

**Final assessment on the fulfilment of recommendations
presented in the Report:**
***Respect for human rights of detained and sentenced persons in
the Institution for Execution of Criminal Sanctions (ZIKS)***
(Summary)



The project is funded by the European Union,
managed by the Delegation of the European Union to Montenegro



Ambasada
Savezne Republike Njemačke
Podgorica

Podgorica, March 2013

This document has been produced with the financial assistance of the European Union and the Embassy of the Federal Republic of Germany Podgorica. The contents of this document are the sole responsibility of Human Rights Action and can under no circumstances be regarded as reflecting the position of donors.

INTRODUCTION AND CONCLUSIONS

Tea Gorjanc-Prelević, LL.M., Executive Director of Human Rights Action and Project Coordinator

Within the project "Monitoring Respect for Human Rights in Closed Institutions in Montenegro", implemented over a period of two years by NGOs Human Rights Action, Centre for Anti-discrimination "EQUISTA", Centre for Civic Education, Women's Safe House (Shelter) in cooperation with partners from abroad Belgrade Centre for Human rights and Latvian Centre for Human Rights, majority of time and energy has been invested in the monitoring of the prison system in Montenegro. Monitoring team paid 29 visits to facilities of the Institution for Execution of Criminal Sanctions (hereinafter: ZIKS), submitted dozens of requests for free access to information and received the same number of responses, interviewed ZIKS management representatives, former prisoners and employees. The main objective of the project was to monitor and assess the implementation of recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to the Government of Montenegro, and recommendations of the Protector of Human Rights and Freedoms of Montenegro (hereinafter: Ombudsman).

Monitoring team noticed an improvement in the openness of ZIKS management and willingness to provide citizens with an insight into the living conditions of prisoners. During the first phase of the project, to June 2012, monitors were not allowed to talk to prisoners without the presence of ZIKS officials; however, later they were allowed to interview them. During several interviews with randomly selected groups of prisoners at the Remand Prison and the Institution for sentenced prisoners monitors have not received any complaints of ill-treatment by ZIKS officers. Based on this, we believe that the treatment of detainees and convicts in ZIKS has significantly improved. In 2012 ZIKS recorded a total of 7 cases of excess use of force, and in 2013 not a single case has been recorded. From June 2012, when preliminary monitoring report was published, until mid-March 2013 ZIKS administration did not receive any complaint of ill-treatment by officials from detainees or convicted persons. During the same period the Ombudsman examined two cases of application of force by ZIKS officials and found that there had been no abuse in the said cases.

In relation to the effective prosecution of allegations of abuse, the case of Marko Đurković from May 2012 was prosecuted with unjustified delay of seven months. Also, ZIKS management informed the police about this case only five months after its occurrence. However, since then cases of alleged ill-treatment in Remand Prison and unit A within the Institution for sentenced prisoners from October and December last year were processed without delay. Also, the police received timely notice about a physical assault of another prisoner against convict Igor Milić, and criminal proceedings against the attacker is currently in progress.

The problem of overcrowding in ZIKS is very present. Accommodation facilities are reconstructed to some extent, however, new prison facilities in Bijelo Polje and Podgorica have not been constructed, as the CPT was informed in 2008. Funds for the construction of a prison in Bijelo Polje, prison for long sentences in Podgorica and Special Prison Hospital have finally been provided, although it is uncertain when the construction would start and these objects become operational. Institution for sentenced prisoners currently accommodates 244 people over its capacity. Although the accommodation capacity in detention (Remand Prison) is not exceeded and the number of detainees has almost halved compared to 2008, accommodation of detainees is still cramped (monitors noticed a room on the second floor accommodating 11 people in about 25m², which is far from the minimum international standard of 4m² per person). Prisoners in unit A in the Institution for sentenced prisoners are in a particularly difficult position, given that there are, for instance, 28 people in a room of about 50m² with inadequate heating. However, ZIKS management stated that funding has been provided to tear down this unit next year and construct a new one instead in accordance with the standards, which is encouraging.

Remand Prison in Podgorica should be fully renovated or a completely new building should be built for this purpose. Detainees stay locked in small rooms usually 23 hours a day, sometimes for six or more years. Except for a one-hour walk, which lasts only half an hour on Thursdays and Fridays during the visits, and the possibility to ride a dilapidated stationary bike in a particularly small room, detainees have not been offered any other activity outside the cell, contrary to the recommendation of the CPT, which states that they should be engaged in such activities for 8 hours a day. All in all, persons who are in custody and should therefore be protected by the presumption of innocence live in much worse conditions than prisoners, which should also be borne in mind by judges imposing or continuing detention. Monitors have also visited one minor who was held in detention this year. Conditions of his accommodation were also poor - the room was small and unpainted, although he was able to stay in the yard of the Remand Prison for three hours a day, unlike other detainees. He was allowed to receive visitors once a week, same as other detainees, contrary to the CPT recommendation according to which juveniles' contact with the outside world should be "actively promoted".

DISCIPLINARY SANCTIONS, MEASURES AND PROCEDURES

Most of the recommendations have been implemented, documentation of disciplinary actions is properly kept and House Rules are available to both detainees and prisoners. Punishment of solitary confinement for more than 21 days occurred in 10% of cases, but such longer placements under solitary confinement were usually terminated earlier. As regards the upcoming amendments to the Law on Execution of Criminal Sanctions, latest recommendations of the CPT in relation to solitary confinement should be borne in mind, in particular the one stating that solitary confinement should

not take longer than 14 days. The new Law should also improve guarantees of fairness of disciplinary proceedings, extend the deadlines for court protection, prescribe periodic reviews of decisions on solitary confinement and transfer, prescribe remedies against those decisions, etc. Decisions on transfer still do not contain an instruction on legal remedy. It is necessary to encourage inmates to take advantage of mediation team services in the event of a conflict.

TREATMENT

Treatment is a key component for achieving the purpose of imprisonment. However, this is also an area that has not been significantly improved since the report from June 2012, so it is necessary to reorganize the existing treatment system without further delay. We have noted in the Report that the main issues have been the lack of a sufficient number of qualified staff and very numerous educational groups, including 60 to 100 persons in Podgorica Prison and up to 150 people in Bijelo Polje Prison, with only one educator working with this group. In the meantime, except for interns, no additional professional staff have been engaged. Educators ("professors") still help prisoners write their appeals, complaints, requests, etc., and later distribute them to ZIKS Administration, which burdens educators, distracts them from performing their professional duties and prevents the implementation of quality treatment and thus the achievement of the purpose of imprisonment. It is necessary to employ additional professional staff and precisely define the scope of work of educators in accordance with their qualifications, organize ongoing training for staff on new methods of work, provide professional supervision programs and programs for the prevention of "burn-out" syndrome.

We wish to commend a decision by ZIKS management to implement the recommendation to develop a business plan for the improvement of production in ZIKS in order to increase opportunities for employment of prisoners. Monitors have been informed that the expert team of the Faculty of Economics, University of Montenegro is drafting this plan.

It is necessary to clearly define treatment plans at the level of the institution (social reintegration programs, reducing of recidivism and improvement of the mental health of prisoners) and implement plans in accordance with individual needs, offer additional and meaningful activities and provide conditions for their implementation.

In accordance with the recommendation of the CPT, it is necessary to change the regime for detainees, whose position is particularly unfavourable. Lack of outdoors activities has devastating effect on their mental and physical health, given that detainees spend majority of their time in the cells,

with the exception of a one-hour walk, especially if taken into account that some of them have been in custody for 6 years or even longer. It is particularly worrying that nearly the same regime applies to juveniles in custody.

CONTACT WITH THE OUTSIDE WORLD

It is commendable that ZIKS Administration implemented the recommendations to align the House Rules with European standards and abolish the practice to use the prohibition of contact with the outside world as a disciplinary measure against detainees and prisoners. Also, persons under investigation, with the court approval, have access to a telephone.

However, no changes have been made to the visit rooms at the Remand Prison (a booth-type facility), which do not provide privacy or physical contact between prisoners and visitors. In addition, due to the lack of adequate facilities, 3-hour family visits with children have not been allowed. The current Law on Execution of Criminal Sanctions does not grant the right to conjugal visits to unmarried and homosexual partners.

HEALTH-CARE

It is necessary to hire sufficient number of doctors and nurses and provide appropriate stimulus for medical staff for the work in prison conditions, especially by ensuring their annual leaves, as well as adequate compensation which includes overtime pay. In connection with the lack of sufficient number of doctors, there is also a problem of not carrying out medical examination within 24 hours upon admission of a prisoner.

ECG machines should be provided for prisons in Podgorica and Bijelo Polje and the offer of medications increased. Also, provide a device for defibrillation and equip a mini laboratory in Podgorica Prison.

It is necessary to set up a drug-free unit within the prison with a higher level of supervision, in order to provide an environment free of drugs for those who might want that.

It was observed that during the recording of injuries doctors do not always enter in the medical record of a prisoner their conclusion as to whether the observed injuries are consistent with the allegations of the injured person about the manner they have been sustained, in accordance with the recommendation of the CPT.

Amend the House Rules for Enforcement of Prison Sentences in accordance with the European Prison Rules and abolish the obligation of doctors, envisaged by the Rules, to provide their precise and reasoned written opinion as to whether a person is fit to undergo solitary confinement prior to the execution of a disciplinary punishment of solitary confinement; introduce an obligation for a health professional to visit the prisoner placed in solitary confinement at least once a day and be attentive to the possible harmful effects of solitary confinement on the mental and physical health of isolated individuals. Furthermore, health-care staff should be informed of every instance of disciplinary isolation.

Recommendation of the CPT and the Ombudsman to urgently refer convict Milan Zeković, who had been imposed the measure of compulsory treatment in a psychiatric institution, to an appropriate medical institution in Montenegro or abroad has not been met over the past four years.

STAFF

New staff are being engaged in accordance with the new job systematization. This procedure will ensure an increased number of employees in addition to positions being covered by persons with the appropriate level of expertise. March salary has been increased due to difficult working conditions and overtime hours were paid. However, disputes are still being conducted due to previous debts to employees. Funds for new uniforms have been provided.

Increased number of employees who should start working in the coming months will relieve pressure on ZIKS staff, particularly in the security and treatment sectors. However, we believe that the new job systematization does not provide for a sufficient number of medical staff and that ZIKS, which accommodates 1300 people, needs for more than 3 doctors (currently there is only 1) and 10 nurses.

We expect that the increased number of staff will allow everyone to use the necessary break during their shift ("time-out"). We also expect that a training program for the prevention of burn-out syndrome will be implemented, to the benefit of all staff members who are in constant and direct contact with detainees and convicted persons.

FULFILLMENT OF RECOMMENDATIONS OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE (CPT) AND NGO MONITORING TEAM

Of a total of 164 recommendations made by the monitoring team in June 2012,

- 53 recommendations were adopted (32%),
- 50 recommendations were partially adopted (31%),
- 61 were not adopted (37%).

Thus, about two-thirds of our recommendations were implemented in whole or in part, while one-third were not.

From a total of 59 recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to the Government of Montenegro in relation to ZIKS set out in the Report on its visit to Montenegro from 15 to 22 September 2008, 17 recommendations were not adopted (or 28%), while 42 were adopted in whole or partially. When compared with the result from June 2012, it is evident that during the past 8 months as many as 20 CPT's recommendations, which had not been implemented earlier, were fully implemented, which represents a very significant progress.

The new Law on Execution of Criminal Sanctions, construction of new facilities and employment of new staff should raise the standards in the prison system in Montenegro to a very high level, fully in line with European standards.

On behalf of the team of monitors who worked on this project, I wish to pay special thanks for cooperation to Ms. Slavica Rabrenović, Deputy Minister of Justice and Head of the Directorate for Execution of Criminal Sanctions and Mr. Miljan Perović, ZIKS Director, his assistants and prison chiefs. We were under the impression that we have worked with our colleagues in pursuing the common goal. I wish You much success in Your future endeavours.

Finally, special thanks go to our donors, Delegation of the European Union to Montenegro and Embassy of the Federal Republic of Germany in Podgorica, without whom all the results of our project, including books we have provided, brochures that are currently in print and film that has just been finished would not be possible.