has twelve square meters, according to measuring of members of the monitoring team. Premises have natural daily light. Although hygiene is good, mattresses were not clean so, they should be changed.

Security Center Ulcinj has three detention premises. One of them is not used, as monitoring team was informed. Two premises are used for accommodation of persons with critical conditions, and they need urgent adaptation. These premises are placed at the basement of the building, and have poor daily light. At the moment of monitoring visit, Ulcinj did not have electricity, neither did have detention premises. Detention premises have poor ventilation system, hygiene is also poor, mattresses and blankets are not clean, and cells did not have pillows. Square footage of a premise that has two beds is not in accordance with standards, and has seven square meters. We were told that private agency undertook responsibility for hygiene maintenance. As monitoring team was informed, heating system does not work, or is not functional. Monitoring team recommends that persons deprived of liberty should not be kept in these premises until their full implementation in accordance with standards. Until that moment, detainees should be kept in premises of the closes police station.

Monitoring team noticed that authority kept detailed registry on use of means of coercion and complaints on police officers, and that they sent them to competent bodies at the Police Directorate. Police officers should use such a practice in other police stations.

On the other hand, monitoring team did not meet with practice on keeping of certain registries on required and provided medical help to persons deprived of liberty and detainees, and specific registries about all persons invited at the police station.

During the monitoring visits, the team found out that meals were not delivered in organized manner to persons deprived of liberty, in some police station. When it comes to persons, who stay long, usually their families bring them food or detainees give them money to buy them food. Similar situation was noted at the Security Department in Rožaje and Ulcinj. Persons deprived of liberty and detainees do not have provided meals, but only sandwiches.

If a person deprived of liberty is in wet clothes or clothes unsuitable for their health, than appropriate clothes should be given to them during the detention. Adequate clothes is not available at the police stations. Clothes unsuitable for health imply very

dirty clothes, especially in care of urination and defecation. European Court of Human Rights defined violation of Article 3 of the European Convention (prohibition of torture, inhuman and degrading treatment) when a person who messed up during the arrest was not allowed to change his clothes. **Valasinas v. Lithuania, App.No.44558/98 (2001), Paragraph 117.**

In most of the cases, persons deprived of liberty are not taken immediately and without a delay, and as defined by the law, to competent Prosecutor, or competent misdemeanor body, but are taken to detention, which cause concern. this is especially emphasized in cases when person are deprived of liberty from 23:00 until 07:00.

Premises are mostly equipped by video surveillance and interphone. Nevertheless, video surveillance does not cover all places where persons deprived of liberty pass. The worst situation is in Ulcinj. Security Centar Ulcinj has three cameras, two are placed in detention premise, and one is placed in the main hall. When it comes to other police stations, Security Center Berane does not have video surveillance in the hall, at the stairs and detention premises. Monitoring team noticed such a failure during earlier monitoring visits. We also registered that Security Center Podgorica has places where detainees are usually taken, but are not covered by video surveillance – this is the part of the stairs that lead from detention premises to offices.

Parts of premises are not available for movement of persons with disabilities. Such a situation has been registered in Berane and Rožaje.

Staying on fresh air should be provided for persons who stay in detention longer than 24 hours. However, this is not the practice. As we were told, there are no conditions that would provide safe staying out o detention premise.

Recommendations:

- ◆ During deprivation of liberty, fundamental human rights should be respected, such as: a person should be introduced with the reasons of deprivation of liberty; that a person is not obliged to give a statement; that a person can engage a lawyer he/she chooses; that on his/her request members of their family may be informed, after their request; that a diplomatic and consular mission may be informed if the case is related to a foreigner; that a person has the right to medical assistance of a doctor sent by Clinical Center or a doctor he/she chooses, on its own expense. Positive practice where persons deprived of liberty receive documents on information about their rights that was used in Podgorica, should be used in all Security Centers and Departments.
- ◆ For persons who stay in detention more than 24 hours, staying at fresh air should be provided.
- ◆ Persons deprived of liberty should be immediately, and without a delay, taken to

Prosecutor. In this regards, strengthening of capacities of prosecutorial institution, and possibilities for opening of offices in premises Security Centers should be re-considered

- ◆ Although hygiene was at the high level in almost all premises we visited, we also noticed that blankets and mattresses were not clean in some cells. Blankets and mattresses should always be clean. Security Centers and Units that do not have appropriate conditions for persons deprived of liberty to take a shower, should provide these conditions.
- ◆ Access ramps and elevators should be built, which would allow entrance and movement of person with disabilities within the building.
- ◆ Also, in the case of need, appropriate clothes should be provided for persons with disabilities.
- ◆ Adequate heating system should also be provided in all cells, where persons deprived of liberty are accommodated.
- ◆ It is unacceptable if persons deprived of liberty do not have meals during their staying in detention, and if this depends of the good will of officers. Therefore, solution has to be found as soon as possible, and provide adequate meals for detainees.
- ◆ Video surveillance should be installed at all police stations, from the main entrance until detention premises. This is especially related to Security Center in Ulcinj.

b. Reception Center for Irregular Migrants

Monitoring team visited this Reception Center for Irregular Migrants on 9 July 2015. This visit was announced. The Center functions within the Police Directorate, Border Police Sector.

All officers who work at the Center cooperated with members of monitoring team, who did not notice that they tried to give insincere answers. Monitoring team had access to premises, but did not have permission to talk to persons deprived of liberty. During the visit, three persons deprived of liberty were at the Center, from Morocco, Macedonia, and Croatia. Generally, we may conclude that human rights and freedoms are generally respected and that conditions where persons deprived of liberty are accommodated are very good. However, for reliable assessment of respect and protection of human rights, it was necessary to communicate with persons deprived of liberty.

The Center has the capacity for 46 persons in ten cells, and is used for accommodation of foreigners who illegally come to Montenegro or reside Montenegro without approval; foreigners whose identity cannot be determined; foreigners whose temporary residence has not been approved, or right to asylum was not approved, or status of a refugee; and who may distance from Montenegro for any reasons. The shelter accommodates only adults, while juveniles are accommodated at the Center for Children and Youth Ljubović. The Center started to work in 2013. The building is new and is built in accordance with the standards. Hygiene is at the high level.

Units for men and women are separated. Until nowadays, capacities have not been fulfilled. In this institution, detention averagely lasted for two months.

The Center has 36 employees. Out of this number, five people are heads/inspectors, who have conversation with persons accommodated at the shelter. Out of the overall number of employees, three are women. The Center has two female assistants. Officers attended trainings on treatment of asylum seekers, illegal migrants, and training on prevention of torture. Part of trainings were organized in the Netherlands and in Germany.

The Center has a kitchen and a restaurant, but the food is not prepared here. According to the contract, the Center receives food from ZIKS, which is very close.

Provision of medical aid and medical protection function in the same manner. The Center has the premise for provision of medical protection, but doctors who come at the shelter, work in ZIKS. The premise does not have refrigerator for preservation of medications, and a locker for keeping of medical documents. If a person is accommodated at the shelter on Friday, for example, then it stays in reception room until Monday, when a doctor arrives to do medical examination. If a person deprived of liberty requests urgent medical aid at the Center, that person is usually taken to the closest emergency hospital.

We were informed that on their way to the Center, persons deprived of liberty are informed they have right to call anyone they want. After that, their family members are allowed to call at the number of the Center, and this practice is respected in any part of the day.

Officers from the Center told members of monitoring team that the contact with lawyers was allowed, and that persons deprived of liberty regularly use it in this institution.

Since the beginning of work of this Center, until the monitoring visit, persons deprived of liberty have never complained on work of police officers in this institution.

Visits are allowed during the working day, and last for half an hour.

The shelter has the premise for religious rituals and preparation of food is adapted to believers.

The whole building is under video surveillance, except cells and toilets.

Detainees are allowed to walk every day, for two hours, from 16:00 until 18:00. Place for walk is not covered, thus is not protected from the rain.

Cells are clean, ventilated, and have natural, daily light. Square footage of one cell with six beds is 27 square meters plus one toilet, while another cell has 24 square meters.

This cell has seven beds.

Day care part of this institution is clean, ventilated, and contains all elements important for preparation of food.

The first floor of this institution is adapted to persons with disabilities. Officers told us that they did not have persons with disabilities, but if the situation changes, persons with disabilities would be accommodated at the first floor.

Recommendations:

- ◆ Monitoring team recommends to leadership of the Center to allow communication between representatives of human rights organizations and persons deprived of liberty in the shelter. This would lead to improved confidence in respect and protection of human rights.
- ◆ Monitoring team also recommends procurement of refrigerator for maintenance of medications, and a locker for keeping of important medical documentation, which is in accordance with Law on protection of personal data.
- ◆ It is important to employ professional medical staff that would provide urgent medical help until arrival of a doctor, and staff that would control the use of therapy.
- ◆ It is important to cover the space intended for walk, so it can be used despite the consequences of weather conditions.
- ◆ Although we were told that the premise that has 24 square meters, has never been full, one bed should be taken from this cell, so that the space would satisfy standards prescribed by CPT.

c. Democratic Front protests

Oppositional Democratic Front (DF) organised protests in front of the Montenegrin Parliament during the September and October 2015.

Following the request of Communal police, national police initiated the breaking the protests on 17 September 2015 at 06:00h. The background of Communal police request was related to the expiry of permission for the use of the public space. Police officers used means of coercion, as the protesters refused to disband. Eleven citizens have been arrested, including two MPs, two journalists which have been covering the protests, one local counselor. Number of them suffered injuries and received medical care at Clinical center. Almost every citizen, journalist and MP have been acquitted of any liability in follow up procedures before the national institutions.

YIHR researchers monitored field activities and police conduct. We express particular concern over unlawful arrests of two citizens which have been working on their official media assignments, out of which one received physical injuries from police officers, although he did not pose any kind of resistance. One journalist publicly stated at the

court trial, which have been monitored by the YIHR, that he considered his videotaping of dozens of police officers beating up one citizens to be the reason of his deprivation of liberty.

After the first protests were disbanded, DF staged another one. YIHR again monitored the protests from the field and on 24 October provided timely public information via social networks. Namely, on that day the public unrests emerged and police officers used unlawful means of coercion and beaten up several citizens. YIHR maintained constant communication with the citizens and documented all cases which implied police torture.

YIHR monitors acknowledged that protests were peaceful at the beginning, although with certain amount of tensions, which no one tried to moderate from the side of the organizer. There were several accidents, e.g. one of the YIHR researchers had been hit with the stone, but with no severe injuries. According to the YIHR, police overstepped their competencies, after the initial legally based motion. It was difficult to operate after the huge number of shock bombs and teargas have been fired.

YIHR and its partner organization commemorated the International Human Rights Day by warning the systematic lack of liability of Montenegrin civil servants in regards to the proved torture and other violation of human rights, thus sustaining the culture of impunity and negation of rule of law. Special accent has been put on the delays in investigation of the torture over Milorad Martinović and other citizens on the streets of Podgorica after the protests on 24 October 2015. We asked from Supreme State Prosecutor to ensure the rule of law by processing the responsible individuals, starting from the top of police administration. Biggest problem in investigation is the solidarity among the police officials, which prevented the identification of police perpetrators of torture and other violations. It is of concern that, according to media, even Radosav Lješević, Commander of Special Anti-terrorist Unit, failed to provide concrete names to the state prosecutor, stating that he was not aware of the identity of his fellow police officers, driving with him in police vehicle, as “they all wore masks”. Police did not followed the CPT recommendation that all police uniforms should have visible numbers, allowing the later identification.

YIHR formed several cases following the citizens’ complaints and our investigations of alleged violations of human rights:

1. Milorad Martinović case

Beating of Martinović has been recorded and available at following link:
<https://www.youtube.com/watch?v=hmRQ4lTYz6g>

Video footage contains images of more than 15 police officers taking part in the incident. Martinović sustained severe injuries and his vehicle has been completely destroyed.

State prosecutor motioned the investigation and 2 police officers had been arrested.

Ombudsman of Montenegro stated that conduct of Police Directorate officials caused violations of rights of Milorad Martinović. “Namely, on 24 October 2015 at 23h in Jovan Tomasević street in Podgorica, number of representatives of Police Directorate exercised excessive use of force with rubber bats over the citizen Milorad Martinović, hitting him all over his body, while he was laying down, powerless to resist. He received the number of hits and serious injuries have been inflicted upon him.

Conduct of official representatives of Police Directorate towards a citizen Milorad Martinović contains all the elements of inhuman and degrading treatment: engagement of officials, intent to punish (for assumed role in incidents during public gatherings which preceded), helplessness of the victim and intensity of inflicted pain”.³

Council for Civil Control of Work of the Police concluded the obvious excessive use of force by the police officers in the concrete intervention, and that police officers were unprofessional in the conduct towards citizen Milorad Martinović exceeding their official authorities and that citizen has been subjected to torture, inhuman and degrading treatment, and that it led to serious injuries and destruction of his vehicle.

2. Case of journalists Dražen Živković and Gojko Raičević

Dražen Živković (journalist of daily Dan) and Gojko Raičević (editor of online portal IN4S) have been brought in by the police during the break up of the protest on 17 October 2015.

Journalists have been accused of not following the police order to leave the protected zone. It has been particularly concerning that means of coercion have been applied over both journalists, although they did not give any resistance. Raičević was also hit by the police officer in lower back and was pushed during the entry in official police vehicle, causing him the knee injury. Journalist Živković was handcuffed, despite giving no resistance. Thus, the right of public to know has been violated, including the right of public to be informed on events that took place that morning in front of the Parliament.

YIHR researchers monitored the Živković trial and during the first session police officers verified the journalist’s story, which did not coincide with statement of Police Director, who claimed that journalist refused to abide to the order of the police officer. Živković claimed he had videotaped the beatings of other citizens by the police. Misdemeanor court acquitted Živković from charges he obstructed the police officers in their work. Council for civic control of the work of police concluded that police officer restricted the freedom of movement to Živković during his work, given that he is a journalist.

³ <http://www.ombudsman.co.me/docs/izvjestaji/488-15.pdf>

Raičević suffered the attack of police officers after the 24 October protests.

Council of Europe concluded that police officer during the protests also attacked journalist Gojko Raičević, and hence he had been put in jeopardy by the state and that his security has been endangered.

Council of Europe concluded that this posed an attack on his personal security and journalistic integrity. In addition, Council of Europe stated that during the protests (17, 18 and 24 October) Raičević had been for 3 times targeted by brutal attacks, beating and arrests by the Montenegrin police, although he was on covering the protest of oppositional parties in front of the Parliament in his professional journalistic capacity. Report states that on 17 October Raičević has been physically assaulted by the police officers and then arrested in early morning while covering the police bringing in the opposition MPs. Next attack on Raičević took place on 18 October when a police officer threatened him from the police vehicle passing him by. Third assault took place on 24 October, while Raičević covered the police breaking the opposition rally in front of the Parliament. Raičević was hit by the police officer from the back with the police stick. Ten minutes later, masked member of special police unit stepped out of his vehicle and inflicted multiple hits to Raičević.

Council for Civil Control of Work of the Police concluded that there was an excessive use of force over Gojko Raičević while he did not resist. Council demanded from the Police directorate to publish the identity of police officer in question, as well as all information regarding the respective disciplinary and other procedures and to inform the public on this actions. However, this did not happen till the moment this report has been under preparation.

3. Use of teargas

Number of citizens' complaints referred to the proportions and use of chemical means (teargas). YIHR researchers on the ground during the protests on 24 October 2015 noticed that police officers have been firing teargas towards journalists, citizens peacefully leaving the sites of incident as well as older people. YIHR also had a cameraman who videotaped the part of the activities of police officers.

Apart of the large of number of citizens suffering injuries from teargas consequences, three police officers also suffered injuries from it.

Council for Civil Control of Work of the Police concluded that the use of chemical means towards journalist was not proportionally careful and non-selective, and invited Ministry to issue an apology to the journalists and cameramen that were present in Stanko Dragojević street where the teargas was fired.

Also, Council recommended the Ministry to organize a round table with relevant experts and interested public in order to facilitate dialogue over the use of teargas during the October protests. This was not observed till the moment this report has been under preparation.

4. Case of M.R.

Citizen M.R. (1949) from Herceg Novi approached the YIHR, complaining over the conduct of police officer during the protests on 24 October 2015. He said that he was peacefully protesting and that he moved on the Trg Republike after the incident. According to his statement, police officers, wearing the full riot gear, have caught up with him and started hitting him all over his body with police sticks, inflicting him hand injuries. As he said, his fist was broken. YIHR compiled medical records, which indicated hematomas and arm fracture.

Police Directorate responded they had no information on any means of coercion being applied by the police officers over the M.R, nor that he suffer any injuries.

Council for Civil Control of Work of the Police concluded that police conduct in this case was unprofessional.

5. Case of V. D.

Citizen V.D. (1938) told the YIHR the following: “I was at the square from the beginning. Then we moved towards the Parliament. I stood next to the Pushkin monument. During the protests, I did not scream, nor insulted, I was the most liberated citizen in the world. Later the MP Radunović told about the ten minutes deadline and that they would not be responsible for what would follow. I did not think that to be a good message. Immediately I moved to the bridge, I felt some pain in my leg as I have been standing for a long time. They started throwing firecrackers at the police as well as some other objects. I speeded up towards the bridge. I could hear several bigger explosions. More and more people were heading towards the bridge. Something exploded in my vicinity. My white jacket had over 30 trails from stones blown up by the explosion. I felt the pain in my legs at that moment. Teargas has been all around. I could not go straightforward due to the teargas, so I moved back and went across the Ribnica river bridge. When I arrived home, I could barely breathe. I felt chest pain. It still hurts when I breathe. I noticed, what is the most important, that police was firing teargas at us, but not on people in frontlines, which were attacking the police, but us, who were peaceful. On the bridge were mainly older people, barely walking. On the Skaline stairways I have seen the main laying down, immovable, while 2 guys next to him were screaming. My doctor later told me that my injuries were caused by the rubber bullets, but this was not entered in medical record, only mere verification of injuries and their proportions”.

Medical record stated the injuries on inner right thigh, dimensions of 38cm, with blue shades in the middle and 2 circular defects with 1cm diameter.

Police Directorate denied the use of rubber bullets. However, in their memo to the Council of Europe, Ministry of Interior confirmed that rubber bullets have been used, for the purpose of avoiding direct contacts and physical conflicts with protestors.

Council for Civil Control of Work of the Police concluded that the rights of V.D. have been violated by the Police Directorate.

YIHR provided free legal aid to the V.D. and criminal complaints has been submitted to the Basic state prosecutor in Podgorica. However, there were no follow up information on this complaint.

6. Case of Ž.L.

Citizen Ž.L. (1969), spoke to YIHR on 2 November 2015, complaining on the police officers. Namely, Ž.L. has been in local cafe in Pobrezje quart with citizens V.P. and I.P. during the night of protests. In period 22:45 and 23:00h, group of police officers (at list 10 members of Special anti-terrorist unit (SAJ) have beaten them up, after requesting them to step out. Z.L. said he did not resist and respected every order from police officers. Eventually, police officers did not bring them in for questioning, but left them harmed, which clearly indicates suspicious use of police competencies.

In medical records that Z.L. submitted to YIHR, is stated that Z.L. said that in the night of the protests he had received several hits from SAJ members over his head, arms and back. Record registered following injuries: blue hematoma on right elbow with 1*2cm dimensions; 2 blueish hematomas on inner right thigh with 3*5cm dimensions; ellipsoidal hematoma in the back with 10*15cm dimensions and smaller injury on left elbow with 1cm diameter.

Council for civic control of the work of police concluded that SAJ members have treated Z.L. in degrading way, conducting in unprofessional and unlawful way, seriously harming his dignity and physical integrity.

7. Case of R.P.

Citizen R.P. (1978) told to YIHR researcher the following: "I was at the protest. When the teargas was released, I run as everybody did. At the beginning of ulica Slobode, next to the Hotel Podgorica, somewhere in the middle, a police jeep made me drop on the ground and suddenly out of the wham that followed the jeep, a 10 Special Forces members came out and grouped, with 4 of them started beating me and others started running after others. No questions asked or comment made, when they thought they had enough, they left. I was in and out of consciousness while I walked to the hospital, covered in smoke. In one bar, I didn't know its name, people gave me some bandages for the bleeding head. I continued to Maschine engineering high school, and one couple stopped and helped me to the hospital.

I was registered following injuries – head injury, 2 open wounds, 3 major hematomas on left leg and left hematoma over my breast.

Council for civic control of the work of police concluded those were concerning actions by the police officers and severe infringement of personal dignity of citizen R.P.

In this concrete case, YIHR provided free legal aid to the citizen R.P. Criminal charges were motioned, and there still no information on the eventual beginning of the trial.

8. Case of B.R.

Citizen B.R. (1943) spoke to YIHR and said that on the night of the protests of DF she was harmed by the police officers. Namely, B.R. said she was tired at some point and left home before the unrests. When she reached the T-com building, she was alone. She wanted to call for a cab. Out of direction of old Government building a “bomb” flew and caused her injuries, which were registered in medical records. She was assisted by the unidentified citizen.

Medical records registered injuries of left thigh with unknown object. There were two visible marks on front side of left leg with 3cm diameter with surrounding hematoma.

9. Case of R.P.

Citizen R.P. (1948) spoke to YIHR on 2 November 2015 with complaint on police officer, whose identity was unknown to her. She was on protests on 17 November in front of the Parliament. In one point, group of police officer used means of coercion and one police officer hit her with the shield, after which she fell and suffered injuries.

Medical record registered injuries of both knees, right elbow, right fist and of breasts. Council for civic control of the work of police concluded that police officer acted against citizen R.P. without caution and respect of her personal dignity and used means not necessary for professional conduct of police work.

10. Case of illegal deprivation of liberty in Dalmatinska ulica

Four citizens whose identity is well known, addressed YIHR and said they were illegally deprived of liberty, during the night between 24 and 25 October 2015.

They were in Dalmatinska ulica, in completely different part of the town than the place where the protests took place. As they told us, they did not even participate in protests. Police officers deprived them of liberty in front of their family homes.

YIHR provided free legal aid to these citizens.

Misdemeanor court in Podgorica made a decision and released four citizens from allegations they interfered with police officers and humiliated them.

11. Case of beating up of three citizens from Kolašin

Citizens D.Š., M.R. and A.R. from Kolašin, participated in protests on 24 October 2015. On their way from Kolašin, members of SAJ stopped them with their vehicle „Hummer“. Few police officers got out of the car, beaten them up and demolished their car Toyota Yaris.

Citizens suffered injuries that were documented in medical documentation and photos. YIHR provided free legal aid to these persons. The proceeding takes place before Basic Prosecution Office in Podgorica.

Council for the Civil Control of Work of the Police concluded that in the concrete case, police officers violated dignity of these citizens, that they illegally used force and without justified ground, especially as these people did not resist.

12. Case of illegal arresting of a citizen M.M.

Citizens M.M. (1988) reported to YIHR representatives that police officers illegally deprived him of liberty at the night of protests, 24 October 2015.

He told YIHR researcher that he was not at protests, but the police deprived him of liberty when he carried water to his friend. As he told us, he did not disturb public peace and order.

On the other side, the Police accused him for humiliation of police officers.

A trial before Misdemeanor court is in course.

13. Case of citizen Lj.S.

Citizen Lj.S. (1976) from Podgorica reported that she was injured during the protests by unknown persons who got uniforms. Only few meters far from her were police officers who did not help her or prevent uniformed persons. A person from this group shot her in a leg, while another one left the tear gas from the same direction. After that, she felt stifling and she did not see well.

Leg injury was registered in medical documentation she gave us. Also, these injuries were photographed.

Council for the Civil Control of Work of the Police assessed that in the concrete case occurred unprofessional acting and violation of rights.

14. Case of citizen V.L.

Citizen V.L. (1956), filed complaint to YIHR. He explained he was injured by the police in front of the Parliament of Montenegro, although he did not resist. He said that his left arm and left leg were injured. When he was shot and when he fell on the ground, few people pulled him and helped him to leave the place where the incident happened. He felt sick and he did not remember if he had lost consciousness. When he felt better, he moved across the bridge Blažo Jovanović. V.L. is from Sutomore and he arrived at the protest with his family. When they arrived at the parking near Čepurci, where his vehicle was parked, they went home. As his leg and arm were injured, he went to the ambulance where injuries were stated. Two bullets were taken from his arm and leg, and he still waits for the surgery.

Council for the Civil Control of Work of the Police assessed that the concrete case had elements of violation of right and unprofessional acting.

15. Case of citizen Đ.Š.

Citizen Đ.Š. (1992) from Podgorica said that police officers beaten him up on 17 October 2015.

Đ.Š. said that several police officers beaten him up, and that the situation started with one of them with whom he did not have any communication. Then, other police officers joined him.

Đ.Š. suffered severe bodily injuries. Medical record stated that he was hit on his head, hematoma 4x4 cm, swelling and tenderness of the right shoulder, hematoma and excoriation in the area of the back of elbow 5x3cm, excoriation in the area of left elbow 2x2 cm, in the area of epigastrium 3 parallel strip excoriation 4cm long, in the area of left knee hematoma and excoriation 3x2cm, excoriation in the area of right knee 6x2cm, pain and swelling of the right knee, right paravertebral hematoma on the shoulder hematoma 30x7cm, left shoulder hematoma 20x4cm, excoriation 2x2cm in the area of the left knee.

Citizen Đ.Š. filed criminal charges and the procedure is in course.

16. Case of citizen D.D.

Citizen D.D. told YIHR researcher: „On 24 October 2015, late in the evening and soon after the end of protest in the center of Podgorica, unknown persons, members of SAJ, came closer to me while I was walking through the park, on my way home. They used physical force and truncheon, with no reasons, without any warning. After the first hit in my head, I fell on the ground leaning on my right side of the body. Members of the police continued to beat me with truncheons and legs all over my left arm, back and my

head, until one of the members of SAJ pulled my hand and pulled me out of the group. He than helped me to find safer place.

On that occassion, D.D. injured arms, legs and back.

Council for the Civic Control of Work of the Police concluded that competences were exceeded in the concrete case.

YIHR provided free legal aid. The proceeding is in course.

17. Case of citizen B.R.

Citizen B.R. (1972) from Nikšić addressed YIHR and explained that police officers beaten him after protests on 24 October 2015.

B.R. got injuries of head, bacuse he ws beaten by legs all over his head.

Police Directorate accused B.R. for disturbing and humiliating police officers.

On the other hand, Council for the Civil Control of Work of the Police concluded that acting of the police in the concrete case was unprofessional.

18. Case of Nikola Bajčetić, Councilor of DF at the Assembly of the Capital city Podgorica

Nikola Bajčetić, Councilor of Democratic Front at the Capital City Podgorica Assembly is sentence to three months imprisonment sentence as he tried to prevent the police to move the tents in front of the building of the Parliament on 17 October 2015. Bajčetić was accused that he broke through the police patrol vehicle with the vehicle Renault and the police cordon in Bulevar Stanka Dragojevića and Bulevar Svetog Petra Cetinjskog, and therefore endangered lives of participants of the protest and policemen on 17 October 2015. Bajčetić explained that he did this in order to save colleagues who were beaten by the police.

Bajčetić accused police officers for beating him up and inflicted him injuries, and demolished his car. Video of this incident is available on this link: https://www.youtube.com/watch?v=S_dEc3sXozo

Bajčetić got injuries all over his body, which was registered in medical documents.

Council for the Civil Control of Work of the Police conclude that police competences were exceeded when the vehicle was stopped and Nikola Bajčetić deprived of liberty. The Council made conclusion according to the video which clearly showed that a police officer moved around the vehicle and hit it with the truncheon few times. On insisting

of the Council, response of the Police Directorate did not reveal identity of the police officer who did prohibited acts.

19. Case of citizen S.R.

Citizen S.R. (1985) addressed YIHR and said: „I arrived on appointed protests at Trg Republike at 19:00, where I walked with other people on the way to the Parliament of Montenegro. During negotiations between MPs and the police, I was at the distance of perhaps seven to ten meters. I stayed on that place all the time, until the moment of escalation of conflicts between demonstrators and police, which can be confirmed by the camera on the main entrance of the Parliament of Montenegro. I personally believe that this also recorded cameras used by representatives of the Ministry of Interior, who recorded the whole central part, where I was as well. Before, during and after the protest, I Did not participate in disturbing of public peace and order. I came at the protest for my personal believes, which implied peaceful, democratic and nonviolent demonstrations. Bearing in mind that the conflict between demonstrators and police happed so fast, when I realized that a number of firecrackers and stones were thrown on police, I think I made few steps back, when I heard strong explosion. At the same time, I felt strong pain on my lower leg, from my knee down to the ankle. Few seconds after this, teargas fell near me so I felt disorientated, but with the assistance of my friends I soon left the mentioned place and walked down to the part in front of the Parliament. Then I crossed the street and arrived at the park in front of the Hotel “Hilton”. From that place I safely came home. On Monday 26 October at 17:30, I went to Emergency where a surgeon stated eight wounds from gellers, two stayed in my left lower leg (and will stay forever) and surgery is not possible, so after the vaccines I received, I was released home with the list of medications. I have to point out that I walk using crutches and that I have pain, especially in the area of the ankle which is swollen.

Prosecution Office was informed about this case.

20. Case of citizen V.V.

Citizen V.V. (1942), addressed YIHR and said that rubber bullets hit her in the lag and arm.

Council for the Civil Control of Work of the Police concluded at the session that took place on 15 April 2016 that acting of the police was unprofessional and that humna rights were violated.

Namely, the Council held this session after the independent daily „Vijesti“ published the article „the Police fired rubber bullets on citizens“, in wich was presented the document of Ministry of Interior sent to the Cuncil of Europe, on the occasion of case of journalist Gojko Raičević.

21. Case in Zlatarska st.

Citizens B.V. and M.B. from Podgorica reported to YIHR that they were beaten by police officers after protests, on 24 October 2015. Citizens were injured all over their bodies, and injuries were documented in medical records.

Journalists of Vijesti recorded this incident in the video, which can be seen on this link: <https://www.youtube.com/watch?v=DCeZNEfSdDw>

Protector of Human Rights and Freedoms concluded in Opinion from 28 December 2015⁶, according to statements of people who filed lawsuits, insight into reports of doctors, videos and all other defined facts and circumstances, that police officers used physical force unduly towards these two citizens with inhuman and degrading treatment and violated their human rights. Protector recommended that the Police Directorate should undertake measures without a delay, for identification and defining of responsibility of all police officers who used force towards these people.

According to YIHR findings, Police Directorate still has not identified police officers who illegally acted in this case.

Council for the Civil Control of Work of the Police concluded at the session on 26 October 2015 that, while acting, police officers severely violated dignity of these citizens. They used force towards people who did not resist.

22. Case of citizen D.B.

Citizen D.B. reported that during the protest he was hit by an object in the leg. He believed that it was teargas which burst at that moment, because he felt severe irritation, sneezing and tears in his eyes. He stayed at that place, lying on the ground. Two more elderly men were by his side and one person that has the vest with the inscription PRESS. The Police found him and took in detention him and two elderly persons who were with him.

Number of injuries were registered in medical documentation.

Police Directorate initiated misdemeanor proceeding against citizen D.B. before Misdemeanor court in Podgorica, and accused him for throwing stones with two persons on police vehicle. The proceeding is in course.

23. Torture of citizens X and Y

Citizens X and Y reported to YIHR torture they suffered from representatives of SAJ. They said that they were sitting at the bar in Podgorica. As they said, between 22:45

and 23:00, group of police officers (at least ten representatives of SAJ) beaten them up, when they required from them to come out of the bar. X and Y said they did not resist and that they respected orderd from the police. At the end, police officers did not take them to detention but left them wounded, which clearly indicates on suspicious use of police competences in this case.

X and Y were seriously injured. Injuries were registered in medical documentation and photographs that are archived at YIHR office.

YIHR informed all institutions about this case. However, citizens X and Y refused from charges and asked us to stop all actions in this case.

Council for the Civil Control of Work of the Police continued the proceeding and concluded that rights of X and Y were severely violated.

Recommendations:

- ◆ Almost all cases reported to Public Prosecution Office lack efficient, independent and effective investigations. Main problem on which Prosecution Office pointed out is that police officers do not mention the names of colleagues who violated the law, under full equipment, and who maltreated citizens. Prosecution Office and the Police should identify all police officers who violated human rights during protests and process their responsibilities, as soon as possible.
- ◆ Prosecution Office should examine command responsibility for violation of law during the protest, especially the situation when the commander of Special Anti-Terrorist Unit (SAJ) did not mention names of police officers who were in the vehicle with him.
- ◆ Police Directorate did not respect recommendations of CPT because police officers were under full equippment, when it was not possible to identify them. They should wear clear and visible signs. For that reason, this recommendation should be respected and officers should wear clear signs on the uniforms in all future actions, so they can be identified.

INSTITUTION “KOMANSKI MOST”

Introduction

Visit to institution “Komanski most” took place on 21 October 2015. The team was composed of four representatives of NGO Youth Initiative for Human Rights (YIHR), Association of Paraplegics, Civic Alliance and nongovernmental association Children of Montenegro.

The visit was announced and was approved by Director of this Institution.

Mr Vaselj Dušaj, Director of the Institution welcomed the monitoring team. This meeting also attended Slavka Mirović, Head of the Service for work on occupation therapy; Jelena Banjević, Head of the Reception Service; Danica Kandić, main medical nurse; and Borislav Đurović, social worker. We are grateful to management of this institution on their open access and cooperation.

During the visit we did not receive any information about violation of human rights, abuse or inhuman and degrading treatment of users of this institution, committed by staff in Komanski most. Monitoring team noted disagreement (verbal communication) among its residents, concretely among two brothers. However, staff of the institution told us that there was no violence between them and other residents. Relations between the staff and residents were professional and friendly.

Activities of the Institution, pursuant to affairs defined by Law on Social Welfare and Children's Protection and Decision on organizing of Public Institution for Accommodation of Persons with Disabilities, includes care, upbringing, education, work and occupational engagement, and health care protection. This Institution has started its work in 1976.

Conditions

Accommodation capacities of this Institution are intended for 130 persons. Nowadays, 112 people reside this Institution (62 men and 50 women). Four persons are not Montenegrin citizens. Last year, none of the residents were not released. Residents are accommodated in two pavilions, A and B, which are separated. There is also pavilion C, where children used to be accommodated earlier. As monitoring team was informed, **since 2015, this Institution does not provide accommodation for children under the age of 18.** Public Institution Komanski most has become the place for adults. Each premise has four beds. All rooms are clean and tidy, spacious, ventilated, and lightened. They are equipped with beds with the clean bed-sheets, lockers, tables, while

some rooms have TVs. Rooms have shared bathroom and a toilet. Toilets are adapted to the needs of persons who use wheelchairs. The Institution has one large room, which all residents share, and it has chairs, TVs, and tables. Hygiene was adequate in all premises that monitoring team visited. Clothes of the residents was clean and tidy. During the monitoring team visit, Pavilion C was under reconstruction and this part is intended for accommodation of persons with autism. Reconstruction is in final phase.

The menu composed the Institute for Public Health. Residents of the Institution have five meals a day, three main meals and two snacks. Staff feeds almost fourty residents, because of their health problems. Monitoring team did not receive any objections on quality of food.

Custody

Competent Basic court deprived all persons accommodated in this institution of business capacities.

After the categorization, custodian is determined. If no one from the family does not want to accept the custody, than the Center for Social Welfare is obliged to determine custodian ad mostly someone who is employed in the Center for Social Welfare in official capacity. Currently, 44 people from the Center are custodians.

As Director said, residents have right to legal protection by custody bodies, via selected, direct custodian, while the Institute only provides service. Matter of right of resident to legal aid; in case they want to initiate reconsidering of decision on deprivation of business capacity, stays open. We were informed that there were no similar requests in practice.

Meetings with custodians

Monitoring team welcomes the new practice introduced by the Management, which is related to appointment of meetings with Center for Social Welfare (every month) and meetings with parents and custodians (at least twice in a year). Novelty in the law is the opportunity for parents to be a member in Management board. Almost 40% of parents/custodians arrive at these meetings, but there is always more custodians (officers of Center for Social Welfare) than parents.

The Institution covers expenses for those parents who arrive at meetings. Expenses imply travel costs and costs for meals. This also implies expenses for parents and members of families who come to visit its family member accommodated in this Institution.

YIHR also supports decision of the Institution to organize one-day visits of its residents to their families.

Staff and medical protection

This institution has 82 employees. Vaselj Dušaj, Director of the Institution said that the number of employees rose, in comparison with the previous period. Nowadays, Institution “Komanski most” has three defectologists (and one more, who is on a sick-leave), two psychologists, three social workers, one animator for cultural and entertainment activities, one pre-school teacher, two work animators, two physiotherapists. Overall number of employed medical workers is 18, and nine more doctors who are engaged according to the service contract. This institution also has 18 nurses.

General practitioner has not been employed in this institution on full time that lasts for eight hours, but the doctor is retired military person and usually works according to the service contract. The reason for this is that no one applied on job advertisement or people usually gave up of this job position. General practitioner works three hours a day and works by invitation. The management intends to employ a doctor permanently but the problem occurs in practice, because young doctors are not interested for work in this institution.

Nine specialists were engaged according to the service contract, such as neuropsychiatrist, psychiatrist, a dentist, a gynecologist, orthopedist, cardiologist, an internist, a neurologist and radiologist.

Number of medical nurses/technicians who are currently employed is 13, although the pay list has them 16, and systematization 18. Three nurses are at maternity leave. Shift of medical nurses lasts 12 hours.

Management of the Institution “Komanski most” said they had good cooperation with Clinical Center of Montenegro. As they said, resident have efficient protection, they waited less when they took the resident to Clinical Center. Monitoring team was informed that during September 2015, almost 20 residents used services of ophthalmologists in Clinical Center of Montenegro.

The problem they often face with is lack of medications. Director said that they were working on registration of ambulances, as this would help them to obtain medications easier. This Institution has sensor room and Time-out room. Time-out room is used according to the protocol for isolation of residents of Komanski most. Monitoring team supports the protocol that defines the manner for isolation, and that isolation cannot be used as the punishment of violation committed by staff. We were also informed that in previous practice, in moments when the resident is extremely auto or hetero aggressive, or when destruction is emphasized, medication therapy and verbal intervention proved efficient, so the isolation room was not used.

There were 124 medical examinations during 2015, with regular examination of a dentist, which covered all the residents of this Institution, or 112 residents.

Type of service	Number of users
Dental health education	Covered all users
First medical examination	2
Fluoridation washing with low concentrated dilution of fluoride	12
Brushing with a high concentrate fluoride toothpaste	10
Dental sealant	2
Curettage and rinsing of periodontal pocket	2
Thermocauteriyzation polyps gingival	1
Aphthous Stomatitis Treatment	1
First aid provision	2
Removal of plaque and removal of soft deposits	6
Injections	14
Extraction	10
Complicated tooth extraction	4
Drainage	2
Abscess treatment	2
Control examination	12
Filling on I surface	2
Filling on II surface	2
Indirect pupl capping	2

Activities

Residents spend most of the day in the courtyard of the Institution. Monitoring team was informed that they have clean and warm clothes and shoes. Doors of residents' rooms are unlocked, except in one case of a man who locks the door when he leaves his room. In Institution continuously work 14 residents as assistants (in the kitchen, laundry room, they assist in care of other residents, and also in maintenance of hygiene of premises). Also, in the frame of male and female working group (polytechnic workshop, knitting, sewing, and similar) 31 residents are engaged. Specific number of them, temporarily assists in maintenance of green areas, and orchards, when they feel the need and when they want. **We support such a practice and encourage involving of residents in different activities in this Institution.**

The therapy is organized on working days, and lasts three hours, with adequate breaks during the day. The Management of the Institution said that rehabilitation plans for each resident were made.

Residents are included in work in the kitchen, laundry, maintenance of green areas and orchards. Representatives of the Institution also said that had plans to build a greenhouse and farm for hens, in order to develop the rehabilitation program.

Five residents of the Institution participated in special Olympic games. The Institution develops good cooperation with institutions of similar character in the region and with nongovernmental sector.

Recommendations:

- ◆ Ministry of Labour and Social Welfare and Institution Komanski most, in cooperation with other competent bodies, should provide residents free legal aid and possibility to require reconsideration of decision on their accommodation in this Institution before competent court, and they should be regularly informed about this. YIHR also suggests that decision on prolongation of accommodation should be timely considered by competent court, no matter if this procedure is or is not initiated by the resident itself.
- ◆ It is important to employ general practitioner for a full time, in accordance with the Act on systematization of job positions.
- ◆ It is important to increase the number of medical nurses. All job positions, envisaged by systematization, should be fulfilled, when it comes to medical nurses.
- ◆ Bearing in mind that the isolation protocol of the Institution Komanski most envisages that the specialist psychiatrist leads complex isolation procedure of residents, we suggest that the psychiatrist should be full time employed, so it can do its duties timely. Inviting psychiatrist who is temporarily employed, to come when it is needed, may cause serious problems in practice, for regular and adequate functioning. Bearing in mind that isolation may occur when psychiatrist is not in shift, it is important to provide education of specific number of nurses/technicians for these needs, and also to put in practice that psychiatrist should always make decision on isolation.

SPECIAL PSYCHIATRIC HOSPITAL

During 2015, monitoring team visited Special Psychiatric Hospital three times. Dragan Čabarkapa, Director of the hospital, jointly with his cooperators, welcomed the monitoring team.

Director Čabarkapa introduced monitoring team with the current situation in this institution. On a day of visit, this hospital had 252 patients. The hospital has 240 beds, which tells that the capacities are more than fulfilled, more than 100%. The hospital has 150 employees. According to the systematization, this number should be 200, and surely the hospital needs more technicians who would also work as the security. Structure of employees is ten psychiatrists, seven interns, three psychologists, two defectologists.

Accommodation capacities:

Department	Capacity	Type
Urgent department	10 beds	Open type
Department for Treatment of Drug and Alcohol Addiction	20 beds	Open type
Acute Male Department	30 beds	Closed psychiatric department
Acute Female Department	21 beds	Closed psychiatric department
Court Department	21 beds	Closed type
Male Chronic Department	46 beds	Closed type
Female Chronic Department	40 beds	Closed type
Rehabilitation Department	52 beds	Closed and Opened type

As the Director of the Hospital said functioning of the Court Department is the greatest challenge for the hospital. Out of the prescribed number of patients, or 21 patients, the hospital accommodated 60 people on this ground. Private agency is engaged to work as the security of this Department, because it needs better type of security and security officers, who should be adequately trained for this type of protection.

At the moment of visit, a person from private security worked as the security of another facility the whole previous night, and then continued to do the job on protection of Court Department at the hospital. Each room has the railings at the door that are locked after 22:00.

The hospital does not have female department for treatment of drug addiction. Occupation hall is equipped with books, instruments for creation of figurines and other objects, and painting material. The hall also has a gym.

The hospital has its Protector of rights of patients – Ombudsman, the Council and Ethical Committee. Each department has complaint boxes. We were informed that the number of complaints filed to Ombudsman was small. The most frequent reasons for complaining were baseless, as we were informed. Only one patient had objection on answer of Ombudsman in previous period, and he complained to the second instance body.

During the monitoring visit, this hospital had large number of patients who did not need hospital treatment, but they needed care of their families or care of the social institution. Most social workers were hospitalized according to requirement of Center for Social Welfare. There were more than 50% of such patients at the hospital, but the number of patients who needed psychiatric treatment, as the Director said, was 110. For patients who endanger their own and someone else's health, the hospital has a leather fixator. During the visit, this method was used on one patient, because he tries to kill himself couple of times.

During the visit, we did not receive information about torture, violation, or inhuman treatment or punishing.

There were 0 juveniles at the hospital, during the monitoring visit. It is important to emphasize that neither this hospital nor any other in Montenegro, does have organized treatment of children and youth, so the quality of treatment of juveniles in this institution becomes an issue.

Number of patients with imposed security measures, according to their years:

Year	Number of patients
2010	78
2011	89
2012	85
2013	76
2014	76
2015	112

On the waiting list were 23 patients with imposed measures for obligatory treatment of drug addicts.

During 2014, all courts in Montenegro filed to Court Department the following number of rendered verdicts with imposed security measures:

- ◆ Security measure for obligatory treatment at the health care institution: 19 patients
- ◆ Security measure for obligatory treatment of alcohol addicts: 5 patients
- ◆ Security measure for obligatory treatment of drug addicts: 14 patients
- ◆ Security measure for obligatory treatment at liberty: 2 patients

During the monitoring visit, we spoke to two patients, Lj.M. and V.R. Patient V.R. did not have objection on hospital treatment.

Patient Lj.M. earlier addressed YIHR with a letter, where he mentioned he had been forcibly and illegally kept, without any proof that he suffered mental illness. At the moment of our visit, he had already spent 60 days at the hospital, and requested examination of independent medical commission, which would define his mental health. In cooperation with nongovernmental organization Human Rights Action (HRA), which provided free legal aid to Lj.M., Basic court in Herceg Novi made a decision on termination of proceeding for imposing of security measures to a patient Lj.M.

Recommendations:

- ◆ The country should develop the system of social care and should increase availability of adequate alternatives to psychiatric hospitals, and should also provide adequate protection to persons who do not need further treatment in Special Psychiatric Hospital. We would like to remind that the Committee for Economic, Social and Cultural Rights recommended the same to Montenegro in 2014. Such a situation would contribute to rise of number of patients, who would participate in therapeutic and rehabilitation activities adapted to their needs. It would also be possible to expand the specter of such activities.
- ◆ Job positions should be fulfilled in accordance with systematization of job positions, and CPT recommendations, given in the Report from 2013.
- ◆ It is important to establish adequate security system, in accordance with CPT recommendations, which believes that presence of uniformed guards in psychiatric institution can hardly contribute to therapeutic environment. CPT recommended that competent bodies of Montenegro should undertake specific steps, in order to increase presence of medical staff. The Committee believes that this would force the management of Special Psychiatric Hospital to end the practice of employment of security within forensic psychiatry departments.