



HUMAN RIGHTS OF PERSONS DEPRIVED OF LIBERTY IN MONTENEGRO

Podgorica, June 2024

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IN MONTENEGRO**

Civic Alliance, Montenegro
June 2024

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The content of the report is the sole responsibility of the Civic Alliance and does not necessarily reflect the views of the European Union.



REPORT ON THE VISIT TO THE ADMINISTRATION FOR THE EXECUTION OF CRIMINAL SANCTIONS IN PODGORICA IN 2023

1. Mandate of the Civic Alliance and information about the visiting team

The Civic Alliance (hereinafter GA) has initiated the implementation of the project “No Impunity for Violations and Breach of Human Rights in Montenegro,” in partnership with the Belgrade Centre for Human Rights from Serbia and the International Commission of Jurists from Brussels. The project is implemented with the support of the European Union.

During the 20 months of project implementation, GA aims to contribute to the consolidation of democracy, the strengthening of the rule of law, and the protection of human rights in Montenegro through the involvement of non-governmental organizations in decision-making processes in accordance with the negotiation process. Among other objectives, the project will contribute to the strengthening of the judiciary and justice, as this branch of government plays a key role in ensuring the proper establishment of the rule of law and the protection of fundamental human rights in Montenegro, with a focus on vulnerable groups. Accordingly, the team from the Civic Alliance and the Belgrade Centre for Human Rights conducted monitoring visits to the Administration for the Execution of Criminal Sanctions (UIKS) to gain insight into the material conditions and the fulfillment of CPT recommendations.

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1. General Information About the Visits

Representatives of the Civic Alliance (GA) and the Belgrade Centre for Human Rights (hereinafter referred to as the Centre) visited the Administration for the Execution of Criminal Sanctions in Podgorica (hereinafter referred to as UIKS) twice within a period of one and a half months, on April 25, as well as on June 12 and 13, 2023.

During the first visit, the monitoring team divided into two groups and toured section D and the semi-open section, as well as the part of UIKS where special and disciplinary measures are implemented. On this occasion, the monitoring team also visited the part of the penal-correctional UIKS designated for serving sentences for women and the part of UIKS designated for serving sentences for minors. The focus of the first visit was on unsupervised conversations with inmates.

2. General Information About UIKS

According to data provided by the UIKS administration, the following personnel are engaged in various roles: 39 individuals are involved in treatment operations, 341 in security duties, 46 in training and employment tasks (including cooks assigned to the Sector for Professional Training and Inmate Labor), 25 in healthcare services (comprising 23 medical technicians, a general surgeon, and an oral surgeon), and six in general administrative tasks (including two legal experts).

3. Inmate Accommodation Conditions

UIKS provides accommodation for inmates in several pavilions(sections) designated for long-term sentences: A, B, C, D, and the Disciplinary Pavilion, as well as specialized units – Pavilion F with special security, the women’s pavilion, the juvenile pavilion, the semi-open pavilion, and the “economy” unit.

Below are the observations regarding accommodation conditions noted by the monitoring team during their visits to UIKS.

3.1. Pavilion D

This two-story pavilion is located within the UIKS complex for serving long-term sentences and is organized according to the block principle (common areas and dormitories are situated in the left and right wings of the building).¹ The dormitories are primarily four-bed rooms with bunk beds and enclosed sanitary facilities. They are largely equipped with personal belongings of the inmates, as well as refrigerators, televisions, and other appliances.

Each room has windows that open, providing adequate natural light and fresh air. The heating devices in these rooms are radiators, and the inmates encountered during the visit indicated that the room temperatures are well-maintained during the winter months.

However, these rooms do not meet the spatial standards considering the number of beds. The dormitories visited by the monitoring team were not full at the time of the visit, but if they were, the area per inmate would be less than four square meters (excluding the space occupied by the sanitary facilities). A mitigating factor is that inmates in this pavilion are accommodated in a block system, so they are not forced to spend long periods in the dormitories during the day.

3.2. Pavilion C

Pavilion C is used for enhanced supervision within the UIKS complex for long-term sentences. According to the officers, this pavilion has six double-occupancy dormitories and three dormitories with six beds each. The living space for inmates, specifically the size of the multi-bed dormitories, is below the prescribed spatial standards.

This is a closed-type pavilion where inmates spend approximately 22 hours in their dormitories, while the remaining two hours per day can be used for walking, gym activities, phone calls, and utilizing the common room. Inmates are allowed to use various devices in their dormitories, such as DVD players, TVs, mini stoves with ovens, etc. They are also permitted to prepare food in their dormitories, and the cleanliness of the dormitories varies.

Each room has windows that open, but the flow of natural light and fresh air is limited, particularly in the room with six beds, due to the plexiglass installed on the outside for security reasons to prevent communication between inmates in different dormitories or pavilions. The heating

¹ During the first visit, the capacity of this pavilion was almost full, with a total of 94 people.

devices in these rooms are radiators, and the inmates encountered during the visit mentioned that the room temperatures are well-maintained during the winter months.

The sanitary facilities in the dormitories are separated from the rest of the room by walls and doors. The sanitary fixtures are generally outdated, and the cleanliness of these facilities varies. In dormitories with two beds, the sanitary facilities were in significantly better condition than those in the six-bed dormitory.

3.3. Semi-Open Pavilion

The Semi-Open Pavilion is located in a separate building outside the UIKS complex and has the capacity to accommodate 96 inmates serving short-term sentences. At the time of the first visit, on April 25, 2023, there were 95 individuals housed in this pavilion. Of that number, 62 were accommodated in the pavilion, 11 were at the “economy” unit, and 22 were outside the UIKS premises (on annual leave, weekends, etc.). This pavilion is organized according to the block principle, and the material conditions are very similar to those in Pavilion D.

The monitoring team visited an eight-bed dormitory. They observed significant water leakage from the pipes in the sanitary facilities, with inmates collecting the leaked water in a bucket, which they emptied periodically.

The inmates reported that hot water is available at all times, the heating during the winter period is adequate, and they have the ability to ventilate the rooms.

3.4. Disciplinary Pavilion

The Disciplinary Pavilion, where special and disciplinary measures are enforced, is located within the UIKS complex for long-term sentences. UIKS officers stated that a doctor visits the inmates in this pavilion daily, which the inmates confirmed.

Each room is equipped with a fixed bed, a table, a chair, a heating device (radiator), and an enclosed sanitary facility (squat toilet and sink with a tap). Some beds have straps, but according to official statements, these are rarely used.

According to the staff, the windows in the rooms can be opened, providing a decent flow of natural air and light, and the rooms are equipped with adequate artificial lighting. The windows are positioned high and are exclusively opened and closed by Security Sector personnel. An inmate interviewed in one of these rooms mentioned that he did not know if the window could be opened, as he had never asked. This raises concerns about the adequate ventilation of the rooms.

The hygiene of the rooms, especially the sanitary facilities, is generally unsatisfactory. The sanitary fixtures in the sanitary facilities are worn out and, in some places, missing. Mattresses and pillows are dirty, stained, and old in almost all rooms. Inmates keep their personal belongings and razors in special lockers located in the hallway outside their rooms. Each room is equipped with an alarm for calling the guards and video surveillance.

3.5. Pavilion with Special Security – Pavilion F

Pavilion F is located in a specially enclosed area within the UIKS. According to officials, the capacity of this pavilion is 122 inmates, and on the day of the visit in June 2023, it housed 74 individuals. The pavilion is organized in a block system, similar to most pavilions in the UIKS.

The dormitories are highly personalized, as in Pavilion D, so the living conditions are satisfactory (featuring televisions, plastic dressers for personal belongings, curtains on the windows, etc.).

New mattresses were observed in the dormitories of this pavilion, and the hygiene in the right block, which the monitoring team visited, was satisfactory. Heating is central, and according to the inmates encountered, the room temperatures are well-maintained during the winter months.

3.6. Women's Pavilion

On the day of the visit to this Pavilion, April 25, 2023, it housed 20 women serving prison sentences. Of these, 18 women were serving long sentences, and two were serving short sentences. One of these women was a foreign national who speaks English.

This part of the UIKS is a separate unit without external windows; all windows face the internal courtyard. The material conditions and hygiene in this section of the UIKS are significantly better than in other areas visited by the monitoring team. However, although the capacity of this section was not fully occupied at the time of the visit, it was observed that the dormitories would not meet the necessary space standards if fully occupied (at least 4 square meters per inmate, excluding the sanitary facilities). Additionally, the available space for inmates in this section of the UIKS is very cramped, considering that it accommodates long sentences.

The pavilion includes a specially equipped dormitory for mothers and babies. This room is also in good condition, clean, and adequately equipped.

The courtyard is landscaped with greenery, where inmates can spend time daily. The time period from 3:00 PM to 5:00 PM is reserved exclusively for inmates serving long sentences.

This section of the UIKS also includes a dining area for serving meals, spaces for organizing various workshops, exercise equipment, and a library.

3.7. Common Areas

During the inspection of the accommodation conditions, it was noted that the communal bathrooms are generally in poor condition, with the exception of the communal bathroom in the women's pavilion. The sanitary fixtures are outdated, and there is noticeable moisture on the walls and ceilings. Additionally, the hygiene of most of the sanitary facilities within the dormitories is not satisfactory.

The communal day rooms are in good condition and are adequately furnished with benches and tables. In some pavilions, there is a mini kitchen within the day room, while in others, it is located in a separate room.

Each pavilion has its own designated outdoor exercise area. Within these areas, there are covered gyms (protected from precipitation), while the semi-open pavilion and the women's pavilion have gyms located in enclosed spaces. Due to the mild winters and climate conditions, inmates report that they can use the outdoor exercise equipment without interruption even during the winter month.

3.8. Special Visit Rooms – Family and Conjugal Visits, Visits by Legal Counsel

The monitoring team also visited the special rooms designated for family visits (for long sentences and in the women's section). These rooms are adequately equipped and designed to accommodate children who come to visit.

In the pavilion with special security (Pavilion F), visits are conducted exclusively through plexiglass, meaning there are no face-to-face visits.

RECOMMENDATIONS²:

- 1. UIKS should ensure that there is at least four square meters of space per inmate in multi-occupancy dormitories (regardless of whether the accommodation is cell-based or block-based), excluding the area designated for sanitary facilities.**
- 2. UIKS should renovate the communal bathrooms in the men's pavilions to ensure that the shower areas fully meet hygiene standards.**
- 3. UIKS should replace outdated sanitary fixtures within the sanitary facilities throughout the entire facility.**
- 4. The airflow in all dormitories in the disciplinary measures pavilion should be improved, and old mattresses and pillows should be replaced.**
- 5. The ventilation and natural light in Pavilion C should be enhanced.**
- 6. Inmates should be provided with additional space for outdoor activities, considering that the currently available space is extremely limited.**

² Recommendations regarding the material conditions of the facilities visited by the monitoring team should be applied across the entire UIKS, including those areas and dormitories that the monitoring team did not have the opportunity to inspect, if they exhibit similar or identical deficiencies.

4. Nutrition of Inmates

4.1. Kitchen

The kitchen of UIKS is well-equipped. It employs six professional chefs who exclusively prepare and serve meals, while inmates are engaged for other auxiliary tasks. The kitchen is equipped with modern appliances and cookware for food preparation, and its hygiene was satisfactory at the time of the visit. According to the staff, ingredients are procured through public procurement, while some are sourced from in-house production.

Upon reviewing the available documentation, it was established that all individuals engaged in kitchen tasks undergo regular sanitary inspections, and that the inspection body regularly conducts microbiological testing of foodstuffs and general-use items (food samples are taken daily for each meal and stored in a refrigerator for 24 hours).

In addition to regular menus, there are special menus for individuals with specific dietary needs (in accordance with a doctor's recommendation and/or religious beliefs). All menus are signed by the prison doctor, nutritionist, and director. Upon reviewing the menus, it was found that fresh fruit is rarely served, while vegetables, meat, and dairy products are frequently included. There are also snack menus for inmates who are employed. Additionally, officials noted that major holidays such as Christmas and Easter are observed, during which special holiday meals, featuring higher-quality food (Easter eggs, cakes, etc.), are prepared.

Contrary to the established conditions and based on the quality and quantity of meals on the day of the visit, a significant number of inmates had complaints, stating that the food was tasteless and monotonous, that the menu was often repetitive, and that they were forced to improve the quality of their diet through purchases from the canteen and packages. During the visits, the monitoring team found inmates in almost every pavilion independently preparing meals in the common areas.

RECOMMENDATION:

- 1. The UIKS should devote additional attention to the quality and variety of food, considering the complaints from a large number of inmates interviewed, who stated that the food is monotonous and tasteless.**

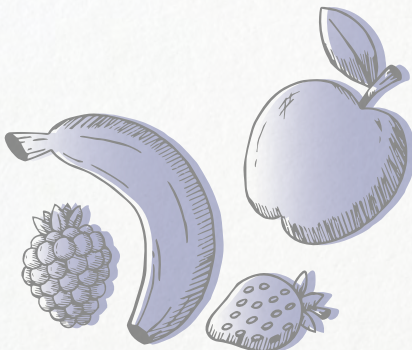
4.2. Canteen

Procuring food and other items from the canteen is done according to a list or request made by inmates.³ Each pavilion has a designated day of the week for delivering items from the canteen based on a previously submitted list. The food is sourced through the supermarket chain “Voli,” with which the Correctional Institution has established a partnership. At the time of the visit, the canteen was well-stocked, offering a wide range of items.

A significant number of inmates interviewed claimed that the prices in the canteen were higher than market prices. They also complained about the lack of vitamins and supplements in the canteen. According to them, the Correctional Institution does not allow vitamins and supplements to be brought in during visits or included in packages because some inmates used this method to smuggle narcotics and other prohibited substances into the facility. At the time of the visit, only effervescent vitamin tablets were available in the canteen. One inmate presented the monitoring team with a decision from the Ministry of Justice, number 07-074-22-12201, dated February 6, 2023, in which the Directorate for the Execution of Criminal Sanctions and Control ordered that inmates be allowed to obtain supplements under the same conditions as individuals outside the facility. According to the inmates, nothing has changed despite the Directorate’s directive.

RECOMMENDATION:

1. **The Correctional Institution should consider enabling inmates to periodically obtain vitamins and dietary supplements through the canteen or by another secure method (e.g., through pharmaceutical establishments such as pharmacies).**



3 Inmates write a request, and the funds for the purchase are automatically deducted from their deposit.

5. Security at UIKS

According to the written statement from the Correctional Institution (previous questionnaire), from January 1, 2022, to June 12, 2023, there were 2,926 exceptional events (incidents), including:

- 114 cases of violence among inmates (involving 143 individuals);
- 37 cases of self-harm;
- 40 cases of hunger strike declarations;
- 2.735 cases of discovering prohibited items.

The UIKS maintains a separate daily events log in which all relevant daily occurrences (such as admissions, releases, escapes, etc.) are recorded by the Security Sector. Exceptional events are documented in a separate incident log, which includes data on occurrences such as fights, self-harm, inappropriate behavior, verbal conflicts, and any other incidents that may lead to disciplinary action.

According to data provided by representatives of the Correctional Institution, from January 1, 2022, to June 12, 2023, the following means of force were used on inmates:

- Physical force applied to 3 individuals;
- Official baton used on 2 individuals;
- Irritant spray (pepper spray) used on 12 individuals;
- Restraint devices used on 5 individuals.

The UIKS maintains a specific record of the use of force, which is kept in the Security Sector. This record includes details such as the name of the inmate, the date and location of the use of force, the type of force used, the name of the official who applied the force, and an assessment of the justification for its use. The officials informed the monitoring team that the Security Sector promptly provides both verbal and written reports on each exceptional event (incident) to the head of the Correctional Institution, who then forwards this information without delay to the Ministry of Justice.

During the inspection of the Correctional Institution, monitoring team members observed that the Security Sector staff did not carry rubber batons. According to their statements, the use of pepper spray has proven to be the “most effective” means of force.

The monitoring team did not receive any complaints from inmates regarding the conduct of the commanding officers. Some inmates praised the work and demeanor of the Security Sector staff.

During the visit, the team reviewed files from several randomly selected cases, which included reports and evaluations of the use of force. The monitoring team members were particularly concerned to find that these files, which are maintained and stored in the Security Sector’s offices, contained copies of medical reports documenting inmate examinations following the use of force. From the perspective of preventing torture and other forms of abuse, as well as protecting personal

data, this practice is subject to criticism. Unlike the head of the Correctional Institution, who assesses the justification and appropriateness of the use of force, there is no justification for Security Sector staff to have access to the content of medical reports prepared after examinations and the application of force.

On the contrary, this constitutes an unjustified processing of personal data and may obstruct the investigation into whether the use of force was lawful or if it resulted in abuse due to unlawful or excessive application. In other words, allowing Security Sector staff to access information recorded during a medical examination after the use of force creates the potential for aligning their statements in reports on the use of force with observed injuries, thereby shielding themselves from accountability. It may also lead to pressure on inmates who report unjustified or excessive use of force or abuse to the medical personnel.

Reviewing the records of the use of force, it was noted that the evaluations of the justification and appropriateness of force lack detailed reasoning, leaving room for arbitrariness.⁴ Additionally, there was a recorded practice of unjustified delays in initiating disciplinary proceedings against Correctional Institution staff for unlawful use of force. For example, in one case review, it was found that a decision to initiate disciplinary proceedings against a prison officer⁵ was made only two months after the incident, despite material evidence of the officer's unlawful conduct (the incident was recorded by video surveillance). Delays in initiating internal control mechanisms create opportunities for potential abuses, such as tampering with statements and influencing victims, witnesses, and others. On the other hand, when comparing this practice with the legal requirement for filing disciplinary complaints against inmates, which stipulates very short deadlines (only three days), it appears that officials have a more privileged position regarding accountability compared to inmates.

RECOMMENDATIONS:

- 1. Ensure that medical reports from examinations conducted after the use of force are never accessible to Security Sector staff. If these reports must be part of the case files assessing the justification and appropriateness of the use of force, they should be kept with the head of the Correctional Institution rather than in the Security Sector's offices;**
- 2. When evaluating the justification and appropriateness of the use of force, the head of the Correctional Institution should provide a corresponding (brief) explanation.**
- 3. In cases of unlawful or excessive use of force, disciplinary proceedings against staff should be initiated and conducted without delay.**

4 For example in case no. KPD N 363/20.

5 Case of the Administration for the Execution of Criminal Sanctions U-DP-No. 8/23.

5.1. Disciplinary Procedures for Inmates

According to data provided by the Correctional Institution, from January 1, 2022, to June 12, 2023, disciplinary measures were imposed on 854 inmates as follows:

- Reprimand: 5 individuals;
- Oral warning: 53 individuals;
- Restriction of visits: 50 individuals;
- Denial of privileges: 6 individuals;
- Denial of special or extraordinary visits: 84 individuals;
- Placement in solitary confinement: 653 individuals;
- Placement in a separate room: 3 individuals.

The UIKS maintains a specific record of disciplinary procedures, which includes the inmate's name, identification number, date of the disciplinary infraction, type of violation, relevant legal provisions, case number, scheduled hearing date, actual hearing date, imposed measure, and other details. The Disciplinary Commission consists of three members and three deputies. The chairperson of the commission is a lawyer employed in the Human Resources, Office, and General Affairs Department, while the other two members are from the Treatment Department and are not responsible for working with educational groups.

The employee who submits the disciplinary complaint cannot be a member of the Disciplinary Commission. This practice is commendable as it avoids potential conflicts of interest between the staff deciding on the case and the inmate involved.

On the other hand, although the Law on the Execution of Criminal Sanctions, Fines, and Security Measures requires the Correctional Institution to provide legal assistance to inmates for the protection of their rights, the monitoring team did not gain the impression that this obligation is fulfilled in disciplinary procedures. For example, in reviewing the file of a disciplinary procedure conducted against a minor serving a custodial measure in a closed facility, it was observed that the minor was merely informed of the option to hire a lawyer at their own expense during the procedure, despite the Correctional Institution being aware of the minor's poor financial situation and their inability to independently manage their interests due to their age. The files available to the monitoring team did not indicate that the minor was offered legal assistance from the Correctional Institution's services.⁶

Disciplinary procedures against inmates are conducted in three stages. The decision of the Disciplinary Commission can be appealed to the Ministry of Justice, and in the third stage, the Administrative Court adjudicates in an administrative dispute. According to staff, video recordings from surveillance cameras at the Correctional Institution are isolated and used in disciplinary procedures. As an example of good practice, it was noted that in one disciplinary procedure, the members of the Disciplinary Commission suspected that the inmate involved might have mental health issues. Consequently, a psychiatric evaluation was conducted. The evaluation determined that the inmate, due to mental health issues, was incapable of understanding the significance of their actions, leading to the suspension of the disciplinary procedure.

⁶ Case number 204-DR-98 of the Administration for the Execution of Criminal Sanctions.

RECOMMENDATIONS:

1. During disciplinary proceedings against inmates who cannot afford to hire a lawyer at their own expense, the Correctional Institution should facilitate the provision of legal assistance by employing a lawyer from the Human Resources, Office, and General Affairs Department. Inmates should be timely and clearly informed about the availability of legal assistance during the disciplinary process.
2. The Correctional Institution, in collaboration with the Ministry of Justice and the Bar Association of Montenegro, should take measures to ensure free legal representation for minor inmates facing disciplinary proceedings at the Correctional Institution. The appointed lawyer should possess specialized knowledge in child law and juvenile delinquency, considering the obligation of all state bodies to prioritize the best interests of children in all activities affecting them, in accordance with the Convention on the Rights of the Child.



6. Healthcare for inmates

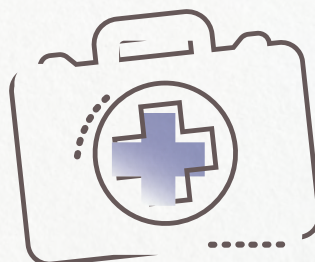
Within the UIKS, there is a Healthcare Sector. During the visit, representatives of UIKS reported that two doctors are permanently employed in this sector. One is the Head of the Healthcare Sector, a general surgery specialist, and the other is an oral surgery specialist. Additionally, specialist doctors in radiology, urology, internal medicine, and psychiatrics are engaged on a contractual basis. However, UIKS does not have a general practitioner on staff. UIKS also lacks a permanently employed psychiatrist. Two specialist psychiatrists are engaged on a contractual basis: one visits UIKS every working day for two hours, while the other visits twice a week. Psychiatrists are available on weekends as needed, on call. UIKS permanently employs 23 medical technicians.

During the visit, healthcare workers in UIKS emphasized that, to provide successful healthcare to prisoners, it is necessary to increase the number of doctors, particularly general practitioners and psychiatrists, as well as the number of medical technicians.

Prisoners diagnosed with mental illnesses requiring continuous monitoring and treatment by a psychiatrist are transferred for further treatment to the Special Hospital for Psychiatry “Dobrota.” From January 2022 to June 2023, severe mental disorders were diagnosed in 62 inmates, of whom 17 were referred for further treatment and monitoring at the Special Hospital for Psychiatry “Dobrota.” According to the Head of the Healthcare Sector, these prisoners remain in “Dobrota” for extended periods (8-9 months) and are returned to the regular prison regime only after significant improvement in their mental health. According to staff, once the specialized prison hospital is built, UIKS will relocate prisoners whose health conditions require continuous medical monitoring, especially those with mental disorders, to the facilities of the new hospital.

UIKS does not have a separate facility or block for housing ill inmates, such as an infirmary. Inmates whose health conditions require continuous monitoring reside in part of Pavilion A, which also houses other inmates serving their sentences. The accommodation and toilet facilities in this part of the pavilion are adapted to meet the needs of persons with disabilities. According to the Head of the Healthcare Sector, there is also an adapted section in the investigative part of the prison where ill prisoners who are under pretrial detention are housed. Access to this part of UIKS was not granted to the monitoring team members by the Administration for Execution of Criminal Sanctions (UIKS). At the time of the visit, construction work was ongoing for the project of building a specialized prison hospital.

If an inmate needs emergency medical assistance, it is provided by calling the on-duty team of UIKS for emergency medical aid in Podgorica. For specialized examinations that cannot be conducted within UIKS, prisoners are referred to healthcare institutions at the Clinical Center of Montenegro. There are no on-call doctors at UIKS during weekends, holidays, and nighttime on weekdays. However, medical technicians are on duty during the night, on weekdays, and on weekends.



6.1. Outpatient Clinics, Medication Distribution, and Therapies

The outpatient clinics in the UIKS are distributed across pavilions. These clinics conduct medical examinations, prepare the distribution of prescribed pharmacotherapy, and maintain health records.

Pharmacotherapy is distributed exclusively by medical staff, as confirmed by inmates. Medical technicians hand over the medication to the inmate and wait until it is consumed in their presence. More than one prescribed dose is only given when it concerns insulin therapy, in which case inmates receive the multiple doses required for the day. Inmates who are citizens of Montenegro have the right to healthcare as regular insured persons under the Health Insurance Fund of Montenegro (RFZO). There is a positive list of medications approved by UIKS, which inmates receive free of charge. If, according to the doctor's assessment, therapy is needed that is not included in the positive list of medications, and the inmate cannot financially provide it themselves, it is purchased using UIKS funds.

According to the staff's statements, there is a problem concerning inmates who are not citizens of Montenegro. The Health Insurance Fund of Montenegro does not recognize this category of inmates, and therefore, they are not covered by health insurance. They do not have the right to free medication from the positive list or free healthcare. When these inmates do not have sufficient financial means, UIKS is forced to cover the costs of their treatment from its own funds. Recently, UIKS encountered a case involving a Turkish national who developed tuberculosis while serving their sentence. To obtain the necessary medication, UIKS initiated cooperation with the Turkish embassy.

6.2. Medical Examinations at UIKS

Medical examinations of inmates at UIKS are conducted every working day. A medical examination upon admission to UIKS is mandatory and is carried out as soon as possible. Additionally, a medical examination is required if an inmate declares a hunger strike or if the inmate experiences any form of violence (such as the use of force by Security Sector staff or incidents of inter-inmate violence). Medical examinations are also performed at the initiative of the inmates.

6.3. Quality of Medical Reports

Each inmate at UIKS has their own medical record, which is opened upon admission during the initial medical examination. According to the Head of the Health Protection Sector, medical records and health records are kept locked in the outpatient clinics and are inaccessible to unauthorized persons. During a visit, team members were allowed access to the medical reports of examinations conducted on inmates after the use of force. However, it was noted that a Security Sector staff member had brought these records to the team members.

The monitoring team was further concerned by statements from employees in the Health Protection Sector that, during the transportation of inmates for specialist or emergency examinations at the Clinical Center of Montenegro, all health documentation of the inmates is handed over to the duty officer of the Security Sector, who is responsible for transporting the inmates to the hospital. This practice is problematic as it allows unauthorized individuals—those not employed in the Health Protection Sector—to access highly sensitive personal data about the inmates. This is

particularly concerning from the perspective of safeguarding against abuse by officials and hampers the effective and efficient investigation of those responsible for such abuse.

A review of randomly selected medical records from the archive revealed that the medical reports do not contain all the required information. The body diagram in the medical reports is of small dimensions, making it inadequate for precise marking and recording of observed physical injuries. Additionally, a significant number of medical reports lacked a completed body diagram, even though the narrative part of the report mentioned the presence of injuries on the inmate's body (such as hematomas), but without a more detailed description of the injury, its color, dimensions, and the part of the body where the change was observed.

Medical reports are brief and lack sufficient information. It was observed that reports frequently use statements such as "the individual participated in a fight" or "injuries were inflicted by known persons," without providing further details about the event, such as the time and place of the incident, whether the inmate was physically attacked by other inmates, or if force was used against them. According to the Head of the Health Protection Sector, if injuries are found during an examination, they are photographed, and these photographs are stored in the archive on her official computer. Copies of the photographs are added to the inmate's medical record. Access to the electronic archive of photographs was not possible as it is located in the detention area of UIKS, where the monitoring team was not permitted access. However, a review of randomly selected inmate medical records revealed that in some cases, copies of injury photographs were missing despite records indicating their existence. Additionally, some of the photographs shown to the monitoring team were of unsatisfactory quality, and it was noted that color rulers or other objects were not used during photography to accurately capture the characteristics of the injuries (such as a regular ruler or pencil).

According to one of the attending medical technicians, Security Sector staff always attend examinations of inmates following the use of force. This practice was confirmed by inmates with whom the monitoring team had the opportunity to speak privately.

It was observed that there are no records in the medical reports indicating whether Security Sector staff were present during the examination or confirming their absence. Furthermore, there is no documentation indicating that reports on injuries were sent to the head of UIKS in cases where the medical report noted that the inmate reported experiencing violence.

During the visit, a random selection of an inmate's medical record revealed that this inmate was examined on January 12, 2023, after being injured by another inmate the previous evening. This case attracted the attention of the monitoring team because the medical examination was conducted the following day. During a private conversation with the team members, the inmate reported that he had informed one of the commanders about the incident, which led to his prompt transfer to the on-duty medical technician. The attack occurred at night when no doctor was on duty at UIKS. According to the inmate, the medical technician assessed the injury as minor and suggested waiting for the examination by the UIKS doctor the following day. The record did not document that the inmate was examined by the medical technician during the night. The inmate also noted that no photographs of the injury were taken during the examination. The medical report provided a brief description of the incident, lacking details such as who inflicted the injuries, with what means, and in what manner. The report only stated that the "injuries were sustained in a fight." According to the inmate, Security Sector staff were present during the medical examination.

The Head of the Sector informed the monitoring team that UIKS plans to conduct training on how to document injuries by medical staff, for which a forensic medicine specialist will be engaged. According to her, the training will focus on preventing torture and other forms of abuse, and will also include Security Sector staff.

6.4. Treatment and Specialist Examinations Outside UIKS

The Health Protection Sector at UIKS is not integrated with the public health system in Montenegro. When an inmate requires examination by a specialist at the Clinical Center of Montenegro, appointments are made either by phone or by medical technicians who visit the health facility in person to schedule the appointment. Thanks to good cooperation with the Clinical Center of Montenegro, specialist examinations are generally conducted promptly. According to UIKS staff, inmates wait shorter periods for specialist appointments compared to free citizens receiving regular care.

According to the Head of the Health Protection Sector, there have been no significant issues with the transportation of inmates to scheduled specialist examinations. This has been confirmed by inmates with whom the monitoring team conducted unimpeded conversations. If an inmate requires medical intervention during the working week at night, on weekends, or holidays, when no doctors are on duty at UIKS, the first examination is conducted by the on-duty medical technician, who then contacts one of the consulting doctors with whom UIKS has a service contract. If necessary, the inmate is transferred to the emergency unit of the Clinical Center.

6.5. Hunger Strikes

In UIKS, a hunger strike is defined as any inmate who declares they are engaging in a hunger strike. The Security Sector provides the doctor with information as soon as possible when an inmate refuses food or water, and the doctor conducts an examination of the inmate immediately upon receiving this information.

According to the Head of the Health Protection Sector, the doctor examines the inmate who refuses food or water daily and records this information in their medical record.

The examination of an inmate on a hunger strike includes taking a medical history, measuring body weight, blood pressure, and conducting a urine laboratory test. This data is entered into the personal health record daily. Between January 2022 and June 2023, a total of 40 hunger strikes by inmates were registered and monitored.

6.6. Infectious Diseases

During the visit, the monitoring team was informed that issues with lice and scabies occasionally arise among the prison population. In such cases, protocols are followed, and the infected inmate is temporarily isolated in a separate unit. Information about the infection is recorded in the inmate's medical record, and any bedding and clothing suspected of being contaminated are incinerated.

The Administration for the Execution of Criminal Sanctions subsequently notified the monitoring team in writing that, during 2023, UIKS had registered two inmates with Hepatitis B, 27 individuals with Hepatitis C, one individual infected with HIV, and one individual suffering from tuberculosis.

6.7. Suspension of Sentence

When there are medical reasons, the Health Protection Sector, or the UIKS doctor, notifies the head of UIKS in writing about the need to consider submitting a proposal for the suspension of the sentence to the Ministry of Justice. The request for suspension of the sentence can also be submitted directly by the inmate. The Head of the Sector informed the team that during the summer of 2022, UIKS recorded a case involving a severely ill inmate whose request for sentence suspension was rejected by the Ministry of Justice as unfounded. In this case, the Health Protection Sector provided an opinion stating that the inmate was an older oncology patient in a severe health condition requiring intensive medical care and treatment that UIKS services could not provide.

This opinion was also confirmed by a medical expert engaged by the Ministry of Justice, who additionally noted that the inmate was in a state of “severe acute deterioration of health, endangering his life.” Nevertheless, the Ministry of Justice rejected the inmate’s request for suspension, giving decisive weight to security concerns, the previously recorded aggressive behavior patterns of the inmate, and the severity of the criminal offense for which he was convicted. The Ministry instructed the Administration for the Execution of Criminal Sanctions to “ensure adequate health care for the inmate by arranging his transfer to an external healthcare facility and continuing to provide for his needs.”

The monitoring team was informed that the mentioned inmate died a few weeks after the rejection of his request for sentence suspension.

During the visit, a large number of inmates complained to the monitoring team about the quality of healthcare provided at UIKS. Many complaints related to the unavailability of psychiatrists at UIKS, the need to purchase medications at personal expense, and the slow resolution of urgent medical conditions.

RECOMMENDATIONS:

- 1. UIKS should recruit the required number of doctors with appropriate specialties and medical technicians, as identified in the previous analysis of the necessary professional profiles within the Health Protection Sector.**
- 2. UIKS should organize regular medical on-call services during nights, weekends, and public holidays.**
- 3. The status of inmates who are not citizens of Montenegro should be systematically addressed, particularly regarding their rights to healthcare during imprisonment.**
- 4. UIKS should establish appropriate procedures to ensure the confidentiality of inmates’ medical documentation, ensuring it remains out of reach of unauthorized individuals, especially members of the Security Sector in any situation.**

- 5. Medical examinations of inmates should be conducted only in the presence of health-care professionals, ensuring that members of the Security Sector or other non-medical staff cannot see or hear the examination unless deemed necessary by the health-care professional for security reasons.⁷ In such cases, the doctor should document the presence of non-medical staff (names and surnames of present officers) and the reasons for their presence in the examination report. In any case, officials who have used force against the inmate, which is the reason for the medical examination, should not be present during the examination.**

- 6. Reports on medical examinations of inmates following the use of force, as well as other examinations documenting physical injuries, should include:**
 - Detailed information from the inmate about the manner in which the injuries occurred (who inflicted the injuries, when, with what means, etc);
 - A clear and precise description of the injuries (color, dimensions, shape, and other characteristics, with specific indication of the location on the body);
 - A comprehensive body chart in an appropriate size, indicating all documented injuries;
 - Clear photographs of the injuries, marked with the date of their occurrence, taken appropriately with proper angles, lighting, and the use of color rulers.
 - The doctor's opinion on the correlation between the reported method of injury and the observed injuries.

- 7. If there are indications that the examined inmate has been subjected to violence, the head of UIKS should be immediately informed in writing, and this activity should be recorded in the health records.**

⁷ Excerpt from the 3rd General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, paragraph 51: All medical examinations of prisoners (whether upon arrival or later) must be conducted in a manner that prevents prison staff from hearing or seeing them, unless the attending doctor requests otherwise. Furthermore, prisoners must be examined individually, not in groups.

7. Treatment and Reintegration with Inmates

The Treatment and Reintegration Department consists of 30 staff members, including 14 treatment facilitators. Each pavilion has two treatment facilitators, each managing a group of approximately 40 inmates. According to staff, UIKS employs specialized treatment programs for juveniles, conducted by specially trained members of the Treatment and Reintegration Department.

Upon an inmate's admission to UIKS, based on a completed risk assessment questionnaire and the opinion of the social work center, a team comprising a psychologist, social worker, and lawyer makes a decision regarding the classification group for the inmate. Subsequently, the assigned treatment facilitator conducts treatment with the inmate using individual and/or group approaches. Treatment facilitators also maintain records of their work, including daily activities, planned and unplanned group and individual sessions, and other activities.

Reclassification, or reassigning inmates to a different classification group, occurs twice a year in June and December. According to members of the Treatment and Reintegration Department, approximately 20 to 30 inmates are moved to a more favorable treatment group every six months. All individuals initially classified in the A classification group on long sentences are released from the more favorable classification group. Staff in the Treatment and Reintegration Department responsible for inmate education and training organize thematic workshops and training through civil sector projects and international organizations. In collaboration with the Council of Europe, group workshops on various topics are conducted, including substance abuse (drugs, alcohol), domestic violence, sexual violence, and the development of socio-cognitive skills.

Groups are formed with a smaller number of inmates (8 to 10) who voluntarily sign up. Non-participation in group workshops is viewed negatively in terms of progress in treatment.

A good practice example is a workshop on HIV conducted in collaboration with the Juventas association, following the admission of an inmate infected with the virus to UIKS. After the workshop, there were no negative effects on the inmate; instead, he was well-received by other inmates in the pavilion who attended the workshop.

7.1. Conditional Release

During the visit, official personnel informed the monitoring team about issues encountered when deciding on inmates' petitions for conditional release. They highlighted the requirements of Article 121, Paragraph 2 of the Law on Execution of Prison Sentences, Fines, and Security Measures, which obliges UIKS to provide the court with a report on the inmate's personal circumstances, conduct during the sentence, and the achievement of penal objectives. It also includes the obligation to submit a risk assessment opinion concerning the inmate's security.

According to this article, UIKS must obtain this risk assessment opinion from the Police Administration's Sector for Combating Crime, as directed by the court. However, it has frequently occurred in practice that the Treatment Department of UIKS may conclude that the penal objectives have been met for an inmate applying for conditional release, while at the same time, the Police Administration identifies high security risks associated with the inmate's release. In practice, courts often place more significance on the existence of security risks rather than the completion of the resocialization process, leading to the rejection of most conditional release petitions. Members of

the monitoring team were granted access to case files illustrating this practice.⁸ This issue was discussed directly with inmates during the visit, who expressed dissatisfaction, feeling that negative opinions from the Police Administration deprived them of the opportunity for conditional release or to spend weekends outside UIKS. Furthermore, many inmates pointed out the potential for corruption, alleging that they were made to understand that “a positive opinion from the police has its price.”

In December 2023, the Constitutional Court of Montenegro found Article 121, Paragraph 2 of the Law on Execution of Prison Sentences, Fines, and Security Measures unconstitutional. This article ceased to be in effect from the date of the publication of this decision in the “Official Gazette of Montenegro”.⁹

During discussions with the monitoring team, staff from the Treatment Department expressed that there were no issues with their daily availability to inmates. According to them, delays occur due to the high volume of written correspondence from inmates both within and outside UIKS, as internal procedures dictate that all written communication, including personal and formal requests, and scheduling medical examinations outside UIKS, is handled through the Treatment Department. On the other hand, almost all inmates interviewed indicated that they rarely have the opportunity to see treatment facilitators, except when submitting a request, complaint, or appeal. This practice of handling all written communication through the Treatment Department was confirmed by the staff of this department.

In response to these observations, the monitoring team reviewed the daily entry log for Pavilion F. Although official records show that treatment facilitators enter the pavilion daily, it remains unclear how long they stay and whether their focus is on administrative tasks or treatment and reintegration of inmates.

RECOMMENDATION:

- 1. It is necessary to consider the possibility of alleviating the workload of employees in the Treatment Department so that they can devote more time and fully engage in the treatment work with inmates.**

8 Opinion of the Police Directorate, Sector for Combating Crime, no. 8188 of August 4, 2023.

9 Decision of the Constitutional Court of Montenegro U-I No. 2/20, dated December 26, 2023.

8. Regime of Serving Sentences in the Juvenile Pavilion

During the visit on April 25, 2023, there were two juveniles in this pavilion, one of whom was present and interviewed by the monitoring team.

According to the juvenile who was interviewed, the treatment facilitator visited him every few days, sometimes as infrequently as once every seven days. Since he is illiterate, he expressed a desire to attend school, but stated that this had not been facilitated. He complained to the monitoring team that he was not provided with telephone calls at the expense of the correctional facility, despite frequently lacking funds in his account, and that the hygiene packages he received were incomplete. The packages contained only cleaning supplies for the rooms and did not include a toothbrush or toothpaste. He also mentioned that he did not have sufficient clothing, except for what he was brought into the facility with.

In his free time, this juvenile mostly watches TV, including news and reality programs, and receives few visits. The monitoring team found him watching a parliamentary session on TV. He mentioned that his brother is serving a sentence in another pavilion of the correctional facility and added that he has issues with another juvenile who, according to him, provokes him to commit offenses. Additionally, he complained that his remuneration for work in the correctional facility is only 30 euros per month.

The juvenile informed the monitoring team that he was disciplined on February 12, 2023, for running from the office towards his room in the juvenile pavilion and failing to stop upon the order of security staff. For this disciplinary infraction, he was sentenced to five days in isolation, despite not having been previously disciplined.¹⁰ Considering international standards¹¹ and the prohibition of imposing disciplinary measures that involve solitary confinement as per the Juvenile Justice Law, the monitoring team believes that this disciplinary measure was excessively harsh for this juvenile.

RECOMMENDATIONS:

- 1. UIKS should impose isolation measures on juveniles exclusively as a last resort, and only in exceptional and particularly justified situations.**
- 2. UIKS should provide juveniles with basic hygiene packages for personal hygiene maintenance and adequate clothing in accordance with the seasons.**

¹⁰ Decision of the Administration for the Execution of Criminal Sanctions ZDK-DR-155 of March 10, 2023.

¹¹ The United Nations Convention on the Rights of the Child (CRC), ratified by all members of the Council of Europe, stipulates that the detention of children should be a measure of last resort and appropriately limited in time. On this occasion, children must be protected from all forms of ill-treatment and enjoy a constructive regime that prepares them for their return to the community.

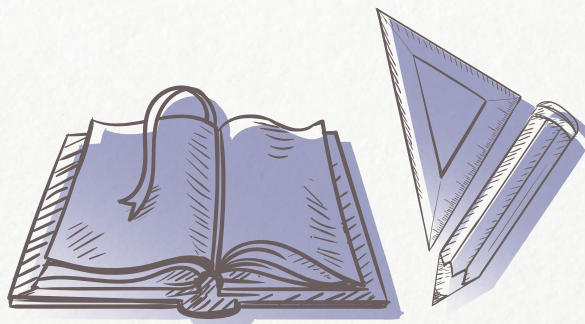
9. Education, Vocational Training and Information for Inmates

During direct discussions with inmates, the monitoring team was informed that they have access to domestic laws and regulations, can use the library available on each pavilion, and can subscribe to and receive printed materials through the prison canteen. Upon admission, inmates are informed of their rights and obligations during their sentence and the House Rules Regulations. All dormitories are equipped with televisions and some cable channels, which is the most common way inmates stay informed about events outside the prison.

However, what is lacking in terms of education and vocational training are basic and secondary education programs for inmates, as well as certified vocational training programs. UIKS, through the NGO Help, has managed to provide training and certification in trades such as carpentry, locksmithing, cooking, auto mechanics, and electrical engineering. However, most of the training and workshops, while useful, are short-term and lack formal recognition. At the time of the visit, one inmate serving a long sentence was attending university, and another was attending elementary school. The monitoring team did not receive information about vocational training programs involving digital environments (computer work, basic IT training, etc.).

RECOMMENDATIONS:

1. **UIKS, in collaboration with the Ministry of Education, Science, and Innovation, should take measures to enable inmates to participate in basic and secondary education programs within UIKS, as well as certified vocational training programs recognized in the labor market.**
2. **UIKS should consider the possibility of providing inmates with access to vocational training programs that involve working in digital environments (computer work, basic IT training, etc.).**



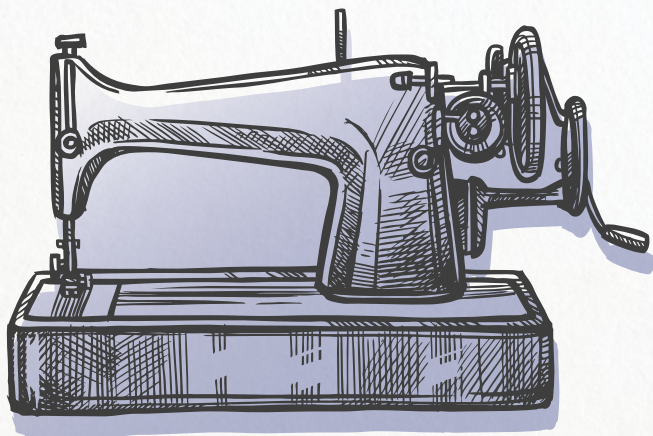
10. Employment Engagement

Inmates are actively involved in tasks that include artisanal and agricultural production, auxiliary technical work, administrative duties, construction, and service activities. Within the women's pavilion, there is a tailoring workshop where female inmates are trained to operate sewing machines and provide sewing services for the needs of UIKS. Women are primarily employed in roles such as laundry workers,¹² cleaners, library assistants, and servers. According to information provided by UIKS representatives, some women are also engaged in service tasks (such as serving and cleaning) within the administrative building of UIKS.

Artisanal activities are conducted in workshops for carpentry, woodcarving, metalworking, tailoring, locksmithing, and auto mechanics¹³. Most of the products made in these workshops are used for UIKS's internal needs, while certain items are produced for commercial purposes (e.g., wooden products such as "Montenegrin sofas," icons, etc.).¹⁴ A number of inmates are also involved in visual arts, and artistic paintings are among the items available for sale.

The monitoring team visited the artisanal workshops and observed that they are adequately equipped. Inmates interviewed expressed satisfaction with their working conditions and noted that UIKS provides work uniforms, so they do not have to wear out their personal clothing. A current issue mentioned was the heating of the halls where the workshops are located.

Typically, individuals with the lowest risk of escape are employed in the "economy" sector.¹⁵



¹² The laundry room is located in the women's pavilion and is staffed exclusively by women from that department.

¹³ Inmates carry out minor repairs on UIKS official vehicles.

¹⁴ Wooden products such as "Montenegro sofa", icons, etc.

¹⁵ The economy of UIKS has 40 heads of cattle and 80 pigs, as well as greenhouses with vegetables and fruits, with which UIKS supplies and the surplus is sold on the market.

11. Contacts with the Outside World (Correspondence, Telephone Calls, Packages, and Visits for Inmates)

According to information provided during the visit, inmates submit their correspondence and other documents intended for recipients inside and outside UIKS to treatment facilitators. During the handover of these documents, inmates are not given a receipt, which could put them at a disadvantage if they later need to prove that they have submitted a document or did so in a timely manner (such as a complaint or appeal).

It is commendable that each pavilion has a complaint box for submissions to the Ombudsman of Montenegro. The keys to these boxes are held exclusively by authorized personnel from the Ombudsman's office.

During unsupervised conversations, a large number of inmates complained about the quality of the telephone booths, stating that calls are frequently disconnected. According to officials, at the time of the visit, the telephone booths were being replaced. To address this issue, UIKS has provided inmates with older model mobile phones without internet access. These phones are kept by security personnel in locked cabinets and are given to inmates at specific intervals during the day.

Officials stated that inmates are entitled by law to receive packages once a month (up to 5 kg) containing personal items. Packages cannot contain food, and their inspection is conducted in the presence of the inmate receiving the package. Inmates did not express any complaints regarding the receipt of packages during their conversations with the monitoring team.

Inmate visits are organized in specially designated areas. In addition to regular visits, inmates are also entitled to family visits once a month, lasting up to three hours.

RECOMMENDATION:

- 1. When inmates submit documents to UIKS staff, they should be provided with receipts that include information about the date and exact time of submission, the type of document submitted, its recipient, and the signature of the UIKS staff member who received the document.**

12. Hygiene in UIKS

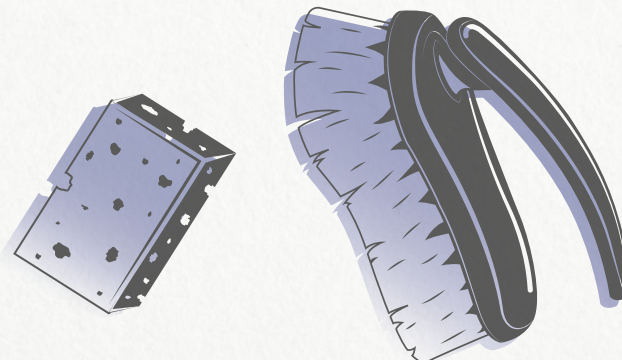
Upon arrival at UIKS, inmates receive basic hygiene kits (toilet paper, soap, toothbrush, razor), which was confirmed during discussions. Although the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recommended that UIKS adapt hygiene kits to meet women's needs by including tampons and sanitary pads, this has not been implemented in practice. At the time of the visit, a female inmate who reported no incoming packages stated that she obtains sanitary pads from her cellmates. This practice, aside from being degrading, places the woman in a dependent position relative to other inmates, potentially leading to abuse.

Inmates generally send their laundry to their families for washing, although some use the laundry facilities within UIKS. The laundry room in the women's pavilion is adequately equipped and, according to UIKS officials, fully meets the needs for washing and drying clothing.

UIKS provides necessary supplies for maintaining cleanliness in common areas and dormitories. However, during the inspection of these areas, it was noted that hygiene largely depends on the personal habits and cleanliness practices of the inmates themselves.

RECOMMENDATIONS:

- 1. Hygiene Kits for Female Inmates:** Hygiene kits provided to female inmates should be supplemented with female hygiene products, such as sanitary pads and/or tampons.
- 2. Improvement of Hygiene Practices:** UIKS should encourage inmates to improve the cleanliness of their living and communal areas by providing adequate equipment and hygiene supplies for this purpose.



13. Recommendations

1. **Space Allocation:** UIKS should ensure a minimum of four square meters of space per inmate in multi-occupancy dormitories (whether in cells or block accommodation), not including the area designated for sanitary facilities.
2. **Renovation of Shared Bathrooms:** UIKS should renovate the shared bathrooms in the male pavilions to ensure that the shower areas fully meet hygiene standards.
3. **Sanitary Device Replacement:** UIKS should replace outdated sanitary devices in the wet areas across the facility.
4. **Ventilation and Bedding:** UIKS should improve the airflow in all dormitories in the disciplinary pavilion and replace old mattresses and pillows.
5. **Ventilation and Lighting in Pavilion C:** UIKS should enhance both the airflow and the natural light in Pavilion C.
6. **Outdoor Activity Space:** UIKS should provide additional space for inmates to engage in outdoor activities, considering that the currently available space is extremely limited.
7. **Food Quality and Variety:** UIKS should pay additional attention to the quality and variety of food, in light of complaints from numerous inmates regarding the monotony and lack of flavor in the meals.
8. **Vitamin and Dietary Supplements:** UIKS should consider the possibility of allowing periodic access to vitamins and dietary supplements for inmates through the canteen or other secure means (e.g., through pharmaceutical institutions or pharmacies).
9. **Confidentiality of Medical Reports:** UIKS should ensure that medical reports following the use of force are never accessible to security staff. If these reports are necessary for assessing the justification and appropriateness of the use of force, they should be kept with the senior official of UIKS, rather than in the security sector's premises.
10. **Justification for Use of Force:** When assessing the justification and appropriateness of the use of force, the senior official of UIKS should provide a brief but adequate explanation.
11. **Accountability for Misuse of Force:** In cases of unlawful or excessive use of force, procedures to determine the responsibility of the officers should be initiated and carried out without delay.
12. **Legal Assistance During Disciplinary Proceedings:** During disciplinary proceedings against inmates who cannot afford a lawyer, UIKS should provide legal assistance by engaging a lawyer from the Human Resources, Office, and General Affairs Department. Inmates should be informed of the possibility of legal assistance during disciplinary proceedings in a timely and clear manner.

13. **Free Legal Representation for Juveniles:** UIKS, in cooperation with the Ministry of Justice and the Bar Association of Montenegro, should implement measures to ensure free legal representation for juvenile detainees involved in disciplinary proceedings, by lawyers with specialized knowledge in juvenile law and youth delinquency. This is in line with the obligation of all state bodies to prioritize the best interests of children in accordance with the Convention on the Rights of the Child.
14. **Medical Staffing:** UIKS should, in accordance with the previously conducted analysis of required professional profiles, hire the necessary number of doctors with appropriate specializations and medical technicians.
15. **Emergency Medical Coverage:** UIKS should organize regular medical coverage during nights, weekends, and holidays.
16. **Healthcare for Non-Citizen Inmates:** The status of non-citizen inmates should be systematically addressed, especially regarding their right to healthcare during imprisonment.
17. **Confidentiality of Medical Records:** UIKS should establish appropriate procedures to ensure the confidentiality of inmates' medical records, ensuring they are inaccessible to unauthorized personnel, particularly members of the security sector in any situation.
18. **Medical Examination Reports:** Medical examination reports following the use of force and other examinations identifying physical injuries should include:
 - Detailed accounts from the inmate about the cause of the injuries (who inflicted them, when, with what method, etc);
 - A clear and precise description of the injuries (color, size, shape, and other characteristics, with exact locations on the body);
 - A comprehensive diagram of the body indicating all noted injuries;
 - Clear photographs of the injuries with the date of occurrence, ensuring proper technique, angle, lighting, and use of color filters;
 - The doctor's opinion on the correlation between the account of how the injuries occurred and the observed injuries.
19. **Reporting Violent Treatment:** If there are indications that an inmate has been subjected to violent treatment, the UIKS director must be promptly informed in writing, and this activity must be recorded in the medical records.
20. **Workload Reduction for Treatment and Reintegration Department:** Consider the possibility of reducing the workload for staff in the Treatment and Reintegration Department to allow them to more significantly and fully focus on treatment work with inmates.
21. **Use of Solitary Confinement for Juveniles:** UIKS should implement solitary confinement for juveniles only as a last resort, i.e., in exceptional and particularly justified situations.
22. **Provision of Basic Hygiene Packages and Clothing for Juveniles:** UIKS should provide juveniles with basic hygiene packages for personal hygiene and clothing appropriate to the seasons.

23. UIKS, in collaboration with the Ministry of Education, Science, and Innovation, should take measures to enable inmates to attend basic and secondary education programs at UIKS, as well as certified vocational training recognized in the job market.
24. **Vocational Training in Digital Skills:** UIKS should consider allowing inmates to participate in vocational training programs that include work in a digital environment (e.g., computer use, basic IT training).
25. **Receipt Confirmation for Correspondence:** When inmates submit written correspondence to UIKS staff, they should be issued a receipt that includes the date and exact time of submission, the type of correspondence submitted, its recipient, and the signature of the UIKS staff member who received it.
26. **Hygiene Packages for Female Inmates:** Hygiene packages provided to female inmates should include women's hygiene products, such as sanitary pads and/or tampons.
27. **Improvement of Hygiene in Inmate Areas:** UIKS should encourage inmates to improve the cleanliness of the areas they inhabit and use by providing them with adequate equipment and hygiene supplies for this purpose.

The report was prepared within the framework of the project “No Impunity for Violations and Breach of Human Rights in Montenegro,” implemented by the Civic Alliance with the financial support of the Delegation of the European Union in Montenegro. The content of the report is the sole responsibility of the Civic Alliance and does not necessarily reflect the views of the European Union.





VISIT TO HEALTH CARE INSTITUTION Special psychiatry hospital “Dobrota“ – Kotor

April 27, 2023



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1. Civic Alliance mandate and information about the members of the visit team

The Civic Alliance (hereafter CA) started the implementation of the project “No Impunity for Violation and Breach of Human Rights in Montenegro”, in partnership with the Belgrade Center for Human Rights from Serbia and the International Commission of Lawyers from Brussels. The project is implemented with the support of the European Union.

During the 20 months of project implementation, CA wants to contribute to the consolidation of democracy, the strengthening of the rule of law and the protection of human rights in Montenegro through the involvement of non-governmental organizations in decision-making processes in accordance with the negotiation process. Among them, the project will contribute to the strengthening of the judiciary and justice because this branch of government plays a key role in ensuring the proper establishment of the rule of law and the protection of basic human rights in Montenegro, with a focus on vulnerable groups.

Members of the visit team:

1. Milan Radović, Civic Alliance
2. Aleksandra Dubak, Civic Alliance
3. Vladica Ilić, Belgrade Center for Human Rights
4. Jelena Jelić, Belgrade Center for Human Rights

2. Introductory interview with the management and general information about the hospital

The visit began with a conversation with the Director of the Hospital, Dr. Aleksandar Mačić, when information were obtained regarding the capacities, professional staff, activities and problems the institution is facing.

According to the director, the Hospital's accommodation capacity is 233 beds (which was filled on the day of the visit) and was divided into the following departments: Department of Forensic Psychiatry, two departments for extended treatment (so-called male and female chronic departments), two departments for acute psychosis (the so-called male and female acute departments), the Department for the treatment of addictions, as well as the Open Department for acute psychosis – for males with department for electroencephalography. Due to the modest annual budget, as well as the existing systematization, the Hospital lacks medical staff, especially nurses and technicians. At the time of the visit, 197 medical workers were employed in the Hospital and assistant staff, namely: 19 doctors (3 doctors who are specializing in the Hospital), 1 dentist – who works the treatment, repair and extraction of teeth, 1 child psychiatrist, 7 psychologists, 5 social workers, 2 EEG specialists, 20 occupational therapists and psychologists, 94 nurses and technicians (most of them are nurses) and 64 non-medical (assistant) staff of the Hospital. According to claims of the director, in addition to the lack of staff in the Hospital, there are always 2 psychiatrists on duty (at night and during holidays). The hospital also has a main kitchen, and meals are delivered from that kitchen to the departments.

When it comes to particularly sensitive categories of patients, minors are rarely admitted and stay for a short time in the Hospital, always accompanied by parents or guardians, and are accommodated in the so-called isolation or in especially separate accommodation part that was formed during the COVID-19 pandemic. Furthermore, the Hospital is not adapted for patients who have to use orthopedic aids when moving. At the time of visit, there were no such patients, and according to official statements, patients who have difficulties when moving, stay in this institution for a very short time. For the elderly and patients who are in poor material situation, the Hospital provides the necessary clothing and footwear through donations. The hospital receives clothes, shoes, bed linen and mattresses through donations (from individuals, religious communities, Rotary Club and similar). Also, the Hospital is often in a situation to provide the necessary medicines itself for patients who are financially threatened.

According to the statement of the Director of the Hospital, support in the community is still lacking, which is why the large number of patients - even though they no longer need to be hospitalized - are still housed in the Hospital, because they have nowhere else to be or their families don't want them.

Discussing the previously sent recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe (hereinafter: CPT) from the report on the visit to Montenegro in 2017, the team received information that the Hospital failed to reduce the capacity of the rooms, i.e. to bring the number of beds and patients in the rooms in line with the standards, as well as to continue to give patients the antipsychotic clozapine, with the recommendation to check the blood tests first (especially white blood cells).

The visit took place in the spirit of good cooperation, and the visiting team was given access to the required documentation, unimpeded access to all rooms, as well as unsupervised conversations with the patients, in all the departments visited by the representatives of the visiting team.

3. Material conditions, accommodation, food and hygiene of patients

After the introductory interview, the visiting team toured the Forensic Psychiatry Department, male chronic department, female and male acute department.

In addition to the visible age and dilapidation of certain facilities, the visiting team noticed the staff's efforts to humanize the corridors and common rooms of the department as much as possible. However, there is still a lack of elements that would give the wards (especially for extended treatment) a less hospital appearance. For example, no clock or calendar was found in any department, so patients do not have a clear awareness of the passage of time (there were patients who asked visiting team representatives what month it was that day or what time it was).

Basically, all rooms and common premises have adequate natural and artificial lighting and the possibility of ventilation. Also, hygiene in the Hospital is satisfactory, taking into account the age of the facilities.

During the visit to departments, the visiting team did not see any patients in pajamas. All the patients found were wearing personal clothing, which (as already mentioned) is provided by the Hospital through donations. Appreciative observed practice is favorable for creating a sense of personal identity and self-esteem of patients.

a) Forensic Psychiatry Department

This department is located in the last (highest) facility of the Hospital complex and has 7 rooms (with 3 beds each), one room for isolation, a dining room (common living room) and a shared bathroom. At the time of the visit, the capacities of the rooms were full. As the CPT established earlier in its report on the visit to Montenegro in 2017, in relation to the existing capacity, this department is overpopulated, old and not equipped in accordance with standards. Furthermore, although each dormitory has a wardrobe divided into 3 compartments (and each has its own key), a lot of the patients' personal belongings were found around and under the bed. Also, the rooms are rather unventilated and dark. Considering the age and dilapidation of this part of the Hospital (especially the common bathroom), the hygiene of the department is satisfactory.

In the fenced open area, which is used exclusively by patients in this department, there is a basketball court and benches. The courtyard of this department does not have a canopy, but there is a porch and an exercise machine under (for exercises such as pull-ups), so that patients can go out into the fresh air even when it rains. It is the so-called a small circle that patients can use every day, while some patients of this department - depending on their health condition - can also go to the so-called the large circle, i.e. the space outside this facility, where there is also a larger basketball court, benches and a smaller garden.

During the tour of this part of the Hospital, it was noticed that all rooms were under video surveillance, including the bedrooms and the common bathroom. Although the CPT report on the visit to Montenegro in 2017 indicated that video surveillance should not be used in dormitories in order to ensure the minimum privacy of patients, it is obvious that this recommendation has still not been acted upon. There are three surveillance cameras in the central part of the department corridor (in front of the isolation room). One of them faces the entrance to the department, the second covers

the rest of the corridor (it faces the opposite direction from the entrance), while the third covers the door of the isolation room. However, behind the described third camera, there is a staircase that is partitioned off by bars and that leads to a room where means for maintaining hygiene are kept. This part of the corridor of the department is not under video surveillance, that is, it represents so-called blind spot, and due to the risk of abuse, should be immediately covered by video surveillance. Also, there is no notification about video surveillance anywhere in the department.

Most of the patients in this department said that the food was bad. They mostly complained about the amount of portions for breakfast and dinner, adding that the meals are uniform (for example, they mostly get salami, marmalade or eggs for breakfast), and that they occasionally only get bananas from fresh fruit. The patients stated that they were able to receive certain foods via packages, and that they order food from local restaurants and fast food outlets. They miss the visits of close people (family, friends), while they did not complain about the work of the hospital employees.

Male chronic department

The department is located in the same building as the forensic department. The department has 7 rooms and 46 beds. For some of the patients, this department has been home for decades. Most patients are over 50 years old. There are 6, 8 or 10 beds in the rooms (dormitories). The dormitories do not have any personal characteristics or belongings of the patients (photos, pictures, etc.), they don't even have cassettes/cupboards for storing personal belongings. There is a separate room in the department, the so-called closet, where the common wardrobe of all the patients of this department is kept (which the patients share). This has a negative impact on preserving the personal identity and privacy of patients, as well as on developing their personal responsibility for keeping their belongings.

Damp was noticed in some rooms of this department, and the patients themselves confirmed that water drips in those places in winter. The Director of the Hospital confirmed the problems surrounding the renovation of the roof, that is, the dilapidation of certain buildings.

The Department has a common living room, with benches and a TV, which is bright, with windows that open. However, at the time of the visit, a dozen patients were found in this room, and all of them were smoking (smoking is only allowed in the common room), and it was quite stuffy. During the visit, most of the patients in this department were asleep or not in a good mood for an interview, and the impression of the visiting team is similar to the findings of the CPT from the 2017 visit - that the majority of patients in this department spend most of the day sleeping or in the living room.

The common bathroom in this department, although new (in terms of hygiene and sanitary conditions), does not protect the privacy of patients (wet joints do not have any partition). At the time of the visit, the part of the bathroom where the shower cabins are located was locked. According to the information received, that part of the bathroom is locked to prevent destruction of sanitary devices (showers and hoses) and injury to patients.

Every day, physical exercises are done with the patients of this department, and they also have a table tennis at their disposal. Patients, whose health conditions make it possible, spend most of their days in the hospital courtyard and in occupational therapy.

Male acute department

During the visit of the acute department, the visiting team focused on the room for physical (mechanical) restraint and recording the mentioned measure. At the time of the visit, this room was used as a regular room (dormitory) for one patient of the Hospital (according to him, no measure of physical restraint was determined). This inevitably raises the question of how the measure of physical restraint of department patients has been applied up to now, i.e. whether the patient placed in this room was moved out of that room each time when physical restraint of other patients was applied in it. Undoubtedly, this kind of practice should be stopped immediately and it should be ensured that the room for physical restraint on in the ward will be used only for this purpose, and not as a regular room for patients.

A brief observation gave the impression that this department is organized according to the same principle as the male chronic department, and the material conditions of accommodation are very similar (the department is located in another part of the same building).

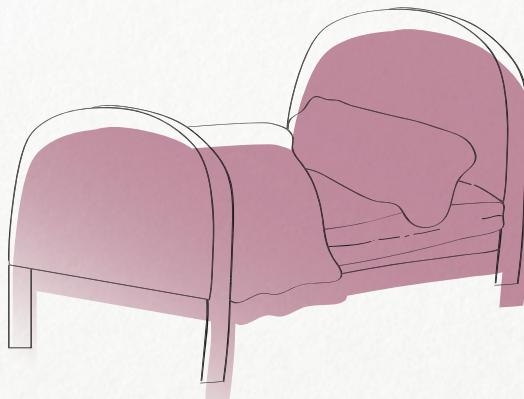
Female acute department

This department is located in a two-story building above the administration building. It consists of 7 rooms with a total of 22 beds, a shared bathroom, a shared dining room, as well as one room for isolation, or physical restraint. On the day of the visit, there were 19 female patients in this department.

The hygiene and appearance of the department are noticeably better compared to the men's departments described above. However, the common bathroom is in bad condition, i.e. it needs to be renovated and the old and dilapidated sanitary appliances need to be replaced. The patients who were interviewed complained that there is only one toilet bowl with a broken seat – they complained for using the so-called squat toilet. It was also noticed that the part of the bathroom with the shower was locked. According to the received data, patients shower under the supervision of medical staff.

The patients of this department also rated the food as bad, but they were also allowed to buy food from local restaurants and fast food outlets.

During the unsupervised interviews, the patients who were deprived of business capacity complained about the work of the employees in the centers for social work, that is, the guardians. According to them, they have contact with the guardians only once a month - at the time when the pension payment or some other regular income is due on their account.



4. Physical (mechanical) restraint

According to the Director of the Hospital, all medical technicians attended training on restraining agitated patients. By examining the records of physical (mechanical) restraint of patients, it was determined that this measure is rarely resorted to, that it is applied for a short time (for a few hours) and is carried out only on the order of a doctor. Also, no template has been established for treating patients in this way (eg tying them up throughout the night). In manually maintained records, the time of fixing and defixing is entered – but it was observed in the male acute department in several places that the time of defixation was not specified, the reasons for applying the measure, as well as the doctor’s handwritten signature - usually without a facsimile. By opinion team, the way of keeping these records needs to be improved in several ways. First, it is always necessary to specifically indicate which doctor approved the application of the measure, and which one ordered its termination, even if it is the same doctor. Second, the signatures of the doctors who approved the application of the measure and its termination should always be provided in facsimile. And thirdly, in order to prevent the possibility of a subsequent data entry (so-called anti-dating), records of physical restraint should also be kept electronically, with respect for all principles related to information security and protection of personal data.

Rooms for isolation and measures of physical (mechanical) restraint in the male and female acute departments are located right next to the rooms for the medical staff and in them visual contact with the staff is enabled through a glass screen. While visiting these rooms, it was determined that one of them is not under video surveillance, although this is of exceptional importance - among other things - for the subsequent monitoring of the regularity of the application of the physical restraint measure. The staff of the Hospital was not sure how long the videos are stored in the electronic memory of the Hospital (they assume about 30 days), and they also stated that the videos from the physical restraint rooms - while this measure is applied - are not separated and kept. This practice makes it impossible to later verify the justification and regularity of the application of the restraining measure. Finally, visiting the male chronic department revealed that there is no specially designated room for the physical restraint of patients. Patients are strapped to the bed in dormitories where other patients also stay. According to official statements, such patients are visited in a very short periods and restraint lasts only as long as it is necessary for the patient to get out of the agitated state.

5. Forced hospitalization

During the visit, there was a patient in the women’s acute department who claimed that she “doesn’t know why she was placed in the hospital” and that she is not sure whether she signed the consent to treatment (hospitalization) or was forcibly detained. There was also a patient who claimed that she was hospitalized voluntarily, that is, on her consent, but following the insight into the decision on her placement in the hospital, it turned out that she was hospitalized after a court decision on forced placement. The third patient claimed that she “signed some papers” when she was placed in the hospital, but she is not sure what she signed, considering that she did not receive her copy of the signed documents. She mentioned that during the reception she was told by the Hospital staff that if she refused to sign the offered documentation, she would be forcibly detained and that it would be “difficult to get out” of the Hospital.

Through a conversation with the director of the Hospital, it was determined that patients who are in the Hospital based on consent - are not issued copies of signed consents for treatment and accommodation in the Hospital (hospitalization). This approach should be changed and every patient who consents to treatment and consent to hospitalization (hospitalization) should be given a copy of the signed consent. Patients should always know whether they are under treatment at the hospital under compulsion or voluntarily, and whether they have the right to inspect their medical documentation.

In addition, the visiting team emphasizes that giving the patient's consent to treatment and consent to accommodation in the hospital (hospitalization) implies the possibility of revoking these consents at any time. Once the patient's consent to treatment and accommodation has been given, it can always be revoked, and it cannot be a basis for the patient to be kept for treatment in the hospital against his will, or to be deprived of his liberty by the hospital staff. For this reason, the visiting team believes that the procedure of forced detention and placement of the patient in a health institution (Articles 35 and 36 of the Law on Protection and Exercise of the Rights of Mentally Ill Persons) should be initiated without delay, as soon as it is assessed that the conditions for this from Article 32 of the Law have been met, as well as in relation to the patient who is in the Hospital on the basis of previously given consent. In other words, if the conditions for forced accommodation and detention from Article 32 of the Law are met, the procedure of forced placement in an institution of a patient who was previously placed in it on the basis of consent, should not be delayed and should only be started after the patient revokes his consent to treatment and accommodation, as stipulated in Article 37 of the Law.

6. Occupational therapy, treatment, free time and relationship of employees with patients

The hospital has rooms for occupational therapy that is for painting, making ceramic objects, maintaining the garden and greenhouse.

Group workshops with psychologists and special education teachers are organized twice a week at the Department of Forensic Psychiatry. Patients in this department have the option of walking and using the gym twice a day for one hour.

During the conversation with the patients, it was noticed that they do not have an accurate idea of the time, and the patients of the women's acute department especially looked back and complained about this. Some of them had only been in the hospital for ten days at the time of the visit. In this women's department, walking and staying in the hospital area are only allowed for patients whose health condition permits it, that is, for whom the staff has confidence that they will not leave the hospital grounds. Several female patients complained about this type of treatment, pointing out that they spend most of the day in the common corridor between the rooms, sitting and smoking cigarettes.

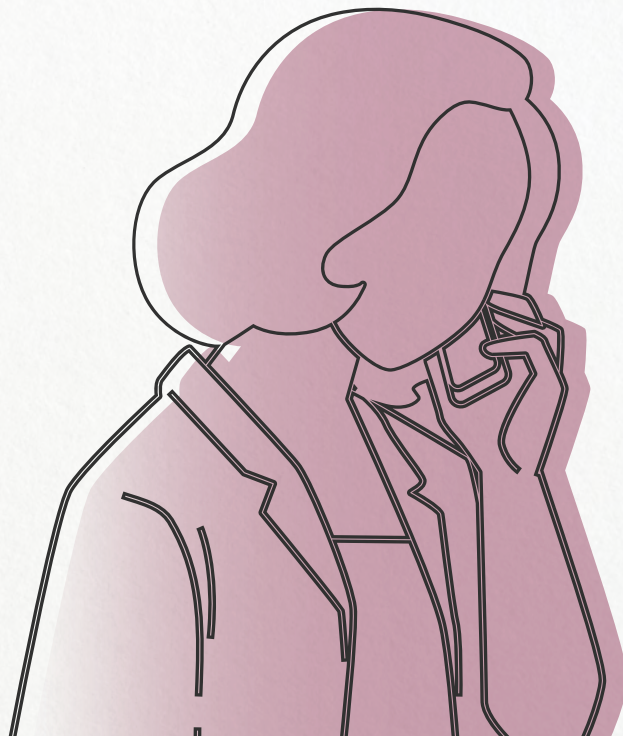
During the visit, there were both praises and complaints from patients regarding the quantity, quality, manner and content of the medical staff's communication with them. According to their statements, individual interviews of patients with psychiatrists and psychologists are rarely carried out. They have contact with doctors mainly through morning visits, and the therapy is most often

grounded to the use of pharmacotherapy (a patient from the women's acute ward was in forced hospitalization for seven days, and she stated that she only talked to a psychologist once and she was mostly under sedatives). Such a practice was confirmed by a patient in the women's acute department, who has been in that department for eight months. The patients of the women's acute department were much more satisfied with the work and communication with the medical technicians than with the work of the doctor.

7. Contacts of patients with the outside world

Visits to the Hospital are still prohibited, according to the measures adopted in 2020 during the COVID-19 pandemic. During the visit to the Hospital, it was not observed that any of the employees were wearing protective face masks, which were mandatory according to the stated measures, in order to reduce the possibility of transmitting the virus. Bearing in mind that the current epidemiological situation is no longer threatening to that extent, the abolishing of the prohibition of visits to patients in the Hospital should be considered.

Patients are allowed to use personal mobile phones at certain time intervals during the day, which many of them consider a very good advantage. However, one of the patients in the women's acute department expressed her dissatisfaction with the fact that she was not allowed to talk to the minor child through a video call on a mobile phone. Bearing in mind the particularly sensitive situation of children who are separated from their parents and their need to maintain contact with their parents, as well as the obligation of institutions to take into account the best interests of children in all their activities, the Hospital should provide technical opportunities that would enable patients who have minor children to allow, in addition to audio calls, to also talk to them via video calls.



8. Recommendations for harmonizing the work of the Hospital with valid human rights standards

1. The competent ministry should take measures to increase the number of health workers, especially nurses and technicians, in order to relieve the Hospital and provide more efficient healthcare services to all patients accommodated there.¹⁶
2. The competent ministry should provide funds in order to improve material conditions in the Hospital and renovated certain departments, i.e. provide an appropriate living environment for patients of all departments of the Hospital; in the framework of such renovations, special attention will be given to the number of patients accommodated in one room (so that no more than four patients are accommodated there).
3. The hospital should take measures to replace dilapidated sanitary devices, and ensure patients' privacy during showering (shared bathroom at male chronic department).
4. The hospital should undertake the necessary activities to make the rooms, corridors and common areas of departments humanized, by encouraging patients to decorate the premises with personal belongings, but also to provide clocks and calendars by departments. Also, the Hospital will provide to each patient a cassette for storing personal belongings.
5. The hospital should make greater efforts to increase the offer of therapeutic and rehabilitation activities (e.g. occupational therapy, individual and group therapy, psychotherapy, education, sports) and will include more patients in activities adapted to their needs (which implies employment of a larger number of medical personnel).¹⁷
6. The hospital should provide all patients with a satisfactory quality of food, in accordance with current regulations and standards, which will include the possibility of regular consumption of meat, fresh and various fruits and vegetables.
7. The hospital should provide all doctors, psychiatrists and other health personnel with printed material containing the valid standards related to the physical restraint measure (e.g. revised standards of the European Committee for the Prevention of Torture - CPT).¹⁸
8. The hospital should harmonize the practice of keeping records of physical (mechanical) restraint, by specifically indicating the doctor who approved the application of measures, and who prescribed its termination, even when it is the same doctor, and every order for the application of this measure and its termination, i.e. the doctor's signature, will also be provided with a facsimile of the doctor. Also, it would be desirable to introduce electronic records of the application of physical restraint measures to prevent the potential possibility of antedating.
9. The hospital should ensure that the records of physical restraint always include data on untying the patient for feeding, performing physiological needs and similar, as well as on their visits during the physical restraint measure.

¹⁶ This is also recommended by the CPT in the Report on visit to Montenegro 2017

¹⁷ *Ibid.*

¹⁸ Standards are stated within the CPT Report on visit to Montenegro in 2017

10. The hospital should, without delay, provide a special room in each department for physical (mechanical) restraint measures, that is, this measure will no longer be applied in rooms where other patients are also placed. The hospital will use the room for physical (mechanical) restraint in the male acute department exclusively for that purpose.
11. The hospital should take measures in order to improve the video surveillance system by covering all rooms used for physical (mechanical) restraint measures with video surveillance and introducing the practice of isolating the video recording of the measure and keeping that material for a longer period of time (up to five years as recommended).
12. In order to improve the video surveillance system, the hospital should install a larger number of surveillance cameras in the common corridor of the Forensic Psychiatry Department, thereby preventing the existence of so-called blind spots in the corridors.
13. The hospital should post a notice about which rooms are under video surveillance in all departments, in places visible to patients.
14. In order to preserve the minimum privacy of patients staying at the Forensic Psychiatry Department, the hospital should remove video surveillance from the rooms.
15. The hospital should allow each patient to stay in the fresh air for at least two hours a day, taking care about the health condition of the patients.
16. When accommodating patients on the basis of consent to treatment and consent to accommodation i.e. hospitalization, the Hospital should hand over one copy of these documents to the patient.
17. For patients detained and placed on the basis of consent, the Hospital should initiate procedures for forced detention and placement in an institution as soon as it is assessed that the conditions stipulated in Article 32 of the Law on Protection and Exercise of Rights of Mentally Ill Persons have been met, i.e. it shall not delay the initiation of these procedures until the moment the patient revokes his earlier consent to treatment and accommodation.
18. The hospital should submit an initiative to the relevant ministry to put an end to the prohibition of visiting patients, and until then, they will enable them, if they wish, to communicate with family members via video calls.
19. The hospital should take the necessary measures to enable patients who have minor children to also talk to them via video calls, in addition to audio calls.
20. The Hospital Management should organize trainings on appropriate and professional communication between medical staff and patients and will establish a system for reporting and resolving such cases.

The report is developed in the frame of the project “No impunity for violations and breach of human rights in Montenegro” implemented by Civic Alliance, with the financial support of the EU Delegation to Montenegro. The content of the report is the sole responsibility of the Civic Alliance and does not necessarily reflect the views of the European Union.



MONITORING VISITS TO THE POLICE STATION IN PODGORICA



Representatives of the NGO Civic Alliance and the Belgrade Center for Human Rights organized two monitoring visits to the Security Center in Podgorica - an unannounced evening visit on June 13, 2023, and a daytime visit the following day, June 14, 2023, in order to visit the detention facilities and conduct unsupervised interviews with the detained persons deprived of liberty, interviews with police officers, inspection of relevant documentation and familiarization with the procedures that accompany the deprivation of liberty and the exercise of human rights of citizens.

During the evening visit of June 13, 2023, the monitoring team visited the detention facilities and talked to four detained persons.

The monitoring team began its daily visit on June 14, 2023 with an introductory interview with the Head of the Security Center, Goran Jokić. On that occasion, the Head of the Security Center pointed out that in the last two years, there were no reported cases of abuse or torture, as well as cases of excessive use of coercive means. The Head emphasized that the Security Center is facing a large deficit of employed police officers, and at the time of the visit, there were about 150 officers missing, which is why the work is being done with a large number of overtime hours.

After the conversation with the Head of the Security Center, the monitoring team interviewed one person deprived of liberty, who was also interviewed during the evening visit, as well as the commander of the Police Station for Public Order and Peace, Milan Radusinović; and the Chief of the Criminal Police Security Department and Commander of the Criminal Police Station for Suppression of Blood Offenses and Domestic Violence, Srđan Korać.

During both visits to the Security Center in Podgorica, all police officers achieved exceptional cooperation with the members of the monitoring team, which made the visits to be carried out smoothly. The members of the monitoring team were provided with all the requested information, they were given a tour of the detention facilities, as well as an unsupervised conversation with the detained persons, with access to the relevant documentation. Additionally, after the visit, the Security Center provided copies of the requested documentation for the purposes of developing this report.

1. Video surveillance coverage

The entire building of the Security Center is covered by video surveillance (outside and inside). At the beginning of the evening visit, the police officer on duty led the monitoring team to the detention facilities. On the way to the detention facilities from the Police Station for Public Order and Peace, where persons deprived of their liberty are taken, the monitoring team noticed a small part that is not covered by video surveillance - near the stairs in the direction of the Center's restaurant.

The part of the Security Center where the rooms for detainees are located (all rooms, corridor and toilets) is fully covered by video surveillance. According to the information received in writing, the video surveillance system located in the detention facilities, which includes corridors, passageways, entrances/exits and part of the premises where police officers employed in the security of detainees and persons deprived of their liberty are located and stay during the shift, has the ability to record and store video material for up to 45 days, while video surveillance located in the very premises where detainees and persons deprived of their liberty stay has the ability to record and store video material for seven days.¹⁹ The monitoring team is not aware of the reasons for the significantly shorter period during which the video material from the detention rooms is stored compared to the video material from other rooms in this part of the Security Center.

The latest report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: CPT) addressed to Montenegro, recommended that all parts of police stations should be covered by audio and/or video surveillance and that video recordings should be kept for at least 60 days, ideally longer.²⁰

On the outside part of the doors of all the premises for keeping people are notices that these premises are under video surveillance. In the opinion of the monitoring team, both notices should be located inside the premises themselves, to ensure that persons who are detained and deprived of their liberty are informed about it, given that they often will not be able to read before entering the detention room the aforementioned notice (due to the short stay in the corridor, state of intoxication, etc.).

The equipment of the video surveillance system in the part of the Security Center where the rooms for holding persons are located is outdated, and the quality of the recordings is unsatisfactory. Police officers employed for the security of detainees and persons deprived of their liberty have informed the monitoring team that a new video surveillance system will be introduced in the upcoming period, which will be of better quality.

¹⁹ Act of the Security Department Podgorica, no. 73/076/23-21465/2 from July 31, 2023 sent to Civic Alliance .

²⁰ CPT Report from June 22, 2023 about *ad hoc* visit to Montenegro from June 7 – 13, 2022, CPT/Inf (2023) 10, Paragraph 35

Recommendations for improving the work of the Security Center:

1. It is necessary to renovate the video surveillance equipment system in the part of the Security Center where the premises for the detention of persons are located;
2. It is necessary to ensure that the entire staircase to the detention rooms, in the direction of the Center's restaurant, to be covered by video surveillance, that is, the so-called the blind spot that existed at the time of the visit should be monitored by the video surveillance;
3. It is necessary to ensure that the entire video material from the detention rooms and other parts of the Security Center is stored for at least 60 days, in accordance with the recommendation of the CPT;
4. It is necessary that inside the premises for the detention of persons there is a notification that these premises are under video surveillance.

2. Rooms for collecting information from citizens

Inside the Security Center there are no separate rooms for collecting information from citizens and questioning suspects, which are under audio and visual surveillance. According to the statement of the Commander of the Criminal Police Station for the Suppression of Blood Offenses and Domestic Violence, earlier there were rooms in that station where information from citizens were exclusively collected and suspects were interrogated (the so-called processing offices), which were not used as regular offices for employees. However, the increase of work, which led to an increase in the number of police officers of the criminal police and the allocation of special rooms for work with children and minors, which was not accompanied by an increase in spatial capacity; resulted in interviews between police officers of the criminal police and citizens or suspects in the inspector's offices, even to the extent that these offices - according to the Commander of the Criminal Police Station - are sometimes used to conduct confidential interviews of persons with their lawyers before taking a statement, as well as for conducting medical examinations (if the person is detained or deprived of liberty, medical examinations are carried out in detention rooms). Files of other items are also kept in the offices of criminal inspectors, and during the visit, items were also observed in closets or leaning against the wall, which the present criminal inspectors claimed were confiscated items, some even 20 years ago (old mobile phones, long metal rods, a piece of scaffolding, a fire extinguisher with an expired certificate, etc). The majority of these items were not marked in a way that confirms the officials' claims that they are confiscated items. In several rooms of the criminal inspectors, it was also observed that the slats of the door frames were taken out and leaned against the wall next to the entrance door, which the officers present attributed to the poor quality of the carpentry.

The CPT indicates that it is not uncommon for its delegations to find suspicious objects in police premises such as wooden poles, broom handles, baseball bats, metal rods, pieces of thick cable, fake weapons or knives. The presence of such objects has on several occasions provided confirmation for the allegations received by CPT delegations, that persons in such institutions were exposed to threats and/or beaten with objects of this type. The standard explanations received from

police officers regarding these items are that they were taken from suspects and will be used as evidence. According to CPT, the circumstances are like this - suspicious objects regularly unmarked and often found scattered around the premises (sometimes even behind curtains or cupboards) can only cause skepticism regarding such explanations. In order to refute allegations of misconduct by members of the police and to eliminate potential sources of danger for both staff and persons deprived of their liberty, items seized for use as evidence should always be properly marked, filed and kept in a room designated for that purpose. All other items of the aforementioned type should be removed from the premises where police interviews are conducted.²¹

The Commander of the Criminal Police Station emphasized to the monitoring team that the premises of the State Prosecutor's Office also do not have the conditions for audio and video recording of the interrogation of suspects, adding that audio and optical recording of the collection of information from citizens in the police is of less importance because such statements do not constitute evidence in criminal proceedings. In this regard, the monitoring team would like to emphasize that, regardless of the procedural significance of certain actions in the procedure, all state authorities have the obligation to establish effective mechanisms for the prevention of torture and other forms of abuse of citizens, which is especially relevant in the first hours after disputed events and deprivation of liberty, when there is the greatest risk of applying of acts of torture or other forms of abuse against persons deprived of liberty by the police.

Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Punishments and Procedures stipulates that each member state undertakes legal, administrative, judicial or other effective measures to prevent the execution of torture in the territory under its jurisdiction. Article 11 of this convention stipulates that each member state exercises systematic supervision over the rules, instructions, methods and practice of hearings and over provisions related to the custody and treatment in any way of arrested, detained or imprisoned persons in a territory under its jurisdiction, and in order to prevent any case of torture.

According to the CPT's view, electronic (i.e. audio and/or video) recording of police debriefings represents an important additional measure of protection against abuse, which provides a complete and authentic record of the debriefing process and thereby greatly facilitates the investigation of any allegations of abuse. This is in the interest of both persons who have been abused by the police and members of the police faced with unfounded claims that they used physical abuse or psychological pressure. Electronic recording of police debriefings also reduces the possibility that defendants will later falsely deny making certain confessions.²² Electronic recordings should be stored securely for a reasonable period, be available to the detained persons concerned, their representatives, and be available to representatives of international and national supervision bodies (including the NPM), as well as to all officials responsible for investigating allegations or reports of police abuse.²³

In the aforementioned report, the CPT recommended the Government of Montenegro to take concrete steps to introduce dedicated premises in the police to conduct police interviews and to install equipment for audio-visual recording of all police interviews.²⁴

21 See the CPT document: New CPT standards in a view of police custody – extract from the 12th general report CPT/Inf (2002)15-part, paragraph 39. Available at: <https://rm.coe.int/16806cd1ea>.

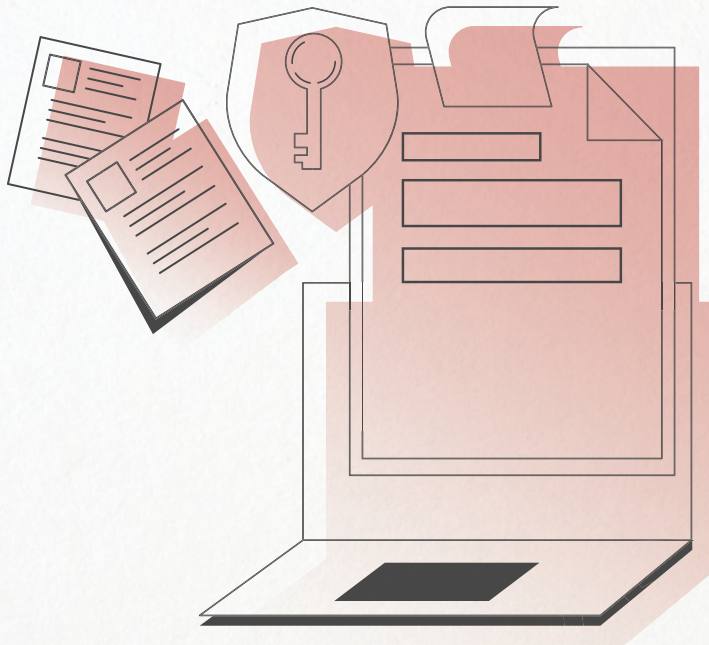
22 CPT: New standards of CPT in terms of the police detention, paragraph 36.

23 See the CPT document: Prevention of police torture and other forms of abuse – reflections on good practices and new accesses – extract from the 28th general report, CPT/Inf(2019)9-part, paragraph 81. Available at: <https://rm.coe.int/1680942329>.

24 CPT/Inf(2023)10, paragraphs 35 and 50.

Recommendations for improving the work of the Security Center:

1. With the support of the Ministry of Interior, it is necessary to immediately undertake activities with the aim of establishing of premises for collecting information from citizens and questioning suspects, within the Security Center, which will be under audio and visual supervision;
2. It is necessary to regulate by law the handling of material created by audio and visual recording of the collected information from citizens and interrogation of suspects;
3. It is necessary to take appropriate measures in order to create special purpose-built premises within the Security Center for the safekeeping of seized objects, their registering and labeling.



3. Acting on citizens' complaints about the work of police officers

In a conversation with the Commander of the Police Station for Public Order and Peace, the monitoring team was informed that since the beginning of 2023 there have been no complaints from citizens about the work of police officers, and that there were only a few such complaints in previous years. According to the Commander of the Police Station for Public Order and Peace, for reasons of objectivity, officers of the Criminal Police Station act upon complaints of citizens submitted about the work of police officers of the Police Station for Public Order and Peace, and vice versa.

Following the insight into one, randomly selected case formed as a result of a citizen's complaint, the monitoring team concluded that the complaint procedure was not thoroughly and properly implemented. Although the conversation between the citizen who filed the complaint and the police officer of the Police Station for Public Order and Peace against whom the complaint was filed, was attended by several persons, even the police officer who was on patrol with the police officer against whom the complaint was filed; they were not interviewed and their statements were not taken in the complaint procedure, even though this was the obligation of the direct manager according to the Rulebook on how to act upon complaints about police work. Only after almost a month from the filing of the complaint, the immediate superior took a statement from the police officer against whom the complaint was filed, who denied the allegations in the complaint. Apart from the fact that the written response informing the complainant that his complaint was rejected as unfounded, was sent after the legally prescribed period of 30 days from the day of receipt of the complaint, in that response the complainant was not informed of his right prescribed by the Law on Internal Affairs – that he can contact the Ministry if he is not satisfied with the answer, within 15 days from the day of receiving the response.²⁵

Recommendations for improving the work of the Security Center:

- 1. In order to determine the factual situation in relation to citizens' complaints about the work of police officers, it is necessary for managers who act on complaints to take all the measures and actions they are authorized to do by the Rulebook on how to act on complaints about the police work, among other things, to conduct interviews and take statements from the complainants, the police officer whose work the complaint refers to, other police officers and persons who were participants or witnesses of the event, as well as confronting them, if necessary. It is important that these measures are taken without delay, especially those related to the taking of statements by citizens and police officers, in order to protect their credibility, prevent reconciliation of statements, forgetting the details of disputed events and the like;**
- 2. In accordance with the Law on Internal Affairs, it is necessary that, a written response, i.e. a notification to the complainant about the merits of the complaint, be delivered as soon as possible, and no later than 30 days from the date of receipt of the complaint, as well as that it informs the complainant about the fact that if he is not satisfied with the answer he has the right to submit a complaint to the Ministry of Interior, within 15 days from the day of receiving the response.**

²⁵ Written response to the complainant, 17 no. 074/20-18666/2, from 4 September 2020

4. Assessment of justification and regularity of use of coercive measures

According to the Law on Internal Affairs, after a police officer uses coercive means, he is obliged to make a report about it within 24 hours. The immediate manager collects information about the circumstances of the use of means of coercion without a delay and provides an opinion on the justification and regularity of the use of means of coercion, which he submits to the director of the Police or a person authorized by him. The legality of the use of means of coercion is assessed by the Director of the Police or a person authorized by him, without a delay, and at the latest within three days of receiving the report with the case files.

According to the Commander of the Police Station for Public Order and Peace, an application was established on registering the use of means of coercion, which is quite detailed. The training was organized for police officers at the Police Academy in Danilovgrad about the use of application.

The monitoring team reviewed several cases of assessment of the justification and regularity of the use of means of coercion by police officers. And while it is praiseworthy that most of the police officers' reports were solidly explained and that the report form contains all the questions that are important for determining the factual situation and giving an assessment of the justification and regularity of the use of coercive means; several significant shortcomings were noted in the procedures for assessing the justification and regularity the use of means of coercion. First, in several cases it was noticed that the police officers who applied coercive means completely copied the answers to the questions from the report form from each other, i.e. their answers are completely or almost identical (written in the same words, even accompanied by the same technical and spelling errors).²⁶ This way of drafting reports on the use of coercive means reduces their reliability and direct managers should not tolerate this. Second, in some cases, the immediate managers did not collect all the information that were important for giving an opinion on the justification and regularity of the use of coercive means, which could have been collected. For example, in one case, a police officer used physical force and hand spray with an irritant effect on a citizen in the presence of his colleague. In the process of preparing an opinion about the justification and regularity of the use of coercive measures, the immediate manager did not take a statement from the police officer who attended the use of coercive measures, although he was obliged to do so according to the Law on Internal Affairs.²⁷ Third, it was observed in several places that in the reports on the use of coercive means, the police officers answered negatively the question from the report form: "Whether there were any witnesses in the immediate vicinity during the use of coercive means", although it is quite clear from the description of the event that the coercive means were used in front of other police officers, ambulance officers or citizens present.²⁸ And fourthly, in one analyzed case in which means of coercion were used in a public place, i.e. on the street, the police officer did not indicate the house number, i.e. the nearest destination within the street where coercive means were applied. It was also unclear from his report whether the place where the means of coercion were used was under video surveillance or not, which could be important for the assessment procedure of the justification and regularity of the use of the means of coercion. To the question from the report form: "Whether the use of coercive means was recorded by any of the recording devices", the police officer stated

26 Thus, for example, the identical content of reports of police officers no. 73/2-216/23-15673/1 and report no. 73/2-216/23-15673/2, both dated May 25, 2023, as well as the report of police officers no. 56/5215/22-49729/1 and report no. 56/5215/22-49730/1, both dated December 13, 2022.

27 Opinion on justification and regularity of use of coercive measures, 73/2 no. 216/2317201/2 from June 4, 2023.

28 For example in reports no. 73/2-216/23-15673/1, no. 73/2-216/23-15673/2 from May 25, 2023.

that he was not aware of this. In opinion on the justification and regularity of the use of coercive means, the immediate superior failed to notice omission of the official in connection with the closer determination of the place of use of means of coercion. Just like the police officer who used the means of coercion, the immediate superior left empty fields in the act of opinion for the house number and the nearest destination of the place of use of the means of coercion, and also did not deal with the question of whether the place of use of the means of coercion was under video surveillance. Despite all this missing information, the use of coercive means was assessed as legal and correct.²⁹

Recommendations for improving the work of the Security Center:

- 1. After the use of means of coercion, it is necessary that police officers independently, based on their memory, notes and available documentation, prepare reports on the use of means of coercion, and that superior police officers suppress the practice of copying, i.e. giving identical answers to all or individual questions from the form reports;**
- 2. It is necessary that the direct managers of police officers who give an opinion on the justification and regularity of the use of means of coercion, in accordance with the Law on Internal Affairs, collect information about all circumstances of the use of means of coercion, and particularly take statements from police officers and other persons who witnessed the application of means of coercion;**
- 3. When preparing a report on the use of coercive means, it is necessary for police officers to list all persons who were present when the coercive means were used, in the question from the report form: “Whether there were witnesses in the immediate vicinity during the use of coercive means“;**
- 4. When making a report on the use of coercive means, it is necessary for police officers to always state the house number, i.e. the nearest destination of the place of use of coercive means, in order to enable the implementation of an effective procedure for assessing the justification and regularity of the use of coercive means;**
- 5. When formulating an opinion on the justification and regularity of the use of means of coercion, it is necessary for the direct managers to take care of the completeness of the data in the reports about the use of means of coercion, to react adequately to the deficiencies which make it impossible to give an opinion, as well as, if necessary, undertake other measures and actions in order to establish or verify facts that are important for giving an opinion on the justification and regularity of the use of means of coercion.**

²⁹ Report on the use of means of coercion, 73/2 no. 216/23-17201/1, dated June 3, 2023; opinion on the justification and regularity of the use of means of coercion, 73/2 no. 216/23-17201/2, dated June 4, 2023; evaluation of the legality of the use of means of coercion, without number designation, from June 5, 2023.

5. Informing about the rights of detainees and persons deprived of their liberty

The police officers of the Security Center informed the monitoring team that detainees and persons deprived of their liberty are informed about their rights through the document of the Police Directorate of Montenegro entitled: “Information sheet for a detained person”, which is written in Montenegrin language and translated into eight more languages (English, German, Italian, Russian, Chinese, Arabic, Albanian and Roma), which is delivered to every person deprived of liberty and detained person.

The monitoring team received information from one of the four persons found in the detention facilities that he had not been given an information sheet on his rights since the moment of his deprivation of liberty (which was the previous day), but that he had been asked to sign that he has received the information sheet in the minute on the security of the person deprived of liberty/detainee signs. The last CPT report sent to Montenegro, stated that a very small number of interviewed detained persons with whom the delegation spoke stated that during the deprivation of liberty the police had provided them with an information sheet about their rights.³⁰

The form of the information sheet stated that during the deprivation of liberty, police officers are obliged to inform the person, in his native language or a language that the person understands, of his rights, namely: to be informed about the reasons for the deprivation of liberty, that he is not required to declare anything, that he has the right to hire a defense attorney of his own choosing, that he has the right to demand that a third party and the diplomatic-consular representative of the country of which he is a citizen, or a representative of the appropriate international organization if he does not have citizenship or is a refugee, be notified of the deprivation of liberty, that he has the right to free access to a doctor called by the police authorities, but also the right to a medical examination by a doctor of his own choice, but at his own expense; that he also has the rights to free legal aid if the conditions prescribed by the Law on Free Legal Aid are met, the right to meals at appropriate times, at appropriate intervals, as well as the right to unimpeded access to drinking water.

It is praiseworthy that the police authorities of Montenegro created this standardized information sheet. Nevertheless, the monitoring team believes that it is necessary to improve its content in several directions, considering that it is of fundamental importance for the prevention of abuse that persons deprived of their liberty receive complete and precise information about the rights they have.

First of all, the very name of the information sheet (“information sheet for a detained person”) is not in accordance with its content, which talks about the rights of persons deprived of their liberty (“given that you are deprived of your liberty on the territory of Montenegro, you enjoy basic human rights and freedoms [...]”; “When depriving you of your liberty, the police officers are obliged to inform you [...] of your rights [...]”; “[...] they are obliged to inform you about the reasons for the deprivation of your liberty [...]”, so this discrepancy should be eliminated by changing the name of the information sheet.

In addition, certain rights listed in the information sheet should be specified and explained more thoroughly, while others should be added to the content of the information sheet.

³⁰ CPT/Inf(2023) 10, paragraph 45.

Thus, instead of “the right to hire a lawyer of his choice”, it should be emphasized that every person deprived of liberty has the right to be able to contact a lawyer immediately after being deprived of liberty.

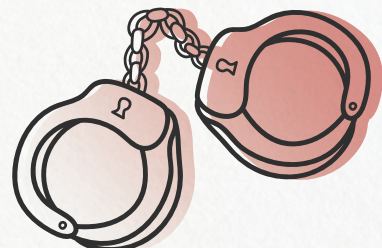
In this context, it should be added in the information sheet that the person deprived of liberty has the right to a confidential interview with a lawyer before giving any kind of statement in the police or prosecutor’s office, that he also has the right to have a lawyer to attend each statement and that he has the right to make comments on the content of the minutes in which his statement is stated.

With regard to the right to a medical examination, the information sheet should emphasize that a person deprived of liberty has the right to request a medical examination at any time from the time of deprivation of liberty, once or more, that he has the right to have that examination confidential, i.e. performed without police officers, except in the case that the doctor requires the presence of police officers for security reasons, when the police officers will be able to visually monitor the course of the examination, but that the examination must also be carried out in that case out of their hearing range; that he has the right to describe to the doctor who, when and how inflicted the injuries; that the doctor is obliged to write down his claims about the manner of injury, to describe precisely all the injuries on his body and to photograph them³¹ - with his consent - as well as to have the right to receive a copy of the medical report.

As part of its preventive mandate, the CPT consistently emphasizes the importance of three procedural guarantees of protection against abuse: the right to access a lawyer, the right to access a doctor, and the right to inform a relative or another person of the person’s choice of the deprivation of liberty. This “trinity of rights” should be applied from the very beginning of the deprivation of liberty by the police, i.e. from the moment when the person in question is obliged to remain in the police. The main reason for this has repeatedly arisen from the findings of the CPT that the risk of ill-treatment is highest during the first hours of deprivation of liberty by the police.³²

With regard to the right to free legal aid, it would be desirable for persons deprived of their liberty to familiarize themselves with the basic conditions for granting free legal aid and the procedure for exercising that right, or they should be allowed to read the text of the Law on Free Legal Aid. Otherwise, the instruction on this right - which is closely tied to the right to contact a lawyer - would remain a “dead letter”.

In addition to specifying the rights already mentioned in the information sheet, the monitoring team believes that it would be essential to add to its content instructions for persons deprived of their liberty about the following rights: that no one may apply acts of torture, inhuman or degrading treatment or punishment to them, such as unfounded or excessive use of force, coercion of statements or confessions, threats or intimidation, keeping in inadequate accommodation conditions, deprivation of water, food or sleep, simulation of execution or strangulation, sexual violence, etc.; that they have the right to file a criminal complaint to the state prosecutor for acts of torture or other forms of abuse, as well as to inform the state prosecutor about this at the first hearing, that they have the right to file a complaint to the Protector of Human Rights and Fundamental Freedoms and a complaint to the Ministry of Interior due to the inadequate acting of the police.



31 In accordance with the Istanbul Protocol.

32 The CPT Document: CPT/Inf(2019)9-part, paragraph 66.

Recommendations for improving the work of the Security Center:

1. Each person deprived of liberty, without exception, should be given an information sheet about his rights during the deprivation of liberty;
2. It is necessary to significantly improve the content of the document form of the Police Directorate of Montenegro entitled: “Information sheet for a detained person” in the light of the above-mentioned notes related to the title of the document, specifying and supplementing certain instructions and adding new ones, in order to completely and efficiently inform persons deprived of liberty about their rights during the deprivation of their liberty.

6. Medical examinations of detained and persons deprived of liberty

According to police officers employed in the security of detainees and persons deprived of their liberty, medical examinations of detainees and persons deprived of their liberty are carried out if the person has visible injuries when being taken to the detention facilities, if the person has been injured after the use of coercive means, or if the person requests a medical examination. Medical examinations are performed in detention rooms, with the visual supervision of a police officer on duty.

Emergency medical care workers who perform a medical examination determine whether it is necessary to take the person to a health facility for further tests, a specialist examination or some other health intervention.

The monitoring team believes that it is necessary to prescribe by law situations in which the medical examination of persons deprived of liberty and persons detained by the police will be mandatorily organized. Although it is indisputably justified that, for example, the police requests a medical examination of a person deprived of liberty after the use of coercive means, this situation would have to be regulated by law, just as the Law on the Execution of Imprisonment Sentences, Fines and Security Measures prescribes immediate medical examination after the application of coercive means of the person against whom the means of coercion was used. In other words, it should not be left to the will of the police officers to decide whether or not to call a doctor after the use of coercive means or in a similar situation (e.g. when physical injuries are visible on the body of the detained person).³³ In the last CPT report sent to Montenegro was stated that all the persons who reported physical mistreatment by the police to the delegation, claimed that the police did not offer them the opportunity to consult a doctor during their initial deprivation of liberty, i.e. detention in the police, even when they requested it, and that they visited a doctor only after they were brought

³³ The CPT Report sent to Serbia in 2022 indicated that the police officers in charge of drafting a minutes on the detention of a person make a maximum effort to register any potential violation the detainee showed at the time of their admission to the detention cell and to provide to be visited by a doctor in confidential environment, see the CPR Report: CPT/Inf(2022)03, paragraph 37. Available at: <https://rm.coe.int/1680a5c8a4>.

before the prosecutor or upon admission to the remand prison.³⁴ On the other hand, detainees and persons deprived of their liberty who have been exposed to inadequate treatment by the police will often not be ready to ask the police officers to call a doctor, due to fear of retaliation and new abuse. According to the position of the European Court of Human Rights expressed in numerous judgments, the authorities must take into account the particularly vulnerable situations in which the victims find themselves, as well as the fact that people who have been exposed to serious abuse will often be less ready and willing to file a complaint.³⁵

The monitoring team believes that the Montenegrin authorities should consider the possibility of establishing a certain number of police centers for the stay of all detainees and persons deprived of their liberty, which - among other things - would be equipped with health centers and where every detained person and person deprived of their liberty would talk to a doctor in a confidential environment and had the opportunity to contact the doctor during the entire duration of the detention, i.e. deprivation of liberty.

According to information received from the Commander of the Criminal Police Station for the Suppression of Blood Offenses and Domestic Violence, police officers may or may not attend a medical examination, depending on the situation, especially if there is a risk of escape. The Commander of the Criminal Police Station and the officer present added that, after the medical examination, one copy of the medical report is given to the person who was examined, and the other copy to the police officers, who deliver it to the state prosecutor, and keep a copy in the case files.

From the perspective of the prevention of torture and other forms of abuse by the police, as well as from the perspective of the protection of personal data, the monitoring team considers that the practice of giving the police copies of reports on medical examinations performed during police detention or deprivation of liberty is wrong and illegal. There are situations when police officers employed in the security of detainees and persons deprived of their liberty should be informed about certain conclusions and recommendations of doctors, e.g. about the medical therapy that needs to be provided to the person during detention in the police, which should be decided by the doctor who performs the medical examination in each individual case. However, the possibility for police officers to have insight into the entire content of the medical examination report, which contains the person's statements about the manner of injury (anamnesis), documented injuries on the body that the person reported to the doctor as a result of violence by the police, etc., has no justification whatsoever. On the contrary, such a possibility represents an unjustified processing of personal data, and it can disturb the investigation of whether the police officers used illegal coercion against a detained person or a person deprived of their liberty. In other words, enabling police officers to familiarize themselves with the data recorded during the medical examination of a detainee or person deprived of their liberty who was abused, leaves room for matching their statements in the reports on the use of coercive means with the injuries observed during the medical examination, in a way that deprives them of responsibility, and can also result in pressure and intimidation of the person in question who reported to a doctor inadequate behavior of police officers.

When asked whether detainees and persons deprived of their liberty are allowed to undergo a medical examination by a doctor of their choice, the monitoring team was informed by members of the Criminal Police Station that "such a possibility does not exist", although the document of the Police Directorate of Montenegro entitled: "Information sheet for detained person", copies of which were in the Security Center at the time of the visit, stated that when depriving the person of their liberty, the police officers are obliged to inform a person of his rights, among other things - the right

34 CPT/Inf(2023)10, paragraph 44.

35 The case *Krsmanovic against Serbia*, no. of application 19796/14, judgement from 19 December 2017, paragraph 73.

to a medical examination by a doctor of his own choice, but at own expense. The monitoring team also notes that Article 79 of the Law on Internal Affairs of Montenegro - within the framework of the provisions on the rights of the person being brought - prescribes that the police officer is obliged to inform the person about his rights, among other things, to a medical examination by a medical doctor of his choice, as well as Article 36 of the same law stipulating that, when brought to detention facilities, the detained person must be informed about the rights from Article 79, orally and in writing.

The CPT documents pointed out that a person detained by the police should have the right to the services of a doctor and that this right implies the right of the person to be examined, if he wishes, by a doctor of his own choice (in addition to any medical examination performed by a doctor invited by police). All medical examinations of persons in police custody must be carried out so that members of the police cannot hear and - unless the doctor performing the examination requests otherwise - out of sight of the police officers.³⁶ The presence of police personnel during medical examinations of detained persons may discourage a detained person who has been abused from speaking up and, in general, harms the establishment of a proper doctor-patient relationship.³⁷ The results of each examination, as well as the relevant statements of the person detained by the police, as well as the doctor's conclusions, must be officially recorded by the doctor and made available to the person in question and his lawyer.³⁸

During the evening visit, the monitoring team observed visible physical injuries on two persons who were in the detention facilities at the time, which were not registered in the minutes of the security of persons deprived of their liberty/detained persons. One of those persons had a visible injury of the eye (the sclera), which was registered, but also an injury, i.e. a hematoma under the eye, which was not registered in the detention records. Another person found had visible injuries in the form of scratches on the right side of his face and neck, as well as injuries on his arms and legs, which he stated stemmed from the event that took place on June 12, 2023. Even though none of these people in unsupervised conversations did not report to the monitoring team that the mentioned injuries were inflicted by police officers, it is worrying that they were not registered and that these persons were not examined by a doctor.

Recommendations for improving the work of the Security Center:

- 1. Ministry of Interior and other competent authorities should prepare a draft law on amendments to the Law on Internal Affairs, which will prescribe situations when the medical examination of persons deprived of liberty and persons detained by the police will be mandatorily organized;**
- 2. It is necessary that medical examinations of detainees and persons deprived of liberty be performed without the presence of police officers, unless, exceptionally, the doctor requests the presence of police officers for security reasons; in the latter case, the medical examination must be carried out so that it is out of sound range of the**

36 CPT: New CPT standards in a view of police custody, paragraph 42.

37 The CPT Report: CPT/Inf(2022)03, paragraph 37.

38 See the CPT Document: Police Custody – Statement from the 2nd General Report, CPT/Inf(92)3-part1, paragraph 38. Available at: <https://rm.coe.int/16806cea2c>. It is similarly stated in: The Istanbul Protocol - Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, paragraph 200. Available at: https://www.ohchr.org/sites/default/files/documents/publications/2022-06-29/Istanbul-Protocol_Rev2_EN.pdf.

police officers; the police officers who monitor the course of the medical examination should never be the ones who previously applied means of coercion, participated in apprehension or taking a statement from the person in question;

3. In the event that, after the medical examination of a detainee or person deprived of liberty, the doctor offers a copy of the medical examination report to the police officers, the police officers must refuse to accept such a report notifying the doctor that the police officers only need to be given information about the medical treatment (e.g. therapy) of a detained person, that is, a person deprived of liberty during his stay in the police;
4. In practice, it is necessary to enable the exercise of the rights of detainees and persons deprived of their liberty to a medical examination by a doctor of their choice;
5. It is necessary that the police officers in the security duties of detainees and persons deprived of liberty record all visible injuries on the body of these persons, as well as all violations reported by these persons to them;
6. Looking at the long term, the Montenegrin authorities should consider the possibility of establishing a smaller number of security departments that would also be equipped with health centers where every detained person and person deprived of their liberty would, automatically upon admission, have an interview with a doctor in a confidential environment and the opportunity to contact the doctor without limitation during the entire duration of the detention measure, i.e. deprivation of liberty.



7. Access of persons deprived of liberty to a lawyer and procedural rights of suspects

In one case of a citizen who was found in detention facilities during the monitoring visit, several procedural shortcomings were observed. The detained citizen was reported for threatening to another person. On June 13, 2023, at 3:45 p.m., a statement was taken from him due to the threats, and it was registered in the record of the notification collected from the citizen. Giving the statement - which was not attended by this person's lawyer - ended after 25 minutes, i.e. at 4:10 p.m. As the detained citizen claimed, he was ordered by the police officer to stay in the police premises and wait for the prosecutor's decision after giving the statement.

There is a document in the case files stating that immediately after the statement was taken, i.e. at 4:20 p.m., the acting police officer informed the state prosecutor "about the deprivation of liberty" of this person. Elsewhere in the case file, it was stated that the deprivation of liberty began at 9:00 p.m. The files of this case also indicated that the detained person was "brought" to the state prosecutor within the legal deadline, although this person was still in the premises for detention and was waiting to be brought to the state prosecutor planned for 2:00 p.m. on that day, at the time of the second day of the monitoring visit.³⁹ Finally, in the confirmation of temporarily confiscated items from this citizen, the police officers did not indicate the reason for confiscating them.

From the content of the report on the notification collected from the citizen and the circumstances of the case, it is clear that the police considered this person a suspect. According to the Law of Criminal Procedure (Article 261), the police can interrogate a suspect with the approval of the state prosecutor, with the presence of a defense attorney. If the suspect himself does not hire a lawyer, the competent state prosecutor will ex officio appoint a lawyer for him in order from the list of the Bar Association and hear him without a delay. According to Article 69 of this Code, a suspect who is interrogated by the police during the investigation must have a lawyer.

In the last CPT report sent to Montenegro, the CPT indicated that the so-called informative interviews of the police with citizens create a vacuum, that is, a gray zone, as the same legal standards that can be afforded to formal suspects are not provided during this initial six-hour period of de facto deprivation of liberty. The CPT believes that the informative interviews of the police with citizens risk creating a de facto method of informal interrogation by the police, with fewer protective measures to prevent abuse. For these reasons, the CPT recommended to the domestic authorities that the relevant legislation and the relevant police normative frameworks should be amended to explicitly specify that the information interviews should provide all protective measures to citizens present in police premises as given to suspects, in accordance with international standards.⁴⁰

The monitoring team believes that the provisions of the Criminal Procedure Code on deprivation of liberty by the police should also be subject to revision. In accordance with Article 264 of the CPC, police officers may detain a person if there is a reason for detention, but are obliged to immediately inform the state prosecutor, to make an official note that must contain the time and place of the detention and that they should take a person to the state prosecutor without delay. In the event that a person deprived of liberty is not brought to the state prosecutor within 24 hours from the time of deprivation of liberty, the police is obliged to release that person immediately. The monitoring team believes that the aforementioned provisions of the Code of Criminal Procedure leave an unreasonably long period of time (24 hours) when the police is authorized - without giving

³⁹ Police station for the public peace and order, official record no. 1158/23, from June 13, 2023

⁴⁰ The CPT Report: CPT/Inf(2022)03, paragraphs 47 and 48

any reasons - to detain a person deprived of their liberty in their authority, before bringing him before the state prosecutor. This has extremely negative impact on the practical protection of persons from torture, inhuman and degrading treatment or punishment, as well as on the enjoyment of the right to freedom and security. No decision is made about this period of deprivation of liberty by the police, which is delivered to the person in question and in relation to which that person or his defense attorney would have the right to appeal (e.g., regarding the police unjustifiably delaying the transfer of the person to the prosecutor).⁴¹

Recommendations for improving the work of the Security Center:

- 1. In accordance with the Code of Criminal Procedure, police officers should take statements from persons for whom there are grounds for suspicion (indications) that they have committed a criminal offense only with the approval of the state prosecutor and in the presence of a defense attorney, as well as to draw up a record of interrogation of the suspect, not the record of the information gathered from a citizen;**
- 2. The police officers should indicate the reason for temporarily confiscated items from this citizen in the certificates;**
- 3. It is necessary for the Ministry of Justice to prepare a draft law on amendments to the Code of Criminal Procedure, which will significantly shorten the period in which the police are obliged to bring a person deprived of their liberty before the state prosecutor and with the obliged explanation of the reasons why it took them longer to bring that person to the state prosecutor.**

8. Material conditions of detention premises

The center has ten detention premises, located in the basement. One premise – where people often stay for sobriety - has five beds, the other one has three beds, and the remaining eight premises have one bed each. The square footage of these rooms is in accordance with the valid standards related to the spaciousness of dormitories of closed institutions. Some of the rooms are intended for sensitive categories of persons deprived of their liberty, so a room number seven is intended for persons with disabilities, and room number five for minors.

In front of the corridor with the detention rooms, there is an on-call service where police officers in charge of securing persons deprived of their liberty work. That part has a closet that

⁴¹ According to the Code of Criminal Procedure of Serbia (Article 291), the police can arrest a person if there is a reason to order detention, but they are obliged to take such a person to the competent public prosecutor without delay. The police are obliged to provide a special explanation to the public prosecutor if due to irreparable obstacles the enforcement of the arrested person took longer than eight hours.

functions as a safe for storing things taken from detainees and persons deprived of their liberty. Medicines and other medical therapy given to these persons in the indicated period are also stored there. This part of the Security Center also has two first aid cabinets and two fire extinguishers.

Each detention room, in addition to the beds that have mattresses and blankets, have also a sink with running drinking water, a window that does not open, a ventilation system, artificial lighting, an alarm for calling the guard and a video camera. However, at the time of the visit, there was no running water in room number 8 and the rooms were quite unventilated. Furthermore, the police officers told the monitoring team that they do not give bedding, sheets, pillows and pillowcases to detainees and persons deprived of liberty, in order to avoid the possibility of suffocation or self-harm with these items.

The common toilet is located in the corridor in front of the detention rooms. There are separate men's and women's toilets, and in addition to cabins with plumbing and sinks, there is also a shower cabin. According to officials, detainees and persons deprived of liberty almost never use the shower. During the visit to plumbing, it was noticed that some sanitary parts were broken and worn out.

The police officers stated that the blankets from the detention rooms are washed once a week, and more often if necessary. However, the monitoring team noted that the hygiene of the mattresses, blankets and rooms in general was not satisfactory, which was also confirmed by the detained persons with whom unsupervised interviews were conducted. During the entire period of stay in the detention rooms - which can be up to 72 hours - detainees and persons deprived of their liberty are not allowed to leave those rooms in order to stay in the fresh air. The reason given by the police officers on duty was that the Security Center is located in the very center of Podgorica.

According to the police officer, painting and arranging of detention rooms were planned, and this should have been completed by the end of June 2023.

Food for detainees and persons deprived of liberty is provided through the Security Center restaurant, but during the weekend - when the restaurant is closed – a retail chain is delivering sandwiches. One of the persons with whom the monitoring team talked to stated that he was taken into custody by the police at 3:30 p.m. a day before in order to give a statement, but was then deprived of liberty; and that from then until the next morning at 8:00 a.m. he did not have a single meal. A later inspection of the record on the security of a person deprived of liberty/detainee revealed that these claims were true.

The CPT documents pointed out that, considering the relatively short duration of deprivation of liberty in the police, it cannot be expected that the material conditions of accommodation in the premises for the stay of persons in the police would be as good as in other places of deprivation of liberty, where persons are kept for a longer time period. However, certain basic material requirements must be met. All rooms for detainees and persons deprived of their liberty must be of reasonable dimensions in relation to the number of people who are usually accommodated there and must be sufficiently lit (i.e. with enough light for reading, except during sleep), and sufficiently ventilated. If possible, the rooms should have natural light and should be equipped to allow rest (e.g. fixed chairs or benches), and clean mattresses and blankets should be provided to people who have to stay overnight. Food should be provided to them at a suitable time, and this should include at least one full meal (i.e. something stronger than a sandwich) every day.⁴² Persons who are in police custody for more than 24 hours should be allowed recreation in the fresh air every day, to the extent that it is possible.⁴³

42 CPT: Police detention, paragraph

43 CPT: New CPT standards in a view of police detention, paragraph

Recommendations for improving the work of the Security Center:

1. It is necessary to improve the hygiene of detention rooms, and regularly clean the mattresses and blankets used by detainees and persons deprived of their liberty;
2. It is necessary to replace worn-out sanitary devices in the shared toilets, and if possible to install the so-called anti-vandal toilet bowls;
3. It is necessary to allow persons who stay longer than 24 hours in detention rooms to go out to fresh air; if it is not possible to provide this, it is necessary to consider the option of placing these persons in institutions;
4. It is necessary to provide meals at regular intervals for persons deprived of their liberty for more than six hours.

9. Records on detention and deprivation of liberty by the police

The record is kept on all relevant events during the deprivation of liberty and the detention of a person, about the security of a person deprived of liberty/detained person, on the prescribed form, which is mostly filled out by police officers employed in the security of detainees and persons deprived of liberty.

The following data are entered in the record form: personal information about the person detained or deprived of liberty, information about the police officers who brought and handed over the person to the police officers on duty, information about the handing over, information about the presence of alcohol and psychoactive substances in the body, information about visible injuries on body and face, data on whether a person complains of pain and whether he needs a certain type of medication, data on the number of detention decisions, data on temporarily confiscated items, data on the reception or rejection of the information sheet on the rights of the person, data on the medical assistance provided, data on the appeal against the detention decision, data on the submitted complaint against the work of police officers, data on the placement, taking out and handing a person over, data on the giving/rejecting food, data on the further treatment of a detained person or a person deprived of liberty - before the state prosecutor's office or a court and data on the termination of detention or deprivation of liberty.

The existence of a comprehensive record of important events during detention and deprivation of liberty in the police is worthy of praise. The monitoring team, however, believes that certain data should be added to the record form in the future, such as, for example, data on the elected or the appointed lawyer and the contacts of the detainee or the person deprived of liberty with him; data on notifying the diplomatic-consular representative or representative of an international organi-

zation about the deprivation of liberty, data on informing a third party about the deprivation of liberty, information about the time of delivery of the information sheet on the rights of the person deprived of liberty, data about the provision of medical therapy (time, type of therapy, i.e. medical device), data about the movement of persons outside the detention room and inside the Security Center (e.g. going to the toilet), data about the representatives of the institutions that visited the detention rooms and spoke with that person, etc.

Besides the possible improvement of the form of the mentioned minutes, the monitoring team was convinced that there is room for improving the work of on-duty police officers employed in security of detainees and persons deprived of liberty. Namely, during the visit, it was observed that certain important data were not entered at all or not clearly enough in the minutes. For example one person was taken out of the detention room to attend the search of his apartment. The record stated the time of departure and return of that person, but not the reason for the temporary absence from the detention facilities. In the previous part of the report, it was pointed out that certain visible physical injuries on the bodies of the two detained persons were not stated in the records.⁴⁴

The CPT believes that the basic guarantees given to persons in police custody could be strengthened, and the work of police officers could be significantly facilitated, if there were a single and comprehensive police record for each detained person, where all aspects of detention and all actions taken would be recorded (the time and reasons of deprivation of their liberty, when they were informed of their rights, signs of injury, mental illness, etc., when the family member/consulate and the lawyer were contacted and when they visited them, when they were offered food, when the hearing took place, when they were transferred or released, etc.). For various items (for example, things in the possession of a given person, the fact that the person has been informed of his rights and that the person refers to them or waives them), the detainee's signature should be obtained, or, if necessary, explanation of why that signature is missing. Furthermore, the lawyer of the detainee should be able to see the record of detention.⁴⁵

Recommendations for improving the work of the Security Center:

- 1. It is necessary to supplement the record form on the security of a person deprived of liberty/detainee in the light of the above-mentioned remarks;**
- 2. It is necessary for police officers to enter all relevant information during the detention or deprivation of liberty of a person in the record on the security of the person deprived of liberty/detained person.**

44 See part of the report on medical examination of detained persons and persons deprived of liberty

45 CPT: Police custody, paragraph 40

10. Trainings of police officers on techniques for interviewing suspects and work with minors

Through a conversation with the Commander of the Criminal Police Station for Suppression of Blood Offenses and Domestic Violence, the monitoring team was informed that many criminal inspectors had not attended trainings on the techniques of conducting police interviews with suspects. The commander of this station attended such training in Turkey. According to him, all police officers of the criminal police who deal with minors are specialized to work with them, that is, they have attended appropriate training on working with minors.

According to the position of the CPT, all police officers working on jobs that imply conducting interviews with suspects should receive detailed instructions on how these interviews should be conducted. This can be achieved through regulations or a set of rules, procedures or practices. The CPT also recommends establishing of a mechanism for continuous monitoring and systematic review of standards, procedures or interviewing practices by the police.⁴⁶

Recommendations for improving the work of the Security Center:

1. **Within the Police Directorate of Montenegro, it is necessary to organize a training program for all police officers employed in jobs that involve conducting interviews with suspects about interviewing techniques. The document titled: “Principles of Effective Interviewing for Investigations and Gathering of Information”, also known as the Méndez principles could serve as the model for training developing.**⁴⁷

⁴⁶ CPT: Prevention of police torture and other forms of ill-treatment, paragraph 80.

⁴⁷ *Principles on Effective Interviewing for Investigations and Information Gathering – The Méndez Principles*, available at: https://www.ap.t.ch/sites/default/files/publications/apt_PoEI_EN_11.pdf.

11. Communication of police officers and state prosecutors

In communication with the Commander of the Criminal Police Station for the Suppression of Blood Offenses of domestic violence, the monitoring team found out about the Memorandum between the Ministry of Interior and the State Prosecutor's Office. In accordance with the Memorandum police officers are obliged to draft an official note about every oral (telephone or direct) communication with state prosecutors, as well as state prosecutors have the same obligation. Asked whether this obligation is respected by police officers, the Commander of the Criminal Police Station stated that it was not fully respected.

Recommendation for improving the work of the Security Center:

1. It is necessary for the police officers to make an official note of every oral communication with the state prosecutors without delay, in which they will state the entire content of the oral communication, and in particular the content of the notices given to the state prosecutor and the content of the received orders or instructions for action by state prosecutors.



