



# **RESPECT FOR HUMAN RIGHTS OF RESIDENTS OF THE PUBLIC INSTITUTION CENTRE FOR CHILDREN AND JUVENILES “LJUBOVIĆ”**

**REPORT OF NGO MONITORING TEAM**

**HUMAN RIGHTS ACTION  
CENTRE FOR ANTIDISCRIMINATION “EQUISTA”  
CENTRE FOR CIVIC EDUCATION  
WOMEN’S SAFE HOUSE**



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Podgorica  
2013

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# 1. INTRODUCTION

## 1.1. Project

The project “Monitoring Respect for Human Rights in Closed Institutions in Montenegro”, the aim of which is to improve human rights of residents in these institutions, is conducted by NGOs “Human Rights Action” (HRA), as the project leader; Centre for Antidiscrimination “EQUISTA”; Centre for Civic Education (CCE); Women’s Safe House (Shelter) and funded by the European Union through the Delegation of the European Union to Montenegro and the Embassy of the Federal Republic of Germany. The project was implemented from 1 March 2011 to 31 March 2013.

Within the project, an agreement on cooperation between the project leader NGO “Human Rights Action”, the Ministry of Labour and Social Welfare and the Public Institution Centre for Children and Juveniles “Ljubović” (hereinafter: the Centre) was concluded on 17 June 2011, which included unannounced visits of NGO monitors to this institution, presentation of the report on visits and discussions about the report at the round table, preparation of handbooks on the rights of residents of the institution. The Centre is an institution in which children and juveniles in conflict with the law or with disorders in behaviour are placed, educated and trained for return to their families or independent life. Contrary to other closed institutions covered by this monitoring, the Centre is organized in such way that the children attend school, and upon permission go out to town or visit their families.

The report contains the overall assessment of the NGO monitoring team on the implementation of recommendations for the improvement of respect for human rights of the residents of the Centre, made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Protector of Human Rights and Freedoms of Montenegro (Ombudsman), as well as the monitoring team of non-governmental organizations that participated in the project.

The first report was published in December 2011, and was to great extent based on the information gathered during visits to the Centre from July to 20 November 2011. It included an assessment of implementation of recommendations made by the CPT and the Ombudsman, as well as the recommendations of the monitoring team. Final assessment on the implementation of recommendations from the first report was published in March 2013.

The first project is the result of the monitoring of the Centre, which, in that period, operated in aggravated conditions, because the old building of the Centre had been demolished. The Reception Station and the administration building were used for accommodation of children, as well as for the majority of activities, while for new buildings with apartments for residents were under construction. The second part of the report, which contains the assessment of the implementation of recommendations, covered the operation of the Centre in new buildings and modern conditions.

This publication contains the progress made in the period from the publication of the first report to the publication of final report. Recommendations made in the first report at the end of 2011 are given at the end of each paragraph. The appendix, at the end of the report, contains a

table with the overview of all recommendations, explaining the extent of their implementation at the time of the publication of the final report, in March 2013.

## 1.2. Visits

**F**or the purposes of this report, the monitors visited the Centre “Ljubović” five times during the period from July to 20 November 2011.

First visit was conducted on 29 July 2011. The team was composed of: Tea Gorjanc-Prelević, legal expert, Project Coordinator, HRA; Danilo Ajković, legal expert, Assistant Project Coordinator, CCE; Luka Stijepović, legal expert, monitor, HRA; Dragana Otašević, social worker, monitor, CCE. The visit was announced, in order to ensure an interview with the director, Dragan Pajović, and the organizer of educational work, Novo Vukićević. In addition to interviews with the administration members, the monitors visited the Centre premises, spoke with the staff and three residents who were at the Centre at the time.

Second visit was conducted on 22 September 2011. The visit was also announced, and the team was composed of: Maja Raičević, Assistant Project Coordinator, Shelter; Jovana Hajduković, social worker, monitor, Shelter; Dragana Otašević, social worker, monitor, CCE; Danilo Ajković, legal expert, Assistant Project Coordinator, CCE. On this occasion, monitors had an interview with the assistant director Milorad Šćekić. After that, monitors also interviewed the staff and visited some of the Centre premises.

Third, unannounced visit, was conducted on Saturday, 1 October 2011 by Danilo Ajković, legal expert, Assistant Project Coordinator, CCE and Dragana Otašević, social worker, monitor, CCE. They interviewed an assistant educator and night duty educator, and after that the residents.

Fourth, unannounced visit, was conducted on 8 November 2011 by Dragana Otašević, social worker, monitor, CCE.

Fifth announced visit was conducted on 9 November 2011. The visit was conducted by Luka Stijepović, legal expert, monitor, HRA and Dragana Otašević, social worker, monitor, CCE.

The second phase of the project included an overview of the extent of implementation of recommendations made in the first part of the report (control visits). The monitoring team also visited the Centre five times in this phase. Visits were conducted by: Tea Gorjanc Prelević, Danilo Ajković and Jovana Hajduković, social worker of the Women’s Safe House. In 2012, the visits were conducted on 9 July, 16 November and 6 December, and in 2013 on 8 February and 18 February.<sup>1</sup>

The level of cooperation with the administration and the staff of the Centre was very high. The monitoring team was given unobstructed access to premises of the Centre, access to necessary documentation and was allowed to have conversations with residents without the presence of the staff.

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<sup>1</sup> Visit on 18 February was unannounced.

### 1.3. Subject and aim of the report, research methods and sources of information

The subject of the report is a description and assessment of the respect for human rights of residents of the Centre, in particular in terms of observance of the prohibition of their abuse or other inhuman or degrading treatment or punishment. The aim of the report is to contribute to the improvement of living conditions of residents at the Centre and their social reintegration, pointing to the monitors' observations of good practice and shortcomings in the work of the Centre.

The report was developed after ten visits to the Centre, which lasted several hours, and is based on personal observations of monitors and interviews with administration and staff of the institution, as well as with residents of the Centre. Visits were conducted by monitors, who are legal experts and social workers, additionally trained at a training held from 12 to 14 May 2011 in Podgorica.<sup>2</sup>

For the purpose of the development of this report, the monitors used international standards and recommendations<sup>3</sup>; applicable regulations in Montenegro concerning social and health care for children in conflict with the law; laws governing the proceedings in which a child is imposed a measure of being placed in an institution and laws, parts of which are directly related to children whose rights are the subject of this report<sup>4</sup>; the subordinate regulations of the Centre; materials from the training for monitors; reports of the CPT<sup>5</sup> and the Ombudsman<sup>6</sup> and their recommendations, as well as the available international standards for this type of institution<sup>7</sup>.

All these sources, along with the report, are available on the project's website: [www.hracion.org/monitoring\\_u\\_ustanovama\\_zatvorenog\\_tipa](http://www.hracion.org/monitoring_u_ustanovama_zatvorenog_tipa).

During the development of the report, the following methods were used: qualitative and quantitative research, content analysis methods, analysis of compliance of national legislation with international standards and recommendations, as well as the analysis of the application of regulations. Scientific research techniques used include observation techniques and interviews.

2 The training was conducted by experienced and prominent trainers from partner organizations – Belgrade Centre for Human Rights and Latvian Centre for Human Rights, with years of experience in similar monitoring.

3 Universal Declaration of Human Rights, the United Nations General Assembly (A/RES/217, 10 December 1948); European Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 November 1950, entered into force on 3 December 1953; Convention on the Rights of the Child (A/RES/44/25 from 20 November 1989, entered into force 2 September 1990); UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), A/RES/40/33, 29 November 1985; UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (A/RES/45/112, of 14 December 1990); UN Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules) (A/RES/45/113, 1990); Vienna Guidelines for Action on Children in the Criminal Justice System, the Economic and Social Council, resolution 1997/30 from 21 July 1997; General Comment of the Committee on the Rights of the Child no. 10 (CRC/C/GC/10) on the rights of children in the juvenile justice system; reports of CPT on visits to juvenile prisons and social institutions for juvenile perpetrators of criminal acts in member states of the Council of Europe, etc.

4 Law on Health care (*Sl. list RCG*, 39/2004 and 14/2010), Law on Social and Child Welfare (*Sl. list RCG*, 78/2005), Criminal Code of Montenegro (*Sl. list RCG*, 70/03...25/10), Family Law (*Sl. list RCG*, 1/07), Criminal Procedure Code (*Sl. list RCG*, 71/2003, 7/2004 and 47/2006) and Draft Law on Juvenile Justice of September 2011.

5 Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on the visit to Montenegro from 15 to 22 September 2008 available at: [http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.htm#\\_ftnref23](http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.htm#_ftnref23); Response of the Government of Montenegro to the CPT report of March 2010 available at: <http://www.cpt.coe.int/documents/mne/2010-04-inf-eng.htm>.

6 Special report of the Ombudsman on juveniles in conflict with the law, December 2006: <http://www.ombudsman.co.me/izvjestaji.php>.

7 CPT standards ("Substantive" sections of the CPT's General Reports): <http://www.cpt.coe.int/en/docsstandards.htm>



Final assessment was based on the following information:

1. answers from the Director of the Centre;
2. answers from the staff of the Centre;
3. data gathered during the visits of the monitoring team to the Centre in 2012 (9 July, 16 November and 6 December), and 2013 (8 February and 18 February)<sup>8</sup>;
4. data from the Centre for education of judicial function holders;
5. media reports on proceedings against juveniles;
6. data from the Performance Report of the Supreme State Prosecutor of Montenegro on the State Prosecutor's Office for 2011<sup>9</sup> (Report for 2012 was not completed and submitted to the Parliament for discussion and adoption at the time.);
7. data published in the Annual Court Monitoring Report for 2011, adopted by the Judicial Council.<sup>10</sup>

We thank everyone who contributed to the development of this report, especially to Suad Numanović, PhD, Minister of Labour and Social Welfare in the Government of Montenegro for the first year of the project, Predrag Bošković, Minister of Labour and Social Welfare in the Government of Montenegro for the second year of the project, Remzija Ademović, Assistant to the Minister of Labour and Social Welfare, Dragan Pajović, Director of the Centre, Milorad Šćekić, Assistant to Director of the Centre, Novo Vukićević, organizer of the educational work, Sonja Dragojević and Blaga Jakić, special pedagogues at the Centre, and Dragana Đurišić, assistant educator at the Centre.

## 1.4. History of the Centre

First educational and correctional institution in Montenegro was established by the Ministry of Health in 1948 in Donja Lastva near Tivat, and its residents were mostly war orphans. The institution operated until 1952, when it was closed for unknown reasons; prior to 1965 there were no similar institutions in Montenegro.

In 1965, the Parliament of Montenegro established the Shelter for Educationally Neglected Children and Juveniles with tasks to:

- accommodate educationally neglected children and juveniles under 18 years of age;
- classify residents with the aim of placing them in appropriate institutions or chosen families;
- rehabilitate the family situation in order to achieve full social reintegration upon return from the Shelter.

With amendments to the Law on Primary Education (*Sl. list RCG*, 30/68), the Shelter became competent for measures of placing juveniles in an educational institution for a period of 6 months to 3 years.

<sup>8</sup> Visits conducted by: Danilo Ajković, lawyer, and Jovana Hajduković, social worker. Visit on 18 February was unannounced.

<sup>9</sup> Report available at: <http://www.tuzilastvocg.co.me/lzvjestaj%20o%20radu%20Drzavnog%20tuzilastva%20za%202011.god.pdf>.

<sup>10</sup> Report available at: [http://sudovi.me/podaci/vrhs/depo/depo\\_ink/25-04-2012-GODISNJI%20IZVJESTAJ%202011.G.pdf](http://sudovi.me/podaci/vrhs/depo/depo_ink/25-04-2012-GODISNJI%20IZVJESTAJ%202011.G.pdf).

The Secretariat for Science and Culture of the Republic established “Mladost” primary school in 1974, within the Shelter, that operated in accordance with the regular curriculum until 2007, when children were sent to regular city schools.

Institution for Education of Juveniles was established in 1974, and in 1991 it was organized as the Institution for Education of Children and Juveniles, whose activities were to place, educate and professionally train, as well as provide health care for children and juveniles with disorders in social behaviour, and take appropriate measures in preventing them from violating generally accepted norms and committing crimes.

The Government of the Republic of Montenegro established a public institutions for children and juveniles in 2006, called the Public Institutions Centre for children and juveniles “Ljubović”.<sup>11</sup>

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<sup>11</sup> Decision of the Government of the Republic of Montenegro on the organization of public institutions for children and juveniles (*Sl. list RCG*, 78/05).

## 2. LEGAL FRAMEWORK FOR REFERRAL AND PLACEMENT OF JUVENILES AT THE CENTRE

### 2.1. Overview of bases for placing juveniles in the Centre

In accordance with applicable laws, juveniles are placed at the Centre on the basis of:

1. court decision in criminal proceedings imposing a corrective measure of *referral to an educational institution*;<sup>12</sup>
2. court decision in criminal proceedings imposing a corrective measure of *increased supervision with daily stay in the institution for education of juveniles*;<sup>13</sup>
3. court decision in criminal proceedings, instead of the measure of *detention*;<sup>14</sup>
4. court decision in non-contentious proceedings in the case of a *disorder in child's behaviour* that requires an organized educational influence and removal of the child from the environment in which he/she lives;<sup>15</sup>
5. decision of a misdemeanour body in misdemeanour proceedings to impose a measure of *referral to an educational establishment of a non-institutional type*;<sup>16</sup>
6. decision of the guardianship authority, in two cases: (a) when suspected that a juvenile has no parental care (parents died or abandoned the child), or that the parents abuse or gravely neglect their parental duties<sup>17</sup>, and (b) when, for some reason, the guardian is forced to share the guardianship of the child with the institution of social welfare<sup>18</sup>. In both cases, accommodation at the Centre is temporary;
7. In addition to the above, there is a practice of placing foreign juveniles, who entered Montenegro illegally, at the Centre, since there is no suitable shelter for foreign children, according to the Law on Foreigners.<sup>19</sup>

### 2.2. Correctional measure of placing juveniles in an educational institution

Most children are placed at the Centre on the basis of a court decision in criminal proceedings imposing a correctional measure of referral to an educational institution, for committing a criminal offense. This measure lasts from 6 months to 2 years, and the court may suspend it at any time. The main problem with imposing this measure, according to the Centre staff, is the excessive duration of the proceedings in the end of which the measure is imposed. Namely, the duration of the criminal proceedings against a juvenile is not precisely limited (there

12 Art. 92 of the Criminal Code of Montenegro (*Sl. list RCG*, 70/03...25/10).

13 Art. 90 of the Criminal Code of Montenegro.

14 Art. 487 and 497 of the Criminal Procedure Code (*Sl. list RCG*, 71/03, 47/06).

15 Art. 83 of the Family Law of Montenegro (*Sl. list RCG*, 1/07) and Art. 26 of the Law on Social and Child Welfare (*Sl. list RCG*, 78/05).

16 Law on Misdemeanors, *Sl. list CG*, 1/2011.

17 Art. 224 of the Family Law and Art. 26 of the Law on Social and Child Welfare.

18 Art. 175 of the Family Law.

19 See Art. 67, 72 of the Law on Foreigners (*Sl. list CG*, 82/08, 72/09 and 32/11).

is only one provision of Art. 476 of the Criminal Procedure Code, which states that proceedings against juveniles are “urgent”), so in practice it happens that a person, who committed a crime as a juvenile, is imposed this correctional measure even five years after the commission of the offense, when the juvenile is already an adult, employed, married, or has children.<sup>20</sup> In the period from 2007 to 2011, as many as six adults served the correctional measure of referral to an educational institution for a period of 6 months to 2 years for a crime they had committed as juveniles. This data is worrying, given the relatively small number of juveniles placed at the Centre.<sup>21</sup> As a reminder, every case concerning a juvenile must be conducted expeditiously, without any unnecessary delays.<sup>22</sup> As time passes, it is more difficult, if not impossible, for a juvenile to relate the proceeding and the decision to the offense; there it also a question of effectiveness of the treatment of an adult who, for example, started a family, in an institution intended for juveniles.

By the end of the project, the situation had changed; the Law on Treatment of Juveniles in Criminal Proceedings was adopted, and the courts promptly operate in cases against juveniles, and in accordance with this measure, only juveniles are placed in the Centre.

*Law on the Treatment of Juveniles in Criminal Proceedings (LTJCP)* requires that proceedings against a juvenile and proceedings in which a juvenile is injured by the criminal offense be urgent (Art. 5), but this requirement has not been secured with deadlines for undertaking actions in such proceedings. However, it prescribed an obligation of the assigned judge to inform the president of the court if the case had not been resolved and on the reasons why in some cases the procedure is not completed, as well as an obligation of the president of the court to take measures in order to speed up the procedure (see Appendix, recommendation 1).

### **2.3. Measure of increased supervision with daily stay in an institution for education of juveniles**

**M**eaure of *increased supervision with daily stay in an institution for education of juveniles* is executed by juveniles visiting the Centre once a day for conversation with and treatment by the experts at the Centre. This measure also lasts minimum 6 months to 2 years, and the court may suspend it in the course of its enforcement.

### **2.4. Measure of imposing detention to juveniles upon request of judge for juveniles**

**M**eaure of imposing *detention* to juveniles in the criminal proceedings, enforced at the Centre, has been implemented three times in the past four years and, according to staff organizing correctional work, its implementation has not encountered problems at the Centre. According to the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, juvenile detention should be applied only exceptionally.<sup>23</sup>

20 Also, Art. 110, para 3 of the Criminal Code provides that an institutional correctional measure for the offense committed as a senior juvenile may be imposed to an adult person (16 to 18 years of age).

21 In 2009 and 2010 - twenty, in 2012 - nine.

22 Avoiding unnecessary delay - Rule 20; Standard Minimum Rules of the United Nations for the Administration of Juvenile Justice (the Beijing Rules).

23 “Detention (of juveniles) before trial should be avoided as much as possible and limited to exceptional circumstan-

## 2.5. In case of disorder in behaviour of child, upon decision of the court in extra-judicial proceedings

In the report on its 2008 visit to the Centre, the CPT expressed concerns regarding the procedures for the placement of children at the Centre under the Family Law and the Law on Social and Child Welfare:

„Despite discussions with staff, the delegation was not able to obtain a clear picture of the placement procedures applied in social protection cases. It appeared that such juveniles could be placed both upon a decision of the competent Social Welfare Centre and a court order. Further, the issue of guardianship remained unclear to the delegation.”

Pursuant to the Family Law and the Law on Social and Child Welfare, a court may decide to refer a child to the Centre in non-contentious proceedings, ex officio or upon a request of child's parents or a guardian or other person entrusted with the care and education of a child, or a guardianship body, *if there has been a disorder in child's behaviour that requires organized educational influence and removal of the child from the environment in which he/she lives*. This measure may not exceed one year.

Court submits this decision to the guardianship body (competent Social Welfare Centre), which adopts a decision on referral. Therefore, in this case also a court decides on the placement of residents at the Centre, and not the Social Welfare Centre. During the visit, the monitors were informed by the director that three residents had been placed at the Centre on this basis.

## 2.6. Referral to educational institution of non-institutional type by the Misdemeanour Body

Under the new Law on Misdemeanours, the body responsible for leading misdemeanour proceeding may impose a juvenile the measure of Referral to an educational establishment of non-institutional type (the Centre), imposed when minors need to be removed from their present environment, and when it is considered necessary to influence the personality and behaviour of a minor through stronger measures and involvement of experts. This measure lasts from eight days to three months; each month it is decided whether there are grounds for suspension of the enforcement of this measures or replacement with another educational measure. It is imposed when a juvenile needs to be removed from the present environment and when the court finds it necessary to influence the personality and behaviour of a minor through stronger measures and involvement of experts.

## 2.7. Referral by the Guardianship Body (Social Welfare Centre)

In accordance with Art. 175, in relation to Art. 157 of the Family Law and Art. 26 of the Law on Social and Child Protection, the Guardianship body (Social Welfare Centre) can only temporarily place a juvenile in the Centre (a) if there is suspicion that a juvenile has no parental

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ces. Alternative measures should be applied instead.” *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (UN General Assembly Resolution no. 45/113, December 14, 1990).

care (parents died or abandoned the child), or that parents abuse or harshly neglect their parental duties (which is the basis for deprivation of parental rights in accordance with Art. 87 of the Family Law), and therefore a juvenile must be assigned a guardian. The guardianship body accordingly makes a conclusion on temporary placement of a juvenile at the Centre until the case is resolved, i.e. until the parents or guardians of a child are found and notified or until a child is placed under guardianship. In the majority of cases, juveniles are placed at the Centre on this basis because of vagrancy and begging (which represents a gross neglect of a child by a parent), but reportedly kept there very short, as the parents are quickly found. In the second case (b) Social Welfare Centre can place a juvenile in an institution for social and child welfare (e.g. the Centre) instead of a family accommodation - foster care, whereas the guardian of the juvenile takes general care of the upbringing and education of the child. Disadvantage of this basis is that the Family Law does not specify the duration of the placement under Art. 175. In practice, the duration is short (which was not the case earlier), because the aim is to provide a juvenile with foster care as soon as possible. Regardless, the worrying fact is that the neglected, abandoned or abused children, in need of special psycho-therapeutic treatment and proper environment, stay at the Centre with children who committed crimes or misdemeanours.

The issue of placing juveniles in accordance with the Law on Social and Child Protection was covered in report of the CPT for 2008, which states:

“Another 11 juveniles had been placed under social protection arrangements and some had spent more than 3 years at the establishment. Despite discussions with staff, the delegation was not able to obtain a clear picture of the placement procedures applied in social protection cases. It appeared that such juveniles could be placed both upon a decision of the competent Social Welfare Centre and a court order. Further, the issue of guardianship remained unclear to the delegation.”

“The CPT would like to receive detailed information on the procedures applied in respect of juveniles admitted to the Ljubović Centre pursuant to social protection legislation, in particular as regards placement, review and discharge, applicable time-limits, availability of legal assistance and guardianship.”

In May 2013, The Parliament of Montenegro adopted the Law on Social and Child Protection, which prescribes that “the Centre for Social Work reconsiders the placement of the child in an institution at least once every six months (Article 70, paragraph 3), which is a positive novelty in terms of the duration of stay of juveniles in the Centre.

## **2.8. Referral of foreign juveniles in the Centre as shelter**

In accordance with the Law on Foreigners (Art. 67 and 72), a foreigner who cannot be forcibly removed promptly or whose identity has not been determined, will be limited the freedom of movement in the shelter for illegal immigrants. A juvenile is placed in the shelter together with his/her parents or other legal representative, unless a more suitable accommodation is found. The Centre is such an institutions that is considered a “more suitable accommodation”, where a juvenile foreigner may stay until the proceedings end, or his/her identity is determined or is removed from Montenegro.

During the visit to the Centre on 8 November 2011, on the lunch with other children there were also two Kenyan citizens, placed at the Reception Station as illegal immigrants without documents. It was obvious that they were no longer juveniles, but were brought there because they had previously been placed at the Centre. They already spoke Montenegrin language well.

## 2.9. Referral to an educational-correctional institution or penitentiary institution

The Criminal Code prescribes the educational measure of *referral to an educational-correctional institution* (Art. 93), which cannot be implemented in Montenegro, as such institution does not exist. In fact, during the existence of the State Union of Serbia and Montenegro, this sanction was carried out in a correctional institution in Kruševac. Following the independence of Montenegro, referral to an institution on the territory of a foreign country is no longer implemented, but the sanction still exists, and now the courts, according to the Centre staff, do not impose this sanction.

In the newly adopted Law on Treatment of Juveniles in Criminal, this measure has been replaced by “referral to penitentiary institution”, but since such an institution does not exist in Montenegro, courts impose the measure “referral to a non-penitentiary institution or the Ljubović Centre.”

## 2.10. The procedure of admission and release of residents

Admission of residents at the Centre is regulated by the Rules on Admission and Discharge of Residents (of November 2006). On the basis of imposing the correctional measure of referral to an educational institution (item 1), admission of residents begins when a court submits a decision on imposing an educational measure to the competent Social Welfare Centre, which, within 15 days after receiving the decision of the court, issues a decision on referral to the Centre and notifies the court about this decision. If a juvenile is at liberty or does not arrive for placement, the Centre notifies the police, which takes a juvenile to serve a correctional measure. A juvenile with full documentation (decision on placement, health record, and social history) is placed at the Centre, and the Centre is obliged to notify the Social Welfare Centre about the success of the implementation of a correctional measure every 6 months. A juvenile is released from the Centre after a period specified for the measure, or earlier if the court so decides. A juvenile cannot be released without the consent of the registration Social Welfare Centre.<sup>24</sup> Stay of juveniles at the Centre may be extended upon parents’ (or guardians’) request, for juveniles to be able to complete their education or begin training.

In the second phase of the project, upon the adoption of the LTJCP, the Centre adopted several by-laws in its field, which regulate the procedure of admission, accommodation and stay of residents (see Appendix, recommendation 31).

As for the guardianship, it is not discontinued by the placement at the Centre; juvenile remains under the guardianship of parents, guardians or Social Welfare Centre, in accordance with the provisions of the Family Law.

<sup>24</sup> Registration Social Welfare Centre is a social welfare centre responsible for a juvenile on the basis of juvenile’s permanent or temporary residence.

There were complaints on account of social welfare centres, that they often “forget” about residents upon their placement in the institution, although they should continuously monitor the case of each child and return the socially rehabilitated children to their families and social community.

Recommendation of the Centre staff, who have decades of experience in this area, that the court should appoint judges to act solely in juvenile cases, i.e. that these be their only cases and that they be specially trained to work with children, is defined as such in the LTJCP, which includes the provision that proscribes that the State Prosecutor for juveniles, the juvenile judge, and the judges of the Juvenile Council shall be persons who obtained special knowledge in the field of children’s rights and the rules of dealing with juvenile offenders and juveniles as participants in criminal proceedings (Art. 46).

In addition, it is a good legal solution that, under the new Law on the Treatment of Juveniles in Criminal Proceedings, the juvenile judge is obliged to visit juveniles and prepare a report on those visits to be submitted to the President of the Court, both for persons who are at the juvenile prison and for those who serve institutional measures in an institution such as the Centre “Ljubović” (Art. 47).

## **2.11. Recommendations (from December 2012)**

⇒ Amend the Draft Law on the Treatment of Juveniles in Criminal Proceedings by prescribing deadlines for taking actions in proceedings, to ensure their urgency.

⇒ Ensure that only specially trained judges and prosecutors, who own a certificate for training completion, act in juvenile cases.

⇒ Ensure that every judge, who acts in juvenile proceedings, spends at least one day at the Centre “Ljubović”, as part of the training, and one day in the juvenile prison in the Institution for Execution of Criminal Sanctions.

⇒ Provide special shelter for abused, abandoned or neglected children before sending them to foster families.

**THE APPENDIX CONTAINS** a table with detailed extent of implementation of these recommendations to the end of the project in March 2013 (recommendations 1, 2, 3 and 5).



### 3. RESIDENTS

There were a total of eleven children on permanent treatment (at first ten boys and one girl, and by the end nine boys and two girls) during the visits to the Centre.

Nine of them were at the Centre serving correctional measures, imposed by a court, for the period of 6 months to 2 years.

Two residents were at the Centre for permanent treatment, i.e. to serve the correctional measure of intensified supervision of a guardianship body, including daily stay.

Of the nine residents serving the measure from 6 months to 2 years, six of them had been sent to the Centre under the Criminal Code, for committing offenses of robbery, inflicting serious bodily injury and property offenses, while three others had been sent on the basis of the Family Law, because of a behavioural disorder.

One girl was placed in a boarding home, and the other at the Centre on the basis of Art. 175 of the Family Law, which provides that guardianship body may place a child in an institution of social and child protection. Since there is no such special institution, children are placed at the Centre.

The situation is still similar to that of 2008, when the CPT recommended examining the issue of joint stay at the Centre of juveniles of different profiles and needs. Namely, abused and children temporarily displaced from their family environment continue to reside at the Centre together with juvenile delinquents, although for a much shorter period than before.

In 2012, after the construction of new facilities - the department for admission and treatment, as well as the commencement of operation of the Reception Station as a separate unit, the juveniles have been appropriately separated, but this situation still does not solve the problem of placing children at the Centre who are not in conflict with the law, but have specific needs.

#### 3.1. Recommendations (from December 2011):

⇒ Courts should consistently observe the principle of urgency while acting in cases related to juveniles, in order to prevent referring adults to the Centre for juveniles.

⇒ Ensure division of different juveniles' categories of different profiles and needs upon completion of the construction of apartments for residents. Make an effort to provide a special shelter for abused, neglected, or abandoned children, as already stated above.

**THE APPENDIX CONTAINS** a table with detailed extent of implementation of these recommendation until March 2013 (recommendations 6 and 7).

## 4. CONDITIONS OF STAY OF RESIDENTS

### 4.1. Spatial capacities

In 2011 the Centre included two buildings: dormitory building (former school building)<sup>25</sup>, within which operate the Reception Station, institutional treatment, Admissions department with diagnostics, and administration building, with Day Centre, library, locksmith workshop, kitchen and yard.

Given that much of the old facilities for accommodation of juveniles which were in poor condition<sup>26</sup> have been demolished, construction of four new buildings is under way, with apartments suitable for accommodation of residents, financed by the Ministry of Labour and Social Welfare of Montenegro.

Moving into the new facilities is planned for the end of 2011, as the monitors were told during their first visit in July of 2011. However, even then it was clear that this deadline will not be met because only one of the four planned objects was in the final phase of construction, and as for the remaining three - only rough construction works had been completed. CPT was precisely interested in time framework for completion of planned construction during their visit in 2008.<sup>27</sup>

Contrary to 2011, when the arrangement in the existing premises of the Centre was only a transitory solution until moving into new facilities (the object intended for the Reception Station, where residents of the Centre were accommodated, now only serves for the admission of residents, and not for the institutional treatment, as was the case before), now the situation is very different. The newly constructed objects provide conditions that meet international standards of child protection, and one of the objects includes a room for the admission of persons who use wheelchair, adapted to special needs of such residents, with a bathroom adapted in a same manner and unobstructed access to the living room and dining room.

### 4.2. Organizational units

The Centre has 4 organizational units:

- 1) Reception Station;
- 2) Increased supervision with daily stay in an institution for education;
- 3) Admissions department with diagnostics,
- 4) Execution of institutional measures (from 6 months to 2 years).

<sup>25</sup> Based on the conclusion of the Government on the transformation of the Center for children and juveniles "Ljubović" no. 03-5981 of 27 July 2007, elementary school "Mladost", which operated within the Centre was closed and the children were sent to regular town schools.

<sup>26</sup> During the visit earlier in 2010, the Centre had no proper heating, while the doors and windows were extremely worn out.

<sup>27</sup> Report to the Government of Montenegro after the visit to Montenegro by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in 2008: [http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.htm#\\_ftnref23](http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.htm#_ftnref23).

#### 4.2.1. Reception Station

The Reception Station is intended to provide urgent social aid in terms of temporary, short-term stay and care for children and juveniles caught up in vagrancy, without the supervision of parents or other adults until a more permanent solution (or return to their foster family, the Social Welfare Centre or otherwise) is found.

According to the records of the organizers of educational work, 15 to 20 children a month go through the Reception Station, although recently the majority of them were children from Libya fleeing the local war. In 2010, 182 juveniles went through the Station.<sup>28</sup>

The Reception Station is intended to keep children no longer than 24 hours. However, because of poor coordination of institutions in the field of social protection of children, they stay there up to a month. Therefore, there was often no room for all in need of accommodation. The administration of the Centre points out a worrying fact that the abused children are often sent to the Reception Station because there is no adequate institution for them. This is not recommended, since children who are victims of abuse are put together with children who are offenders. According to the staff, they are trying as hard as possible to minimize their contact with the children on treatment, however, since they reside in the same building, dine together, etc., this is very difficult to achieve in practice. Abused children should reside in a separate shelter or be placed in foster families.

Monitors believe that these problems should be addressed in a serious manner in terms of finding ways to isolate these children individually and provide them with special treatment by multidisciplinary experts, as they are a very vulnerable category of children. However, unlike the previous practice observed by the CPT - when children in social need, who were not offenders, resided at the Centre for up to two years, presently these children are kept at the Centre no longer than one month, as the monitors have been informed.

Within the Reception Station there are apartments with double rooms along a narrow corridor with two toilets. The rooms have always been in good condition, with basic inventory: bed, wardrobe, TV and air conditioning. There are separate male and female toilets, which are marked. Rooms located in the same corridor are divided into male and female, but without a sign indicating that. During the control visits in 2013, the monitors noticed that signs written or illustrated signs that indicate that the room is intended for girls or boys have been placed.

During a visit on 22 September 2011, there was a girl N.N. in the Reception Station, about 7 years of age (at that moment the Centre had no information about her), she was scared, silent and it was obvious that she needed special attention and care. She was alone in the room and upon the arrival of visitors, she lit up. A room with the basic inventory without anything "for children" cannot have a soothing effect on a child who may have survived abuse, and is isolated, outside the family environment. Bearing in mind that at that time she was the only child in the Reception Station, she should have not been left unattended.

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28 Report on the work of the Centre for children and juveniles "Ljubović" for 2010, Podgorica, December 2010.

#### 4.2.2. Admissions department with diagnostics

This department determines aetiology and phenomenology of behaviour of children in conflict with the law. In other words, it investigates the causes of delinquent behaviour of young people, social and individual properties of the offender, their lifestyle, habits, etc.

As an organizational unit, it represents a very important stage at which the education service further refers the child to one of the treatment groups after a period of adaptation. However, considering the conditions in which the Centre currently operates, that is not possible because spatial capacities for meeting this condition do not exist, and therefore the educators, as they have informed the monitors, cope by using available premises at the Reception Station or the treatment.

Despite the fact that new facilities are being constructed and should be occupied next year, the current situation is a major drawback – because spatial distance between units occupied by different categories of residents in various stages of treatment has not been provided. Now juveniles who have just arrived at the Centre and belong at the Reception Station mix with those who are on institutional care and will reside in a separate section only after moving into new apartments.

With moving into new facilities, the situation that the monitors noticed in 2011 has been completely changed: each organizational unit is now physically separated and the staff, i.e. pedagogues and psychological services operate in conditions adapted to their needs for working with children.

#### 4.2.3. Institutional treatment

It consists of two parts, male and female, spatially divided by corridors, although the doors of the corridor leading to the rooms have no signs to specify male or female rooms. There are three male and two female rooms. Rooms are double, with a TV, air-conditioning, wardrobe, natural light. There are ten beds in total.<sup>29</sup> Children have not substantially left their mark in those rooms; rooms are not decorated in order to make the children feel better. However, this is only a transitory solution until moving into new facilities, for which, according to the director, complete inventory has already been provided.

Toilets are new, clean; there are separate male and female toilets. Washing machines are in operation, they are in the bathroom and juveniles can use them. Hygienic supplies are provided on a monthly basis or as needed.

In 2013, all rooms have been marked with written or illustrated signs, with new inventory, and all rooms where residents are accommodated are filled with personal belongings, toys and books, which indicates that the resident who resides in them has left their mark in them.

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<sup>29</sup> Although there are 11 permanent residents currently on treatment, according to staff, residents are never at the Centre at the same time (e.g., when parents are visiting). Moreover, due to inefficient work of courts when an adult who committed a crime as a juvenile reports to serve a measure, but in the meantime has found an employment and started a family, such person, in consultation with the administration, does not reside at the Centre, but has a regular reporting obligation, which is respected in practice.

#### 4.2.4. Day Centre

On the ground floor of the administration building there is a Day Centre for execution of measures of daily stay under the supervision of a guardianship body, which also encompasses a library. The Day Centre has bars on the windows, which should be removed, as they have no essential purpose.

The books in the library do not match children's age (mostly encyclopaedias, philosophical studies and reference books on the education of children in English language) and there are no recently published books.<sup>30</sup>

The library contains a complete set of reading list for elementary and secondary school under the old program. It should be enriched with the reading list in accordance with the current curriculum in schools, as well as with newer titles that would attract children's attention, make a positive impact on them and enable children to talk about those books during the appropriate workshops.

The living room has two cameras installed, since children who serve daily measures reside there. However, cameras can cause discomfort during their stay or during the organization of activities and deprive children of a sense of relaxation and spontaneity as they know they are being watched. The monitors believe that it would be more effective to install cameras at the Centre entrance, because in this way it is possible to completely ensure the security and monitor the arrival and departure of employees and residents.

Now each of the four newly constructed facilities for institutional treatment contains a living room where resident spend time together. It is separated from the educators, pedagogues and psychiatrists with a glass wall, so they have constant contact with them. This implies the implementation of the recommendation that residents of different categories should not be placed in same rooms (see Appendix, recommendation 7).

#### 4.2.5. Kitchen

Kitchen has an area of 8 m<sup>2</sup> and only breakfast is prepared there, while lunch and dinner are delivered from the student cafeteria. The monitors were told that the children always have enough fruit and that servings are doubled when necessary. However, residents told the members of the monitoring team that they would like to get more fruit, as the CPT also noted in their report on the 2008 visit.<sup>31</sup>

During the visit of the monitors, the residents were having lunch. There is a noticeable lack of a separate dining room. Children eat in the kitchen at a small table where up to four of them can be seated, so they cannot all eat at the same time.

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30 For example: Aristotle's "Organon", Hegel's "Phenomenology of Spirit", Plato's "Laws" and so on. According to the UN Rules for the Protection of Children Deprived of their Liberty, each of such institutions must provide access to a library of reference books and popular books appropriate for juveniles, who should be encouraged to use the books (item 41).

31 Report on the visit to Montenegro in 2008, CPT, p. 141.

The monitors noticed that leftovers from previous days are stored in the refrigeration units. They are not used in the diet, but, according to the staff, a member of the staff takes the leftovers home. However, such practice could jeopardize the hygiene and health of the staff and residents.

In 2012 and 2013, monitors noticed an improvement, because after the rearrangement of the premises, the residents have lunch in the dining room, which is separated from the kitchen where the food is prepared, and according to the residents, who have been inquired on this issue several times, they receive plenty of fruit between meals.

#### 4.2.6. Yard

The yard looks nice, with lots of green spaces and inventory that is handmade by the residents of the Centre in the locksmith workshop. According to the administration, the Centre renovation includes construction of sports facilities, which will contribute to the quality leisure time of residents. In 2013, the Centre has sports fields for football and basketball, paved access paths, green areas, as well as a fountain in front of one of the facilities.

#### 4.2.7. Locksmith workshop

During their daily activities, as a form of practice in the workshop, boys make benches, baskets and similar inventory that the Centre then sells, thus helping its financing and meeting the needs of residents. Since the operation of the workshop is voluntary, only two residents currently work there and receive a monthly stipend for their work. Children in the workshop are trained by a practice educator. The work is regulated by the Regulations on Occupational Safety.<sup>32</sup>

Girls do not have a similar type of occupation or training organized. The Centre should also provide them the opportunity to acquire craft skills in order to find employment more easily after leaving the Centre, which is one of the best ways to ensure their reintegration into the society, as recommended by the CPT.<sup>33</sup> Also, in addition to crafts education, girls should be provided with quality leisure time, which should also be a way of their appropriate social reintegration.

Products of the workshop and possible future activities should be better promoted, as this is a useful way for the Centre to receive revenue and provide a better standard for its residents.

The Centre offers girls certain trainings, although, according to the staff, most of the residents are educated in schools (elementary and high), which is the main aim of their re-socialization process, to include them in the society.

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<sup>32</sup> Based on Art. 102. of the Labor Law, Art. 4 of the Statutes of the Institution, at a meeting held on 28 February 2006 the Administration Board of the "Ljubović" Centre adopted the above mentioned regulations. Made available to the Delegation upon the Request for free access to information of 6 September 2011.

<sup>33</sup> Consent of the CPT with the principle set forth in Rule 26.4 Beijing Rules. <http://www.cpt.coe.int/en/documents/eng-standards.pdf>. See p. 42, 43, 45 and 46 of the UN Rules for the Protection of Juveniles Deprived of their Liberty.

#### 4.2.8. Recommendations (from December 2011):

⇒ Mark male and female rooms.

⇒ Provide special accommodations for abused, neglected or abandoned children. Establish a functional system of foster families (and unrelated) in the territory of the capital city and other major municipalities where these children would be referred from the Reception Station.

⇒ Provide toys and adjust the Reception Station for younger children, to help them adjust to the environment unfamiliar to them.

⇒ Remove bars from the premises of the Day Centre.

⇒ Remove cameras from the Day Centre (premises for daily stay) and install them on the gates of the Centre or in front of the entrance to the building.

⇒ Separate the Admissions department with diagnostics from other organizational units.

⇒ Enrich the library with newer titles, adjusted to the age and interests of children.

⇒ Ensure equal treatment of male and female residents of the Centre in terms of professional training, and provide girls with the opportunity to acquire crafts skills.

⇒ Promote products produced by children in the locksmith workshop or in the future in other workshops.

⇒ Ensure that children have fruit at all times.

**THE APPENDIX CONTAINS** a table with detailed extent of implementation of recommendations until 2013 (recommendations 5, 8, 10, 11, 12, 13, 14, 15, 16 and 17).

## 5. WORK METHODS, ACTIVITIES, PSYCHO-SOCIAL AND EDUCATIONAL DEVELOPMENT OF CHILDREN AT THE CENTRE

### 5.1. Staff

There are 39 persons employed at the Centre, 19 of which have higher education degrees.

Educational work is organized by the Organizer of educational work, who has a university degree, two educators with higher education degrees, and three assistant educators with secondary education. In addition to them, legal experts are also involved as educators, as well as former “Mladost” school teachers, as night duty educators.<sup>34</sup> In the future, special attention should be paid to the employment of specially trained educators. In addition to persons responsible for the educational treatment, i.e. for everyday work with children, 3 special pedagogues, 2 psychologists, 1 pedagogue and 1 social worker are also employed at the Centre.

Because of the small number of residents (on average, 12 of them on a permanent treatment), the impact of specialized staff is questionable in activities that would have to be regular in this type of institutions, such as group workshops, as detailed below (Section 5.2).

When the CPT visited the Centre in 2008, there were 38 staff members, and it was announced that 6 more positions are to be opened (for 4 educators, 1 instructor and 1 security officer)<sup>35</sup>. However, to date, the number of staff has increased for only one person. The work is divided into three shifts. Four staff members work in the first and second shift, and three in the night shift. Due to the current situation - renovation of facilities, only the Reception Station works 24 hours. In 2013 nine persons started professional training at the Centre, within the Government programme of professional training.

The worrying fact is that only three persons, men,<sup>36</sup> work in the night shift at the Centre, although women are also willing to work in all three shifts. This leads to preferential treatment of one part of the staff, because the employees who work night shifts have higher salaries than those working day shifts.<sup>37</sup> After examination of the log-book, it was found that the above-mentioned three persons work in the night shift continuously, for more than one week, as opposed to the Labour Law, which prescribes that an employer must adopt such a shift schedule so that an employee cannot work the night shift for longer than one week.<sup>38</sup>

In 2013, shifts were organized in two facilities – the Reception Station, where all educators (five) are included in the night shift, which is not the case with the facility for institutional treatment, where the night shift is operated by three male educators (see Appendix, recommendation 18).

34 Work program for 2011, p. 3, available at: <http://centarljubovic.me/images/stories/Dokumenta/PROGRAM%20RADA%20za%202011.pdf>.

35 CPT Report in the 2008 visit to Montenegro, p. 143, Response of the Government of Montenegro to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Montenegro of 11 March 2010, available at: <http://www.cpt.coe.int/documents/mne/2010-04-inf-eng.htm>.

36 Work program for 2011, p. 3, available at: <http://centarljubovic.me/images/stories/Dokumenta/PROGRAM%20RADA%20za%202011.pdf>.

37 Under the law, night work includes hours from 10 p.m. to 6 a.m. the following day and represents a special working condition, paid additionally (Art. 78, para 2, in relation to Art. 56, para 1, 2, 3 of the Labour Law, *Sl. list CG*, 49/08, 26/09).

38 Art. 172, para 1, item 17, in relation to Art. 57, para 1 of the Labour Law, *Sl. list CG*, 49/08, 26/09.



The monitors noted that of the three men working the night shift, two (one always engaged in the night shift and one working all shifts) are prosecuted in criminal proceedings on charges of sexual assault of two minors, who had been residents of the institution in 2005.<sup>39</sup> These are night shift educator S.K. and doorkeeper S.J. The monitors sought an answer from the director of the Centre to the following question: “Were disciplinary proceedings conducted in the period from 1 January 2000 to 1 November 2011 against employees of the Centre for children and juveniles “Ljubović”, and if so, what is their outcome?” The full answer<sup>40</sup> was: “In the period from 1 January 2000 to 1 January 2011, disciplinary proceedings were conducted against the former, now retired, director G.P., night shift educator S.K. and doorkeeper S.J. They were released of guilt by first instance verdict, but the judgment is not yet enforceable.”

Please note that the administration and the competent ministry were obliged to remove from their positions the above-mentioned persons, in accordance with the then<sup>41</sup> and now applicable law and regulations (Art. 130, para 1, item 3 of the Labour Law<sup>42</sup>), as they had been prosecuted for a criminal offense committed at work or work-related, which, as stated, is still pending final enforceable judgment. It is particularly worrying that these people were not only kept at the Centre, but also assigned to work together in the night shift, one regularly and the other periodically.

Two employees were not removed from the Centre, as the Law prescribes, because criminal proceedings have been initiated against them, criminal offense committed at work or in relation to work, but have been relocated to positions that do not include work with children (see Appendix, recommendation 19).

According to the director, the staff has experience in working with children in conflict with the law and is divided into multidisciplinary teams so that each shift has its own specialist (psychologist, educator, special pedagogue and one of the support staff members).

However, during the first visit, there was the “Duty schedule for the period of 18 June to 21 August 2011 for educators and assistant educators” on a cabinet in one of the offices. Among the names in the schedule, the monitors noticed V.P. and S.P., employed as a legal advisor and instructor.<sup>43</sup> The monitors emphasize that the Centre should strive to employ only persons trained for this vocation, as educators in this specialized institution.

A prerequisite for the successful social reintegration of children in conflict with the law is competent staff, which, in addition to necessary appropriate professional qualifications, must also have additional qualities for the work with children, such as sensibility, patience and understanding, along with continuing education. Staff should be trained to effectively carry out their duties, including special training on child’s psychology, child welfare and international standards of human rights, especially the rights of children.<sup>44</sup> Professional education, work training, knowledge renewal courses and other appropriate learning modalities are used to establish and maintain the necessary expertise of all those involved in juvenile cases.<sup>45</sup> The goal of education is to clearly explain the staff

39 Daily *Pobjeda*, 23 July 2005, available at: <http://www.pobjeda.me/arhiva/?datum=2005-07-23&id=66820>.

40 No. 591/11 of 9 November 2011.

41 The Labour Law, *Sl. list RCG* 43/03 and 25/06.

42 *Sl. list CG*, 49/2008.

43 Work program for 2011, p. 3, available at: <http://centarljubovic.me/images/stories/Dokumenta/PROGRAM%20RADA%20za%202011.pdf>.

44 UN Rules for the Protection of Juveniles Deprived of their Liberty, p. 85.

45 The Beijing Rules, p. 22.

their duties in accordance with the rehabilitation of offenders, ensuring their rights and protecting the society. Training should provide the staff with understanding of the need for cooperation and coordination of activities with other relevant services.<sup>46</sup>

Employees at the Centre do not have the possibility of regular study tours and training, mainly due to the lack of funds. Three employees visited institutions of similar type in Croatia and Slovenia in 2006.<sup>47</sup> During three days in March 2010, the Centre employees together with the representatives of social welfare centres attended a three-day seminar on “International Standards and Juvenile Law,” conducted by an expert from UNICEF, prof. Dr Đurađ Stakić.<sup>48</sup>

In 2012 and 2013, the staff had several study visits to institutions of similar type in the region, and in Montenegro, such as PI Komanski most, regularly published on the website of the Centre.

Monitors have also noticed the staff’s lack of knowledge on the contents of the report published after the CPT’s 2008 visit to the Centre. In fact, according to one of the employees working at the Centre at the time of the CPT visit, the administration told them that they had been commended.

In order to employ people with proper qualifications, it is recommended that the Centre establishes a formal collaboration, for example through a Memorandum of Cooperation, with the Faculty of Political Science – Study Program for Social Work and Social Policy, and the Faculty of Philosophy - Psychology Study Program, whose students would conduct practice at the Centre, and in this way the Centre would have a quality choice when announcing vacancies for interns.

According to the administration, they have excellent cooperation with the Faculty of Political Sciences, and also they are interested in various forms of cooperation, but that they cannot initiate it (see Appendix, recommendation 28).

## 5.2. Contents and organization of work with residents

Having in mind the current number of residents of the Centre (11), there are no obstacles for regular organization of comprehensive workshops for residents, which are a form of group work, proven to be a very good method of working with children in conflict with the law.<sup>49</sup> Workshops, with proper selection of topics, affect the development and improvement of psychosocial, healthy, adaptable potential, skills, habits, attitudes and lifestyles in children.

46 The Tokyo Rules, p. 16.

47 The visit was organized by UNICEF in collaboration with the NGO “Save the Children”. In Slovenia, they visited three institutions similar to the Centre. Employees have pointed out that it is necessary to establish the “halfway houses” in Montenegro, as those they visited in Croatia, which operate within these institutions. In these countries there are buildings (social service) for placing children without parental care after they leave the institution. Employees pointed out that five years ago there were 33 crisis centres in Slovenia, operating precisely with the aim to minimize the referral of juveniles to institutions.

48 The seminar was organized as part of the “Juvenile Justice Reform,” carried out by The Government of Montenegro from 2008 in collaboration with UNICEF and with the financial support of the European Union. More information about the seminar available at: [http://www.unicef.org/montenegro/reallives\\_14101.html](http://www.unicef.org/montenegro/reallives_14101.html).

49 On the importance of group work in reducing antisocial behavior with children and juveniles, see, for example, from authors in Serbian language: “Evaluation of the effect of the integration program for young people in conflict with the law”, Jasna Hrnčić, Tamara Džamonja Ignjatović, Vera Despotović Stanarević, p. 438-441, *Yearbook of the Faculty of Political Science*, No. 5, University of Belgrade, Belgrade, June 2011.

Although the monitors have been informed that the workshops are organized regularly, the last written record of a workshop organized at the Centre dates back to February 2011.

The educators have said that the administration work takes a lot of their time and that they do not note down information on each workshop they conduct. However, the educators did not respond to the request of the monitor - a social worker, to attend at least one workshop from July to mid-November, which suggests that the workshops actually take place very rarely.

During 2012/2013, workshops were not organized regularly, or at least there are no documentation on them, which would be necessary for the assessment of the conduct of residents, when giving recommendations to the court to end/extend the measure (see Appendix, recommendation 22).

The chief educator informed the monitors that the corrective treatment, in addition to workshops, also includes individual work with the residents, based on modern methods, which had not been the case earlier. Individual work primarily involves the establishment of relations between a resident and his/her educator. On the basis of social work history, the educator develops the plan of work with the child. The monitors have been informed that each resident has an individual treatment plan, whose reviews are performed regularly.<sup>50</sup> However, the monitors were not allowed to access individual plans for reasons of confidentiality.

During a weekend visit, the monitors noted that the residents were not able to use the Day Centre, where the library is located, or the workshops. According to the educator on duty, these rooms are locked on weekends. The monitors believe that these types of activities should be organized particularly on weekends, when residents are not in school, and have more time for reading and craftsmanship.

One of the aspects of working with children includes working with their families. Family is very important in the socialization of juveniles. From entering the institution, a juvenile is being prepared for the release. Certainly, in the meantime, he/she must master the skills, overcome problems and understand what he/she did wrong. For all these reasons, family support is essential. However, problems arise due to the refusal of families to cooperate (often a dysfunctional family or family community).

According to educators, some juveniles attend extracurricular activities, such as judo practice, in which case they are provided transportation by private staff members' cars. One of the educators on night duty has his own private judo club and children are able to train there.<sup>51</sup> However, the Centre does not have the financial means to offer children organized sports activities or other extracurricular activities, such as dance courses, for which one of the female residents expressed her interest. Also there are no vehicles for transportation of children to such activities or field trips. Monitors were told that, when the renovation of the Centre is complete, the residents will have a sports playground. The children have expressed a desire to be able to ride a bicycle.

<sup>50</sup> As well as in the report on the work of the Centre for 2010, Podgorica, December 2010.

<sup>51</sup> Person currently prosecuted for sexual abuse of a former female resident of the Centre (more on this in Section 5.1 Staff).

Children have the right to go out to town (until 10 p.m.) and receive a monthly allowance (12.5 Euros per month), as well as to visit their parents and relatives once every 15 days. Policy of the Centre, according to educators, is for the residents to often spend time outside the Centre in order to avoid the so-called “Dormitory syndrome”.

Unlike the practice of locking children, noted by the CPT during their visit in 2008,<sup>52</sup> the monitors have not noticed that the children were locked at any time.

Cooperation with NGOs, Government and international organizations in the past has been more intensive in the form of workshops and training courses. Some radical projects have been realized that opened the institution to the public with the aim of reducing prejudice against children in conflict with the law. Such was the project with UNICEF and the Faculty of Dramatic Arts in Cetinje, when residents of the Centre had been preparing the play “Down the good and the bad road” for three months, which was then performed at the Centre, the Culture and Information Centre “Budo Tomović” and in the town of Nikšić. The play was very successful and several guest performances have been organized. A female resident, who participated in the show and with whom the monitors spoke, was thrilled by the experience. This type of activities at the Centre has multiple benefits for both the institution and the residents. A workshop “12 steps” was organized in 2010, in cooperation with NGO “4 Life”, with the aim to combat drug addiction.<sup>53</sup>

With the aim of achieving stronger binding of the Centre and its residents with the community, and transparent operations and supervision of the work, the Administration Board of the Centre should also include representatives of the civil society, organizations for children’s and human rights, representatives of the Faculty of Dramatic Arts, Faculty of Political Science, Faculty of Philosophy, etc.

The Ministry of Labour and Social Welfare did not implement this recommendation, and the members of the Administration Board are still representatives of state bodies/institutions (see Appendix, recommendation 29).

According to the UN Rules for the Protection of Juveniles Deprived of their Liberty, institutions such as the Centre should be continuously exposed to inspection by a body that does not belong to government institutions, entitled to the right to conduct unannounced visits at own initiative, and which would enjoy the full warranty of independence in performing this function.<sup>54</sup> The Ombudsman could be assigned such duties, if the office of the Ombudsman has the capacity for continuous monitoring of the work of the Centre.<sup>55</sup>

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52 CPT Report on the 2008 visit to Montenegro, p. 143.

53 Report on the work of the Centre for children and juveniles “Ljubović”, Podgorica, December 2010.

54 Item 72 (A/RES/45/113. United Nations Rules for the Protection of Juveniles Deprived of their Liberty), <http://www.un.org/documents/ga/res/45/a45r113.htm>.

55 The Ombudsman published its latest report which specifically considers the care for children in conflict with the law in 2006, when the Centre “Ljubović” was established pursuant to a decision of the Government (Special Report on Juveniles in Conflict with the Law, the Ombudsman, Podgorica, December 2006).

### 5.3. Recommendations (from December 2011):

⇒ Develop a work plan that will allow all employees to work in all three shifts, i.e. to prevent the same people from always working the night shift.

⇒ Dismiss from work, especially from work with children, employees prosecuted in criminal proceedings on suspicion of having committed the crime of sexual abuse in relation with conducting their duty, until the final and enforceable completion of the procedure.

⇒ Provide the means for education of employees, especially those whose job description involves regular work with children, in the country and abroad.

⇒ Regularly inform the employees about the recommendations made by both international and national bodies/institutions responsible for monitoring of the respect for human rights of juveniles.

⇒ Increase psychotherapeutic work with residents through activities that are acceptable and interesting for them (workshops, group work, psychodrama, etc.)

⇒ Organize workshops (group work with children) at least once a week and keep proper documentation about them that will provide an overview of the work done, purpose of the workshop and outcome.

⇒ Organize work in workshops with an instructor on weekends, when residents are not in school and have more free time.

⇒ Establish meaningful communication with the families of juveniles; include the Social Welfare Centre in these activities, which would supervise juveniles after discharge from the Centre.

⇒ Provide funds for the purchase of a minivan that would frequently take residents out of the Centre on field trips or other educational activities (performances, children's concerts, cinema).

⇒ Establish cooperation with NGOs for both further educational and training programs for residents, and staff in order to acquire knowledge and skills through non-formal education.

⇒ Establish formal collaboration with the Faculty of Political Science and the Faculty of Philosophy of the University of Montenegro, in order to carry out practical training of students of these faculties at the Centre.

⇒ Expand the composition of the Administration Board of the Centre by engaging representatives of the civil society, universities, organizations for children's and human rights, etc.

⇒ Ensure that the Office of the Ombudsman has the capacity to continuously monitor the Centre.

**THE APPENDIX CONTAINS** a table with detailed extent of implementation of recommendations until 2013 (recommendations 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30).

## 6. DOCUMENTATION

After the CPT criticized the forms and tardiness of record-keeping at the Centre in their report from 2008,<sup>56</sup> in 2009 the administration improved the system of record-keeping.

Every resident has their educator and personal record, kept from admittance to the institution until release, including records of treatment, social history, psychological assessment, records of going out and coming back. There are no records of physical abuse of residents. Monitors only noted sanctions like prohibition of going out to town.

## 7. DISCIPLINE AND DISCIPLINARY MEASURES

The monitors noted that there are no clearly visible House Rules put up anywhere, although the children that the monitors spoke to noted that they understood and observed them. Monitors only noticed papers on the walls with transcribed text of articles from the Convention on the Rights of the Child. However, under the UN standards, "on admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, together with the address of the authorities competent to receive complaints, as well as the address of public or private agencies and organizations which provide legal assistance. For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension".<sup>57</sup>

The CPT recommended that a clear disciplinary procedure be introduced at the Ljubović Centre and that juveniles be duly informed of it.<sup>58</sup> The monitors believe that the above described situation (unavailability of the rules in written form to all residents) cannot satisfy the required form of informing residents of their rights and obligations (see Appendix, recommendations 31 and 32).

CPT pointed out that juveniles' contact with the outside world must never be restricted or denied as a disciplinary measure,<sup>59</sup> as mostly respected in practice.

Monitors have been told that the children can complain to the director in case of problems or complaints against educators, but that they do not use this right, because, as noted by staff, there is no need for that.

Administration building has no signs leading to offices of administration officials, which can pose difficulties in orientation to newly admitted residents, as well as in clear understanding as to who to address in the first moments, which are surely the most stressful for someone who has changed their environment.

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<sup>56</sup> "Finally, it should be noted that the main log-book of the establishment was out of date, the last entry having been made on 19 June 2008. The CPT recommends that steps be taken at the Ljubović Centre to ensure that record keeping is up-to-date and accurate." Report on the 2008 visit to Montenegro, CPT, p. 147.

<sup>57</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty, p. 24 (General Assembly Resolution UN 45/113, 14 December 1990).

<sup>58</sup> Report to the Government of Montenegro after the visit to Montenegro by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in 2008, p. 146.

<sup>59</sup> The CPT Standards, p. 34.

Upon examining the documents, the monitors noticed that there were cases of residents leaving the Centre by their own will (in which case the Centre immediately notifies the police, family of the resident and the competent social welfare centre) and committing criminal offenses upon leaving the Centre (theft).

During visits in 2013, the monitors noticed that the situation has improved, and the House Rules, as well as rules on disciplinary measures and awards, and other documents important for their residents in the Centre in terms of exercise of their rights and freedoms, are available to residents.

## 7.1. Disciplinary measures

**T**he Centre applies disciplinary sanctions in the form of withholding allowance and prohibition of going out to town.

In the period from 10 p.m. to 6:30 a.m. educators lock juveniles in their rooms.

The rights and duties of children at the Centre must be clearly written and displayed in a visible place. Children must also be familiar with their right to complain to the director and educators about their treatment, as well as to (for example) the Ombudsman in relation to the conduct of educators and the director.

During the time of the visits, the Centre had a mailbox set up for residents' complaints to the Ombudsman, with the only key to the mailbox held by an authorized representative of the Ombudsman's Office. However, there were no instructions or explanations next to the mailbox (e.g. regarding its purpose; who is the Ombudsman; only Ombudsman's office has access to the letters; juveniles can write about anything without fearing the Centre staff or bearing consequences), which is particularly necessary if one bears in mind that it is intended for juveniles.

## 7.2. Recommendations (from December 2011):

⇒ Display the *House Rules* in visible places in common rooms, so that the residents can be informed about their rights and obligations during the stay at the Centre.

⇒ Display the *Rules on Disciplinary Procedures and Sanctions* in clearly visible places in common rooms.

⇒ Next to the mailbox for complaints to the Ombudsman, display the instructions in a manner comprehensive to children.

⇒ Display the signs – labels of offices of the director and other employees of the Centre, labels for other rooms that are intended for the use of children, to ensure easy orientation at the Centre and openness of the institution.

**THE APPENDIX CONTAINS** a table with detailed extent of implementation of recommendations until March 2013 (recommendations 31, 32, 33 and 34).



## 8. HEALTHCARE

Children are provided with regular medical examinations and their health is taken care of. Children who are on permanent treatment at the Centre have their chosen doctor in the nearest health centre. The Centre has a medical technician employed, with full working hours. The monitors have not received complaints from children or parents with whom they spoke on the account of healthcare.

Monitors noted that the staff gives or provides residents with cigarettes, and that all but one female resident are smokers. Monitors were also informed that once the residents were provided with cigarettes via Duvanski kombinat (*Tobacco Plant*), during the time when the plant was operating. The staff commented on the current state that “it is better that we give them cigarettes, or else they would steal from tobacco shops.” It is unacceptable for the staff to tolerate and allow residents to continue their unhealthy habits, instead of working with them on quitting this vice. This also violates the provisions of the Law on the Restriction of the Use of Tobacco Products, which prohibit smoking in public spaces, including spaces where children are accommodated, reside and eat (Art. 4, para 1, item 1)<sup>60</sup>, as well as the yard area of the educational institution.

Having in mind that a medical technician is employed with full working hours, he could organize educational workshops for children to promote healthy lifestyles, focusing on the harmful effects of alcohol, drugs and tobacco. In this field, there is room for cooperation with non-governmental organizations.

### 8.1. Recommendations (from December 2011):

⇒ Enable residents to acquire additional knowledge in the field of the health promotion and health care, especially for high-risk areas (the use of psychoactive substances, alcohol, tobacco, excessive use of pills and artificial proteins, sexual activity, etc.).

⇒ Prohibit the use of tobacco products among residents and prohibit employees from providing tobacco products to residents. Find appropriate pedagogical method which will convincingly present the hazards of smoking, particularly to underage juveniles.

**THE APPENDIX CONTAINS** a table with detailed extent of implementation of these recommendations until March 2013 (recommendations 35 and 36).

<sup>60</sup> *Sl. list CG*, 52/04 of 2 August 2004 and *Sl. list CG*, 32/11 of 1 July 2011.



## 9. CONCLUSION – MARCH 2013

In relation to visits conducted before the presentation of the report on the respect for human rights of residents of the Centre for Children and Youth “Ljubović” in November 2011, when the Centre operated in aggravated conditions due to the construction of new facilities, the situation is now quite different: the Centre has four new buildings with apartments which are fully equipped and meet the needs of residents and employees. Residents are assigned rooms in accordance with the imposed measures, and employees, i.e. professional service and educators have conditions for appropriate supervision and contact with them.

The Reception Station operates separately from other units, contributing to the separation of residents who are in full-time treatment from those who are there temporarily, in the Reception Station.

Professional staff has been reinforced with eight interns (a defectologist, psychologists and social workers) who will have their training at the Centre over the next nine months, under the Government program.

Human rights and freedoms of residents of the Centre for Children and Youth “Ljubović” are respected. We have not noticed nor received any information on ill-treatment, inhuman or degrading treatment of residents by the staff.

We commend the fact that more than 2/3 of the recommendations of our monitoring team have been implemented fully or partially in the past year.

We emphasize that the Ministry of Labour and Social Welfare did not implement the CPT’s recommendation to provide special accommodations for children who are in state of social need (abused, discarded, wanderers), and establish a system of specialized foster care (and unrelated) because it is not acceptable that these children live in an institution for juveniles in conflict with the law.

In order to further improve safeguards for protecting the rights of residents, we emphasize the following:

Educational/psychological workshops with the residents are not organized regularly (or at least it is not possible to conclude otherwise from the available documentation, which is why the monitoring team made the recommendation 22) and the recommendations for the Centre to re-organize work in this direction still remains. Also, on weekends, the Centre should organize activities for the children who stay at the Centre.

The Administration Board of the Centre “Ljubović” should include representatives of civil society, in addition to representatives of state bodies and employees of the institution.

Employees accused of sexual assault against former female residents still work at the Centre. Although it has been more than a year since making the recommendation to suspend the two employees (educator and doorkeeper), currently prosecuted in criminal proceedings on charges of having committed the criminal offense of “Sexual assault or unnatural sexual intercourse through abuse of power” for a prolonged period of time against former residents of the Centre, this has

not been done, although the Labour Law clearly prescribes such action, without exception. In the context of this case, a question arises in regard to the respect for the right to a speedy trial and accountability of the judicial function holders (especially given the fact that the two female juveniles are the injured parties), who have been working on the case for eight years.

The recommendation still remains to the Ministry of Labour and Social Welfare to make effort to place children who were removed from their families because of “disorder in behaviour” in foster families, not in the Centre “Ljubović”, bearing in mind that these cases often include children who are younger than 14 years, and who do not belong in an institution of this type, because institutional care should be the last resort in the range of corrective measures (see page 15 of the Report).

It would be desirable to include more NGOs in the range of activities for residents of the Centre and to establish cooperation with the Faculty of Philosophy in Nikšić (programmes of study Psychology and Pedagogy).

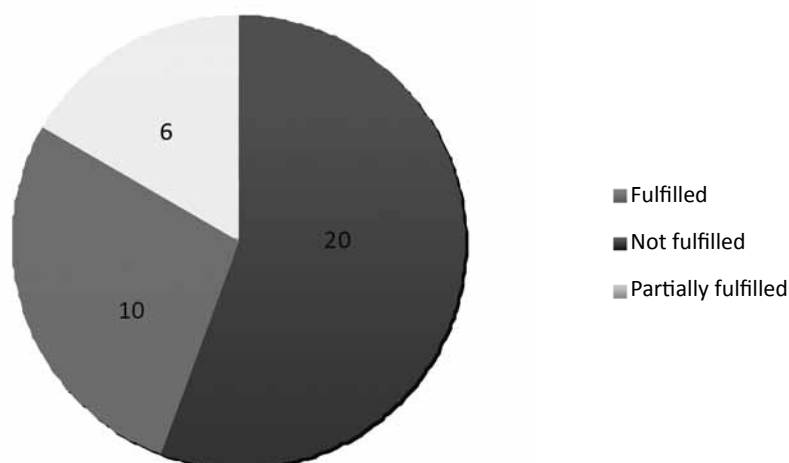
After repeating the CPT’s recommendations from 2008 in December 2011, the Centre has introduced a clear disciplinary procedure and residents are properly informed about it (see Appendix, recommendations 31 and 32).

### **Assessment of the fulfilment of recommendations relating to the public institution Centre for children and juveniles “Ljubović” (hereinafter: the Centre), published in March 2013.**

**O**f a total of 36 recommendations of the NGO monitoring team, 20 were fully implemented (55%), 6 partially (17%), while 10 recommendations were not fulfilled (28%).

Of recommendations that were not fulfilled, 5 were given to the Centre, 4 to the Ministry of Labour and Social Welfare, and one to the Ministry of Justice and the courts (Centre for training of judicial function holders).

As regards 5 recommendations of the CPT from 2009, 4 were fully fulfilled and 1 was not fulfilled. This recommendation refers to special accommodation, outside the Centre, for abused, ignored or neglected children, as well as the establishment of a functional system of foster families.



## 10. APPENDIX – TABLE OF RECOMMENDATIONS AND ASSESSMENT OF THEIR IMPLEMENTATION IN MARCH 2013

No.	Recommendation addressed to:	Recommendation	Current situation	Assessment of the fulfilment
1.	Ministry of Justice	Amend the Draft Law on the Treatment of Juveniles in Criminal Proceedings by prescribing deadlines for taking actions in proceedings, to ensure their urgency.	The Law on the Treatment of Juveniles in Criminal Proceedings (LTJCP) does not specify deadlines for taking actions, but provides for the obligation of a judge who acts in juvenile proceedings to inform the court president each month about the juvenile cases that are not resolved and the reasons why certain cases are still pending, as well as the obligation of the court president to take measures to accelerate the proceedings (Art. 82).	Recommendation partially fulfilled.
2.	Ministry of Justice and basic courts and the Centre for training of judicial function holders	Ensure that every judge, who acts in juvenile proceedings, spends at least one day at the Centre "Ljubović", as part of the training, and one day in the juvenile prison in the Institution for Execution of Criminal Sanctions.	The recommendation remains for the Ministry of Justice and the Judicial Council to include visits to this type of institutions for placing juveniles for the execution of measures, in their programme for training of judges (within the Centre for training of judicial function holders).	Recommendation not fulfilled.
3.	Ministry of Justice and Supreme Court	Ensure that only specially trained judges and prosecutors, who own a certificate for training completion, act in juvenile cases.	Juvenile judges act in cases conducted against minors, specially appointed for each court in all instances. In the high state prosecutor's offices in Podgorica and Bijelo Polje deputy prosecutors for minors have been appointed, as well as in major basic state prosecutor's offices.  Judges and prosecutors are trained in the field of juvenile crime / justice / mediation in seminars outside the country as well as the programs of the Centre for Judicial Education of Montenegro. In 2012 the Centre for Judicial Education held three roundtables: "LTJCP for judicial and state officials" <sup>1</sup> on 3 July, "Initial training for state prosecutors, deputy state prosecutor and the Police officers who handle cases involving minors" <sup>2</sup> on 19 July and on 20 December "Application of the LTJCP" <sup>3</sup> .	Recommendation fulfilled.

1 According to the Centre, the roundtable was attended by 31 participants: 10 representatives of the judiciary, 8 of the prosecution, 8 from the Social Welfare Centre, 1 from the Police and 1 from the Institution for Execution of Criminal Sanctions.

2 According to the Centre, the roundtable was attended by a total of 25 participants: 16 representatives of the Prosecutor's Office and 9 representatives of the Police.

3 According to the Centre, the roundtable was attended by a total of 24 participants: 8 representatives each of the Prosecutor's Office, Police and judiciary.

4.	Ministry of Labour and Social Welfare	Amend articles 83 and 175 of the Family Law, which enables judges and centres for social work to place children from 14 years of age in Centre "Ljubović" due to disorders in behaviour, and under Article 175, without time limits (there are examples when children stayed in the Centre longer than year on this basis, although the institutional care is the last resort in educational measures, in accordance with the UN standards <sup>4</sup> (page 11 of the Report).	The Law has not been amended, and the legal procedure in this regard has not been initiated.	Recommendation not fulfilled.
5.	Ministry of Labour and Social Welfare	Provide a special shelter for abused or neglected children.	Regulations on the accommodation of children in the shelter of the Centre <sup>5</sup> prescribe that children who are suspected of being abused cannot be placed in the Centre. There are no abused children at the Centre presently, according to the Director. However, since in the meantime a special shelter for abused children has not been provided, when the need arises for the relocation of children from the family environment, the centres for social work still refer the abused children to the Centre. The Centre is still the main reception station for neglected children, and children who are foreigners in Montenegro without a residence permit <sup>6</sup> , which is unacceptable, because juveniles who are in conflict with the law are placed together with children who are in social need.	Recommendation not fulfilled.
6.	Basic and high courts	Courts should consistently comply with the principle of urgency while acting in cases related to juveniles, in order to prevent referring adults to the Centre for juveniles.	Courts have been more efficient compared to the previous years: there has been no delay in the proceedings in juvenile cases, based on the Report on the work of the courts in 2011 <sup>7</sup> and media coverage of proceedings against juveniles.	Recommendation fulfilled.
7.	Centre for children and juveniles "Ljubović"	Ensure division of different juveniles' categories of different profiles and needs upon completion of the construction of apartments for residents.	Recommendation put into practice. After the construction of new facilities, children have been classified by gender or imposed educational measure and placed to separate facilities.	Recommendation fulfilled.

4 See Resolution of the General Assembly of UN 64/142 of February 2010 Guidelines for the Alternative Care of Children, item 14. Report available at [www.hraccion.org](http://www.hraccion.org) and at direct link: [http://www.hraccion.org/wp-content/uploads/Izvjestaj\\_za\\_Ljubovic\\_021211.pdf](http://www.hraccion.org/wp-content/uploads/Izvjestaj_za_Ljubovic_021211.pdf).

5 Regulations on the accommodation of children in the shelter of the Centre and the Reception Station were adopted in December 2012.

6 Regulation on the treatment of foreign juvenile children in the Centre, adopted in July 2012.

7 Report available at: [http://sudovi.me/podaci/vrhs/depo/depo\\_ink/25-04-2012-GODISNI%20IZVJESTAJ%202011.G.pdf](http://sudovi.me/podaci/vrhs/depo/depo_ink/25-04-2012-GODISNI%20IZVJESTAJ%202011.G.pdf). Report on the work of courts in 2012 will be available in April 2013.

8.	Centre for children and juveniles "Ljubović"	Mark male and female rooms.	All rooms have a label, both graphic and narrative.	Recommendation fulfilled.
9.	Ministry of Labour and Social Welfare	Provide special accommodations for abused, neglected or abandoned children and establish a functional system of foster families (and unrelated) in the territory of the capital city and other major municipalities where these children would be referred from the Reception Station, pursuant to the Family Law (CPT's <a href="#"><u>recommendation from 2008</u></a> ) <sup>8</sup> .	As outlined in the recommendation no. 4, the Centre is still a receiving station for the territory of the entire country for juveniles in need (abused, neglected children), so there is still mixing with the juveniles in conflict with law. Although they have not been placed in the same room, they still perform their daily activities together. As this period cannot be labelled as "transitional" after the full 4 years of the CPT recommendations, urgent measures should be taken to address this issue.	Recommendation not fulfilled.  The Ministry of Labour and Social Welfare must urgently make efforts to provide specialized foster families for children who do not belong at the Centre, but in proper family environment.
10.	Centre for children and juveniles "Ljubović"	Provide toys and adjust the Reception Station for younger children, to help them adjust to the environment unfamiliar to them.	Recommendation put into practice.  All facilities have been equipped with computers, chess boards, games (dominoes, board games, sports equipment and toys).	Recommendation fulfilled.
11.	Centre for children and juveniles "Ljubović"	Remove bars from the premises of the Day Centre.	None of the rooms where children spend their time have bars on the windows.	Recommendation fulfilled.
12.	Centre for children and juveniles "Ljubović"	Remove cameras from the Day Centre (premises for daily stay) and install them at the Centre's gates or in front of the entrance to the building.	After moving into the new facilities, day care centres have been relocated to apartment buildings where educators and other staff members have constant supervision over residents.	Recommendation fulfilled.
13.	Centre for children and juveniles "Ljubović"	Separate the Admissions department with diagnostics from other organizational units.	Reception Station and Admissions department operate as separate Centre units, physically separated from the area accommodating residents in institutional care.	Recommendation fulfilled.
14.	Centre for children and juveniles "Ljubović"	Enrich the library with newer titles, adjusted to the age and interests of children.	Library has been enriched with new titles for children's age. Modest donations further expand the library.	Recommendation fulfilled.

8 CPT Report on its 2008 visit to Montenegro.

15.	Centre for children and juveniles "Ljubović"	Ensure equal treatment of male and female residents of the Centre in terms of professional training, and provide girls with the opportunity to acquire crafts skills.	Female residents who show interest in the newly equipped kitchen and knitting - tailor shop have the option of further training. At the time of our visit, two girls attended the training. It is necessary to provide a choice for professional training to both boys and girls (avoid gender stereotypes).	Recommendation fulfilled.
16.	Centre for children and juveniles "Ljubović"	Promote products produced by children in the locksmith workshop or in the future in other workshops.	According to the Centre management, locksmith workshop products were marketed in a booklet developed back in 2010. We did not notice that the Centre has invested additional efforts to inform the general public about the sale of items produced by residents from the time of the publication of the report in 2011 (see p. 18 of the Report).	Recommendation not fulfilled.
17.	Centre for children and juveniles "Ljubović"	Ensure that children have fruit at all times. <u>(based on the CPT recommendation from 2008)</u>	Fruit is always available to children, as confirmed to the monitoring team in direct conversation with the residents.	Recommendation fulfilled.
18.	Centre for children and juveniles "Ljubović"	Develop a work plan that will allow all employees to work in all three shifts, i.e. to prevent the same people from always working the night shift.	<p>Educational service operates in three shifts - five educators work at the Reception station, while also working during the night shifts, whereas seven educators work in the organizational unit of Institutional care, three of which are on duty at night, by own request. Compared to the period before the publication of the Report, when three educators worked only at night, there are now eight of them who perform night shift work. Five of them perform night shifts, and three permanent night shifts.</p> <p>All employees at the Reception station (engaging five educators) work during night shifts as well. At the institutional care unit (accommodating residents with the imposed measure), engaging seven educators, three same educators always work night shifts, but have themselves expressed such desire, as indicated by the Centre administration. This continues the practice of the same people always working night shifts at the institutional care unit, as in the period before the publication of the Report (pages 19 and 20).</p>	Recommendation partially fulfilled.



19.	Centre for children and juveniles "Ljubović"	Dismiss from work, especially from work with children, employees prosecuted in criminal proceedings on suspicion of having committed the crime of sexual abuse in relation with conducting their duty, until the final and enforceable completion of the procedure.	According to the Centre administration, two employees prosecuted in criminal proceedings on suspicion of having committed the crime of sexual abuse in conducting their duties, relating to the former residents of the Centre, have not been dismissed, but temporarily deployed to other positions, until the end of the procedure (janitor, central heating maintenance worker), where they do not have contact with children. However, the Labour Law clearly states that they must be suspended until the end of criminal proceedings (see the Report, p. 20).	Recommendation not fulfilled.
20.	Ministry of Labour and Social Welfare and Centre for children and juveniles "Ljubović"	Provide the means for education of employees, especially those whose job description involves regular work with children, in the country and abroad.	<p>In 2012, the Centre education service staff visited the institutions of this type in Serbia (in Niš, Knjaževac, Novi Sad, Belgrade), namely: Institution for Juvenile Education (with the receiving station) in Niš, Institution for Children and Juveniles in Knjaževac, Institution for Education of Children and Juveniles (with the receiving station in Belgrade), Children's Village in Sremska Kamenica and the Social Welfare Centre in Novi Sad, which includes a Women's safe house, Shelter and Day care centre. In addition to sharing experiences with colleagues from these institutions, the Centre has arranged the reestablishment of once traditional meetings of homes in the region which accommodate children in conflict with the law.</p> <p>One educator was engaged in the work of the Commission for drafting the Law on Social and Child Care and Law on the Treatment of Juveniles in Criminal Proceedings. Two educators attended a two-day seminar in Bečići on domestic violence, while two educators attended a one-day seminar on inclusion organized by the Ministry of Education.</p>	Recommendation fulfilled.
21.	Centre for children and juveniles "Ljubović"	Regularly inform the employees about the recommendations made by both international and national bodies/institutions responsible for monitoring of the respect for human rights of juveniles.	At the Expert team meetings staff are informed about all the reports that they always have access to.	Recommendation fulfilled.

22.	Centre for children and juveniles "Ljubović"	Organize workshops (group work with children) at least once a week and keep proper documentation about them that will provide an overview of the work done, purpose of the workshop and outcome.	<p>Workshops with children are still not organized on a weekly basis. The Centre employs sufficient number of qualified staff (pedagogues, psychologists, defectologists, social workers, etc.) and all the conditions have been met for the organization of educational workshops and orderly keeping of records. Based on the insight into the documentation, workshops have not been organized in 2013 (to 8 February), although the staff claim the opposite – that workshops were held, but not recorded into relevant books. In 2012, according to the available documentation, workshops were organized only during the first four months, while there is no record for the rest of the year, which is an unusually long period to be justified by disorderly kept documentation.</p> <p>Available reports from the workshops do not contain information on how each resident separately acted, although such information - based on their participation and reactions - could provide a recommendation to the court for their further treatment / stay, or possible termination of the institutional treatment. According to available reports, the majority of residents participated in the workshops, except those who have been justifiably absent due to illness or family visit.</p>	Recommendation not fulfilled.
23.	Centre for children and juveniles "Ljubović"	Increase psychotherapeutic work with residents through activities that are acceptable and interesting to them (workshops, group work, psychodrama, etc.)	Residents who participated in the group work - workshops were active and responded well to the topics that were discussed. However, as pointed out in the description of the application of recommendation no. 21, there is no written record on their individual involvement or regular organization of these group sessions.	Recommendation partially fulfilled.



24.	Centre for children and juveniles "Ljubović"	Organize work in workshops with an instructor on weekends, when residents are not in school and have more free time.	According to the response of the Centre representatives, work in a locksmith workshop takes place every weekday on a voluntary basis. They emphasized that older minors are usually trained in the locksmith workshop, who 'outgrew' their schooling, so the Ministry of Education provided them with an opportunity to obtain a vocational qualification (II degree). Centre representatives further stated that children rest on weekends, usually at home with their families, after having various commitments over weekdays and concluded that this recommendation was unacceptable.	Recommendation not fulfilled. It should be borne in mind that not all residents go home during weekends, but stay at the Centre. This time period, in addition to entertainment, should be spent in other activities that would help residents' development and increase their readiness to participate in the community.
25.	Centre for children and juveniles "Ljubović" and centres for social work	Establish meaningful communication with the families of juveniles; include the social welfare centres in these activities, which would supervise juveniles after discharge from the Centre.	According to the Centre employees, they seek to maintain regular communication with the families of the residents, but, according to them, a significant number of families are "not functional". The Centre conducts activities that are within its competence (paying a visit to resident's family by education service), however, both staff and residents emphasized the tardiness of the social welfare centres, which "forget" about residents after they have been placed at the Centre. After reviewing documentation on one of such visits, MT concluded that the Centre education service had an unsuccessful trip to one of the municipalities in the far north of the country due to the neglect of the competent social welfare centre.	Recommendation partially fulfilled.

26.	Ministry of Labour and Social Welfare	Provide funds for the purchase of a minivan that would frequently take residents out of the Centre on field trips or other educational activities (performances, children's concerts, cinema).	The Centre still does not own a mini-van, but 4 official vehicles which, with regard to the number of residents (during the last visit - ten), can meet its current needs. It would be desirable to purchase a minivan for carrying out group visits, as the one in February 2012, when the educational services and residents visited several religious buildings (Catholic Church in Podgorica, Mosque in Podgorica Old Town and Ostrog monastery).	Recommendation partially fulfilled.
27.	Centre for children and juveniles "Ljubović"	Establish cooperation with NGOs for both further educational and training programs for residents, and staff in order to acquire knowledge and skills through non-formal education.	In the previous period the Centre has maintained communication with NGOs - NGO "Our Podgorica", Students Community and Volunteer Club of "Slobodan Škerović" High School, whose members cheered the residents with gifts (books, clothes, Christmas gifts), but there is no information about the organization of additional educational programs to fulfil residents' free time and achieve their social reintegration.	Recommendation partially fulfilled.
28.	Centre for children and juveniles "Ljubović"	Establish formal collaboration with the Faculty of Political Science and the Faculty of Philosophy of the University of Montenegro, in order to carry out practical training of students of these faculties at the Centre.	Centre has maintained good cooperation with the Law Faculty of the University of Montenegro and the Faculty of Special Education and Rehabilitation from Belgrade. Students of the Faculty of Political Science, major in Social Policy and Social Work, have had a five-day practice period at the Centre, which is not the case with the Faculty of Philosophy of the University of Montenegro – Psychology major. In the future it is necessary to put more effort in order to stimulate young professionals to work in this institution.	Recommendation partially fulfilled.
29.	Ministry of Labour and Social Welfare	Expand the composition of the Administration Board of the Centre by engaging representatives of the civil society, universities, organizations for children's and human rights, etc.	Administrative Board still includes only state representatives and Centre staff.	Recommendation not fulfilled.
30.	Parliament of Montenegro and Protector of Human Rights and Freedoms of Montenegro	Ensure that the Office of the Ombudsman has the capacity to continuously monitor the Centre.	Cooperation with the Ombudsman is very good, and the Centre held several workshops with Ombudsman representatives related to children's rights. In the building lobby there is a mailbox for complaints set up by the Ombudsman.	Recommendation fulfilled.

31.	Centre for children and juveniles "Ljubović"	Display the House Rules in visible places in common rooms, so that the residents can be informed about their rights and obligations during the stay at the Centre.	<p>The Centre displayed excerpts from the Convention on the Rights of the Child and the Schedule of daily activities of residents in institutional care, which has been translated into several foreign languages (English, French, Arabic and Albanian) in the premises for the stay of foreigners. However, the House Rules have not been displayed.</p> <p>It is commendable that following the publication of the Report, the Centre has adopted several by-laws under its competence (Rules of the stay of children at the Reception Station, Rules on the treatment of minor foreign persons residing at the Centre, as well as the Proposal of Rules on the execution of educational measure of referral to a non-institutional type of facility from 6 months to 2 years).</p>	Recommendation fulfilled.
32.	Centre for children and juveniles "Ljubović"	Display the Rules on Disciplinary Procedures and Sanctions in clearly visible places in common rooms (CPT's recommendation from 2008) <sup>9</sup>	Regulations for awards and disciplinary measures are displayed in clearly visible places in the living room.	Recommendation fulfilled.
33.	Centre for children and juveniles "Ljubović"	Next to the mailbox for complaints to the Ombudsman, display the instructions in a manner comprehensive to children.	According to the Centre management, Ombudsman has informed the children about the mailbox and how to use it. Given the constant arrival of new residents, we believe that this is not enough, as the Ombudsman is not a person engaged / present at the Centre at all times. Monitors did not notice an explanation / instructions that would explain the children in a manner comprehensive to them what the mailbox is for and also that they cannot bear any consequences for addressing a complaint, in both Cyrillic and Latin alphabet.	Recommendation not fulfilled.
34.	Centre for children and juveniles "Ljubović"	Display the signs – labels of offices of the director and other employees of the Centre, labels for other rooms that are intended for the use of children, to ensure easy orientation at the Centre and openness of the institution.	Labels were set up.	Recommendation fulfilled.

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35.	Centre for children and juveniles "Ljubović"	Enable residents to acquire additional knowledge in the field of the health promotion and health care, especially for high-risk areas (the use of psychoactive substances, alcohol, tobacco, excessive use of pills and artificial proteins, sexual activity, etc.).	Recommendation put into practice. The Centre has an employee in charge of the medical care of residents, who organizes workshops with them in the field of prevention and health preservation. The Centre also cooperates with NGOs dealing with these issues, which occasionally organize workshops in this area.	Recommendation fulfilled. This practice needs to continue; it is necessary to organize regular interactive lectures in the areas of health prevention and health care.
36.	Centre for children and juveniles "Ljubović"	Prohibit the use of tobacco products among residents and prohibit employees from providing tobacco products to residents. Find appropriate pedagogical method which will convincingly present the hazards of smoking, particularly to underage juveniles.	Employees noted that smoking is strictly prohibited in the Centre, but also that they cannot control residents during their free time (out in town) and while in school. As opposed to the visit before publishing the Report, MT did not find any residents who smoked cigarettes.	Recommendation fulfilled.