

REPORT ON THE STATE OF HUMAN RIGHTS OF PATIENTS PLACED IN PSYCHIATRIC CLINICS IN MONTENEGRO

**Special Psychiatric Hospital in Dobrota, Kotor (hereinafter: the Hospital),
Psychiatric Clinic of the Clinical Centre of Montenegro (hereinafter: the Clinic) and
Psychiatric Ward within the General Hospital in Nikšić (hereinafter: the Ward)**

(21 November 2011)

Summary report

a) Patient's living conditions

It would be necessary to improve accommodation in all three monitored institutions and make them suitable for therapeutic environment. In accordance with the CPT recommendation, it is necessary to personalize patients' living space and enable them to keep their belongings locked. As regards the Hospital, the existing capacities are insufficient and particularly burdened by one-third of patients whose mental state does not require their placement in the Hospital ("social patients"). This problem should be urgently addressed by placing those patients in a social care institution. Regarding the Ward in Nikšić, it is necessary to ensure patients' stay in fresh air on daily basis and in that sense combat prejudice of other medical staff and administration of the General Hospital towards the mentally ill. In order to allow patients' stay in fresh air even in case of bad weather, all institutions should find adequate space solutions. Quality of patients' nutrition can be significantly improved with respect to all three institutions. As regards the Clinic in Podgorica, the material living conditions are particularly bad and require urgent improvement. The Clinic does not have the possibility of involuntary hospitalization, which means that in practice all patients in need of involuntary hospitalization are sent to the Hospital. In this sense it is necessary to provide material conditions for involuntary hospitalization at the Clinic in order to reduce the pressure on the Hospital and provide patients whose mental condition requires involuntary hospitalization the opportunity to be treated closer to their place of residence (especially important for patients from the northern part of Montenegro).

b) Implementation of the measure of compulsory psychiatric treatment and confinement in a medical institution

There is a problem of violation of international standards regarding implementation of the measure of compulsory psychiatric treatment and confinement in a medical institution for up to two years by misdemeanour authorities - which are not courts and do not have the capacity of independence, and are appointed by the executive branch. Nonetheless, misdemeanour



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authorities decide on involuntary placement in an institution in a summary procedure based on expert opinion, which in practice comes to a conversation between a court expert and offender.

c) Compulsory hospitalization

Guarantees in the context of involuntary placement of patients in the psychiatric institutions are not adequately implemented. Regarding the Hospital, the periods during which a competent court forwards its decision on involuntary hospitalization are upsettingly long, invalidating thus the urgency procedure, i.e. an effective right to appeal. Furthermore, it is necessary to ensure the guarantee of mandatory presence of a person in a court proceedings regarding involuntary hospitalization, except in cases where the court determines that the person is unable to understand the purpose and importance of the procedure by obtaining alternative opinion of an expert who is not employed at the facility where the person is involuntarily placed, etc. Regarding the Ward in Nikšić, no guarantees are enforced, which means that patients are hospitalized involuntarily and that the court is never informed about involuntary hospitalization, so it does not decide on it. The Clinic in Podgorica does not perform involuntary hospitalization.

d) Informing the patients, their family members or caretakers on their rights

Patients placed in psychiatric institutions are generally uninformed about their rights. This problem is particularly pronounced in patients who have been forcibly hospitalized. In this sense it is necessary to take measures to inform all patients, especially those who are hospitalized involuntarily and their families or their legal representatives, through e.g. appropriate brochures. If the patient is unable to understand his/her rights during the hospitalization, they surely should be informed as soon as there is improvement in their condition.

e) Abuse

Although complaints indicating abuse in monitored institutions have not been received, in this context it is particularly necessary to hire more nurses in the Hospital in Kotor, in order to provide patients with appropriate care. By reducing pressure at work the stuff is exposed to, the risk of burnout syndrome at work, which may lead to inappropriate reactions to patients, would be reduced.

f) Restraint registers

It is advisable to introduce a central restraint register in the Hospital in Kotor, in order to provide insight into implementation of restraint measures at the level of the whole institution. In addition to implemented measures of physical restraint of freedom of movement, the central registry would also include all cases of implementation of so-called chemical restraint (rapid calming of patients using medications from ampoules).



g) Independence of multidisciplinary bodies and control of implementation of measures of compulsory psychiatric treatment and confinement in a medical institution

The current method of appointment of multi-disciplinary bodies of the Council for Human Rights Protection of Patients and the Ethics Committee does not provide for their independence, given that Director of the Hospital proposes the appointment of members of both bodies. Also, the Ministry of Justice has not been supervising the implementation of measures of compulsory psychiatric treatment and confinement in a medical institution, which in practice means that the work of the Hospital is not subject to regular external supervision mechanism.

h) Occupational therapy

Implementation of occupational therapy in the monitored facilities could be improved. Its improvement is possible by increasing spatial capacity or redistributing existing facilities and hiring additional professional staff.

i) Treatment of female users of psychoactive substances

There are no facilities in Montenegro for treatment of female substance users. Furthermore, the institution for accommodation, rehabilitation and resocialisation of users of psychoactive substances is available only to men. Such discriminatory treatment should be corrected and women should be offered the same opportunities and treatment as men.

j) Relationship of the public, especially the media towards the mentally ill

Misconception that mentally ill persons generally can not be cured, that they pose a threat to the society and should be isolated and prevented from working or otherwise participating in the community life is widespread in Montenegrin public. The media should spread correct information and combat prejudice and false stereotypes. After all, they are bound to do so in accordance with the valid legislation, providing for the obligation to respect rights to privacy and prohibition of discrimination against the mentally ill by not disclosing their identity.



COMPARATIVE TABLE OF RECOMMENDATIONS BY THE CPT, THE PROTECTOR OF HUMAN RIGHTS AND FREEDOMS AND THE NGO MONITORING TEAM¹

CPT RECOMMENDATIONS ²	RECOMMENDATIONS OF THE OMBUDSMAN ³	RECOMMENDATIONS OF THE NGO MONITORING TEAM
✓ Fulfilled Recommendations	0 Partially fulfilled	x Unfulfilled Recommendations
III-Treatment		
✓ The CPT welcomes the measures taken and recommends that the management of Dobrota Special Psychiatric Hospital regularly remind		➤ To the Health Ministry: Immediately ensure the employment of another 15 nurses as provided for by the staffing plan enactment. In cooperation with the Hospital management, draw up a

¹ NGO Monitoring team has been established within the project “Monitoring Respect for Human Rights in Closed Institutions in Montenegro“. The team is composed of representatives of Human Rights Action (HRA) as project leader, and Centre for Civic Education (CCE), Centre for Anti-discrimination „EQUISTA“, and Women’s Safe House.

² The Report on the visit to Montenegro carried out by the European Committee for the Prevention of Torture, Inhuman or Degrading Treatment of Punishment (CPT) from 15 to 22 September 2008 is available at <http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.pdf>

³ The Special Report on the State of Human Rights of Institutionalised Mentally Disabled Persons by the Ombudsman of March 2011 is available in Montenegrin at: http://www.ombudsman.co.me/docs/izvjestaji/POSEBN_IZVJESTAJ_NS_21.03.2011.doc



<p>all staff that the ill-treatment of patients is not acceptable and will be punished accordingly.</p> <p>✓ The CPT recommends that the management takes measures to ensure that staff protects patients from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, but also that staff be properly trained in handling challenging situations/patients.</p>		<p>new staffing plan enactment reflecting the actual needs of the patients.</p> <p>➤ To the Hospital Director: In cooperation with the Ombudsman, install complaints boxes which may be opened only by an authorised member of his staff or provide for another direct form of communication with the Ombudsman's Office.</p> <p>➤ To the Hospital Director: Ensure the continuous transfer of the acquired non-violent conflict resolution skills and knowledge to the new Hospital staff.</p>
Forensic Psychiatric Unit (FPU)		
<p>X The CPT recommends that steps be taken to ensure that patients in the FPU have ready access to a proper toilet at all times, including at night.</p> <p>X The CPT recommends that the Montenegrin authorities review the</p>		<p>➤ To the Justice Ministry: Ensure that the FPU is relocated outside the Hospital grounds and adequate funding for its work, primarily for the indispensable security costs, in the meantime.</p> <p>➤ To the Justice and Health</p>



<p>selection, training and supervision of security staff assigned to the FPU, in the light of the above remarks.⁴</p> <ul style="list-style-type: none"> ○ The CPT recommends that all efforts be made to reduce the restrictions placed on the patient in question. Further, a record should be kept of the time during which he is locked up, with a view to ensuring appropriate monitoring.⁵ 		<p>Ministries: Design a protocol on the work of the FPU (until it is relocated), particularly with respect to the recruitment of the guard staff.</p> <ul style="list-style-type: none"> ➤ To the Health Ministry and the Hospital Director: Ensure that a greater number of mid-level medical staff are on duty in the FPU round the clock and that the guards are deployed outside the building. ➤ To the Hospital Director: Ensure that all FPU patients have round the clock access to toilets. ➤ To the Police Administration, Justice Ministry and the courts: Ensure that all criminal or misdemeanour offender suspected of suffering from a mental illness
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⁴ CPT Report, para 88: “Bearing in mind the challenging nature of their work, it is of crucial importance that staff assigned to security-related tasks in a psychiatric hospital be carefully selected and that they receive appropriate training before taking up their duties as well as in-service courses. Further, during the performance of their tasks, they should be closely supervised by – and subject to the authority of – qualified healthcare staff”.

⁵ The patient committed suicide.



		<p>are examined by a specialist in psychiatry and/or referred to a relevant psychiatric institution for a court expert evaluation.</p> <p>➤ To the Justice and Health Ministries: Urgently ensure the placement of Milan Zekovic, suffering from a mental illness, in an appropriate psychiatric institution.</p>
Patients' Living Conditions		
<p>X The CPT welcomes the ongoing efforts to refurbish the hospital and recommends that the Montenegrin authorities continue this process in the remaining non-renovated areas. As part of the renovation, efforts should be made to personalise the living environment and provide patients with personal lockable space for their belongings.</p>		<p>➤ To the Health Ministry and the Labour and Social Welfare Ministry: Ensure better territorial coverage by mental health centres, which will closely cooperate with the social work centres and provide care for mentally ill persons not requiring (further) hospital treatment, with the ultimate aim of providing mentally ill persons with community support and reducing the need for hospital treatment (except in the acute stages of the illness).</p>



		<ul style="list-style-type: none"> ➤ To the Health Ministry and the Podgorica City Administration: Provide adequate inpatient treatment and rehabilitation also for women suffering from alcohol or drug addiction in Montenegro. ➤ To the Health and Justice Ministries: Invest efforts to begin the construction of a Special Hospital within the State Administration for the Execution of Penal Sanctions as soon as possible and plan its staffing in advance to ensure that this hospital is operational once it is built. ➤ To the Health Ministry and Hospital Director: Renovate all facilities to provide a positive therapeutic environment. Refurbish the toilets and take measures to improve hygiene. ➤ To the Hospital Director: Make efforts to personalise the patients' living environment and provide the patients with space (cabinets) in which they can keep their
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		<p>belongings under lock.</p> <ul style="list-style-type: none"> ➤ To the Hospital Director: Improve the quality and diversity of the food and provide appropriate serving dishes. ➤ To the Health Ministry and Hospital Director: Furbish separate facilities within the pavilion so that the patients can receive visitors even in case of inclement weather and regardless of the availability of the cafeterias. ➤ To the Health Ministry and Hospital Director: Ensure that the Hospital is accessible also to persons with disabilities. ➤ To the Health Ministry and Hospital Director: Provide the Hospital with a new power generator.
Treatment and Activities		
X The Committee reiterates the recommendation made in the report	X To the Labour and Social Welfare Ministry and the Health Ministry: Take all the necessary	➤ To the Health Ministry: Urgently offer specialisation in child



<p>on the visit in 2004, that individual treatment plans be established for each patient, to include a psycho-social rehabilitation component. In this context, greater efforts should be made to increase the offer of therapeutic and rehabilitative activities (e.g. occupational therapy, individual and group psychotherapy, education, sports) and involve more patients in activities adapted to their needs.</p>	<p>measures to establish and develop various support services for families of mentally ill persons at the local level.</p> <ul style="list-style-type: none"> X To the Labour and Social Welfare Ministry and the Health Ministry: Take the necessary public outreach activities to eliminate prejudice against persons with mental health problems. X To the Health Ministry: Take all the necessary measures to ensure the protection of the mental health of children and adolescents and their hospital (inpatient) treatment. 	<p>psychiatry and in the meantime endeavour to ensure the availability of a specialist in child psychiatry in Montenegro. Provide hospital treatment for underage patients if necessary.</p> <ul style="list-style-type: none"> ➤ To the Director: We reiterate the CPT's recommendation about the need to design individual treatment plans for the patients. ➤ To the Director and the Health Ministry: Involve more patients in work-occupational and sports activities, diversify these activities and engage more work therapists or volunteers to that end. ➤ To the Director: Register every case of so-called rapid tranquilisation (chemical restraint) both in the unit/shift logbook and the unit records on means of physical restraint and regularly transfer all the data in the individual unit records to the central register.
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Staff		
<p>X The CPT recommends that the Montenegrin authorities define a recruitment strategy based on proper funding and enhanced conditions of service, with a view to ensuring adequate staffing levels at Dobrota Special Psychiatric Hospital.</p>	<p>X To the Labour and Social Welfare Ministry and the Health Ministry: Given the difficult conditions in the institutions, consider the possibility of increasing the salaries whereby they will be sufficiently attractive to recruit and retain staff.</p>	<ul style="list-style-type: none"> ➤ To the Labour and Social Welfare Ministry: Urgently ensure social care for persons in the Dobrota Hospital who are no longer in need of treatment in that institution (app. 1/3 of all hospital residents). ➤ To the Health Ministry and Hospital Director: Hire additional staff needed to ensure that work is up to standard. Take measures to attract



		<p>mid-level medical staff to work with the Hospital's psychiatric patients.</p> <ul style="list-style-type: none"> ➤ To the Health Ministry and Hospital Director: Invest efforts and money in the additional training of the Hospital staff and their exchange of experience with colleagues working in similar institutions. ➤ To the Health Ministry: Encourage more frequent internships of medical high school and college students in the Hospital. ➤ To the Health Ministry and Hospital Director: Install an alarm system, notably in the male and female acute wards, enabling the staff to seek assistance in case of an incident with a patient at all times. This measure is partly dependant on increasing the number of staff, because even this form of safety protection will not suffice if only one or two medical technicians or nurses are on duty in a ward.
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		<ul style="list-style-type: none"> ➤ To the Health Ministry and Labour and Social Welfare Ministry: Provide staff working in difficult circumstances and high risk wards with the possibility of reduced years of service for full retirement.
Means of Restraint		
<ul style="list-style-type: none"> • (partially adopted) The CPT recommends that steps be taken at Dobrota Special Psychiatric Hospital to ensure that both the policy and practice concerning the use of means of restraint comply with the requirements.⁶ 		<ul style="list-style-type: none"> ➤ To the Health Ministry and Hospital Director: In each ward where means of physical restraint are applied, allocate separate facilities for that purpose. ➤ To the Hospital Director: Keep precise ward records on applied means of physical restraint ➤ To the Hospital Director: Ensure the keeping of a central register to

⁶ CPT Report, para 99: “While welcoming the improvements already made the CPT wishes to stress that patients in respect of whom means of mechanical restraint are applied should not be exposed to the view of other patients. Further, whenever a patient is subjected to restraint, a trained member of staff should be continuously present in order to maintain the therapeutic alliance and to provide assistance. In addition, the systematic recording of every instance of use of means of restraint, both in the specific register and the patient’s file, should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered and approved it, and an account of any injuries sustained by the patient or staff. “



		<p>which data in the ward records will be continuously transferred and which will provide an overview of all applied means of physical restraint at the Hospital.</p> <ul style="list-style-type: none"> ➤ To the Hospital Director: Debrief patients after they had been subjected to means of physical restraint. ➤ To the Hospital Director: Ensure the enforcement of the legal obligation to immediately notify not only the independent multi-disciplinary body but the legal representative of the mentally ill person as well of the applied physical force.
Safeguards		
✓ The CPT recommends that the cases of all chronic patients be reviewed and that those patients meeting the criteria for involuntary placement be subject to the relevant procedure. In	X To the Labour and Social Welfare Ministry and the Health Ministry: Take all the requisite measures to establish mechanisms for supervising and monitoring the work of the institutions and nationwide standards of services	➤ To the Hospital Director: Ensure abidance by the Law on the Protection and Exercise of the Rights of Mentally Ill Persons, under which a mentally ill person must give his/her written consent



<p>this context, measures should be taken to ensure that written consent to hospitalisation is always sought in compliance with the law.</p> <p>X As regards voluntary chronic patients, efforts should be made to place them in appropriate community-based facilities.</p> <p>✓ The CPT welcomes the recent introduction of a form on consent to treatment and recommends that the procedures be reviewed with a view to ensuring that all patients (and, if they are incompetent, their legal representatives) are provided systematically with information about their condition and the treatment prescribed for them;</p> <p>X and that doctors be instructed that they should always seek the patient's consent to treatment prior to its commencement. The form concerning</p>	<p>provided to the beneficiaries.</p> <p>X To the Health Ministry and Special Psychiatric Hospital: In accordance with the regulations, take the measures to review whether it is necessary to extend a patient's placement in the socio-rehabilitation or addiction ward of the Special Psychiatric Hospital Dobrota.</p>	<p>to an examination or medical treatment in the event s/he is capable of taking a decision and expressing his/her will.</p> <p>➤ To the Hospital Director: Ensure that doctors issue confirmation of a patient's ability to consent to treatment in accordance with the law.</p> <p>➤ To the Hospital Director: Ensure that the court is notified of all instances of compulsory hospitalisation within the 48-hour legal deadline.</p> <p>➤ To the Kotor Court President: Ensure that deadlines regarding compulsory hospitalisation in the Law on Extra-Judicial Proceedings are met effectively.</p> <p>➤ To the Hospital Director: Ensure that the patient is personally served with a written decision on compulsory placement in a psychiatric institution and with a</p>
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<p>informed consent to treatment should be signed by the patient or (if he is incompetent) by his legal representative. Relevant information should also be provided to patients (and their legal representatives) during and following treatment.</p> <p>The CPT recommends that the Montenegrin authorities take steps to ensure that <i>in the criminal proceedings</i>:</p> <ul style="list-style-type: none"> ✓ patients subject to compulsory treatment are granted the right to appeal against the court's decision and to ask for an independent opinion by an outside psychiatrist; ✓ patients subject to compulsory treatment are assisted by a lawyer during the proceedings, those who are not in a position to pay for a lawyer themselves being provided with legal assistance; 		<p>written explanation of the grounds for the decision and the possibilities and deadlines within which such a decision may be appealed.</p> <ul style="list-style-type: none"> ➤ To the Justice Ministry: Amend the Law on Extra-Judicial Proceedings by laying down the following obligations of the court in case of compulsory hospitalisation: (1) to hear in person the person whose hospitalisation is at issue in first-instance or appellate proceedings; (2) to seek a second opinion on the necessity of compulsory hospitalisation from a court expert in psychiatry who is not working in the institution; (3) to assess whether the person, whose hospitalisation is at issue, is able to comprehend the importance and legal consequences of his/her participation in the proceedings; (4) to ensure that patients subjected to compulsory treatment are assisted by a lawyer during the
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<p>✓ patients subject to compulsory treatment have the effective right to be heard in person by a judge during the review procedures.</p> <p>X The CPT invites the Montenegrin authorities to take steps to ensure that the Council for Human Rights Protection of Patients is truly independent.</p> <p>X The CPT recommends that the Montenegrin authorities develop a system of regular visits by an independent outside body to Dobrota Special Psychiatric Hospital. This body should be authorised, in particular, to talk privately with patients, examine all issues related to their living conditions and treatment, receive directly any complaints which they might have and make any necessary recommendations.</p>		<p>proceedings and to provide legal assistance to those who cannot afford a lawyer.</p> <ul style="list-style-type: none"> ➤ To the Hospital Director: Ensure that a person subjected to compulsory treatment and his/her family are personally notified of his/her rights. Prepare an appropriate brochure. ➤ To the Justice Ministry: Ensure regular checks of the lawfulness of the enforced measures of compulsory psychiatric treatment and placement in a health institution. ➤ To the Government and the Assembly: Urgently pass a law ensuring that misdemeanour proceedings are conducted by courts i.e. that misdemeanour judges are appointed in the same manner as judges of courts with general jurisdiction. ➤ To misdemeanour authorities: Refrain from ordering compulsory
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		<p>treatment and placement in a psychiatric institution without prior referral of the offender to a psychiatric institution for observation.</p> <ul style="list-style-type: none"> ➤ To the Justice Ministry: Lay down in the Law on the Protection and Exercise of the Rights of Mentally Ill Persons (Art. 17(3)) the obligation to notify the family of a mentally ill person that s/he has been subjected to a medical procedure without his/her consent. ➤ To the Justice Ministry: Delete the provision in Art. 50(1) of the Law on Extra-Judicial Proceedings. ➤ To the Health Ministry and Hospital Director: Amend the Hospital Statute to ensure the impartiality of the Council for the Protection of the Rights of Mentally Ill Persons (the provisions on the nomination and appointment of Council members).
Addictions Ward		



		<ul style="list-style-type: none"> ➤ To the Health Ministry: Enable the urgent placement of women addicted to alcohol or drugs in a facility outside the female acute ward. ➤ To the Health Ministry: Provide funds for the refurbishment of the ward and increase its accommodation capacities or open such wards in some other institutions. ➤ To the Justice Ministry: Take measures, notably in the form of judicial training, to ensure that the courts regularly review the need to extend compulsory treatment ordered by the court and the timely release of patients who have recovered; this would allow for the treatment of a greater number of people within the current capacities.
Psychiatric Ward within the Niksic General Hospital Public Health Institution		
		<ul style="list-style-type: none"> ➤ Urgently ensure the implementation of safeguards in



		<p>the context of compulsory placement on admission to the Ward, during placement and on release, particularly in the form of court supervision.</p> <ul style="list-style-type: none"> ➤ Take measures to dispel prejudices against mentally ill persons, particularly among the medical staff and administration, because they result in the discrimination of the patients. ➤ Ensure that patients regularly spend time outdoors, in the yard, and provide a sheltered area allowing them to spend time outside the Ward in case of inclement weather as well. ➤ Recruit a Ward doorman. ➤ Improve nutrition of the Ward patients. ➤ Ensure that the patients are aware of their rights.
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		➤ Simplify the procedure by which the patients may contact the Protector of Patients' Rights.
Psychiatric Clinic of the Clinical Hospital Centre of Montenegro in Podgorica		
		<p>➤ To the Health Ministry: Improve the material conditions in which the patients live and the staff work by performing a general refurbishment of the facility, which will result in:</p> <p>a) Reduction of the number of beds in the rooms.</p> <p>b) Allocation of a room for work with the patients and therapeutic communities.</p> <p>c) Allocation of rooms for the physical restraint of patients.</p> <p>d) Provision of IT equipment for the staff.</p>





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