



RESPECT FOR HUMAN RIGHTS OF RESIDENTS IN THE PUBLIC INSTITUTION “KOMANSKI MOST”

REPORT OF NGO MONITORING TEAM

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



SIGURNA ŽENSKA KUĆA



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Podgorica
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AUTHORS

Jovana Hajduković

Maja Raičević

EDITOR

Tea Gorjanc-Prelević

TRANSLATION

Ana Tonic

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1. INTRODUCTION

1.1. About the project and report

Project “Monitoring Respect for Human Rights in Closed Institutions in Montenegro”, whose aim is to promote human rights of persons residing in these institutions, was implemented by Montenegrin NGOs Human Rights Action (HRA), as the project leader, Centre for Anti-discrimination “EQUISTA”, Centre for Civic Education (CCE) and Women’s Safe House (Shelter), in cooperation with the Belgrade Centre for Human Rights and Latvian Centre for Human Rights. This project was 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 carried out in the period from 1 March 2010 to 31 March 2013.

Under this project, on 17 June 2011, the project leader NGO “Human Rights Action”, the Ministry of Labour and Social Welfare and the Public Institution Komanski Most concluded an agreement on cooperation, allowing unannounced visits of NGOs monitors to Komanski Most Institution for People with Special Needs, presentation of and discussion about monitoring reports at the round table, development of a brochure on the rights of Institution’s residents and cooperation in a public campaign aimed at raising awareness about the rights and needs of Institution’s residents.

The report below includes an overall assessment of the monitoring team of the above mentioned NGOs from Montenegro on the extent of adoption of recommendations for improving the respect of the rights of Komanski Most Institution residents provided by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the Protector of Human Rights and Freedoms (hereinafter: Ombudsman), as well as additional recommendations of NGOs that participated in this project.

The report has been developed in a manner that allows tracking of the progress made since the start of the monitoring in July 2011 until the publication of the first report in November 2011 and the final report in February 2013.

At the end of each chapter there is a reference to the appendix – a table indicating what has been improved in certain areas. Appendix at the end of the report assesses adoption of recommendations at the time of publication of the final report in February 2013, i.e. until the end of March 2013.

1.2. Visits

Our initial visits to Komanski Most Institution (hereinafter: the Institution) took place in 2010, during the period that preceded the official start of the project. It was then that the idea of the need for systematic monitoring of human rights of residents of this Institution arose. These visits represented a voluntary civic initiative of future project partners - NGO Human Rights Action, NGO Shelter and NGO EQUISTA.

The initiative was a response to allegations set forth in the CPT reports and the media about “appalling” living conditions and treatment of residents of the Institution, assessed by the CPT as inhuman and degrading treatment¹, as well as to the complaint of a parent of one of the residents of Komanski Most Institution², which was a formal reason for the first visit to the Institution carried out by Tea Gorjanc Prelević and Maja Raičević. This was followed by the beginning of the reform of Komanski Most Institution, which also implied the dismissal of its management and director³, who held that position for decades and whose work was followed by numerous controversies regarding brutal violations of residents’ human rights⁴, established in the Report to the Government of Montenegro on the visit to Montenegro carried out by the CPT in 2008. This report was made available to the public only in April 2010, despite the efforts of NGOs to make this happen earlier.⁵ Only after the publication of the CPT’s report a new director was appointed and the reform of the Institution began, which has significantly improved the living conditions of its residents.

As of the beginning of the project in 2011, there were a total of 12 several-hour visits to the Institution - 5 in the period from July to November 2011, for the purpose of preparing the first report and 7 between March 2012 and February 2013, when the final report was presented, providing final assessment on the fulfilment of recommendations of the CPT, the Ombudsman and NGOs involved in the project.

First unannounced visit took place on 21 July 2011. Monitoring team included: Tea Gorjanc-Prelević, Project Coordinator, HRA; Maja Raičević, Assistant Project Coordinator, Shelter; Milan Šaranović, Assistant Project Coordinator, EQUISTA; Jovana Hajduković, social worker, Shelter; Velibor Bošković, legal expert, EQUISTA.

Second visit was conducted on 5 August 2011. The visit was announced, in order to ensure an interview with the Institution Director Vaselj Dušaj, and physician Dr Mersudin Grbović. The monitoring team included: Olivera Vulić, psychiatric specialist, monitor; Maja Raičević, Assistant Project Coordinator, Shelter⁶; Jovana Hajduković, social worker, Shelter; Mirjana Radović, legal expert, HRA.

Third, unannounced visit, was conducted on 22 September 2011 by Maja Raičević, Assistant Project Coordinator and Jovana Hajduković, social worker, Shelter.

1 Report to the Government of Montenegro on the visit to Montenegro carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 15 to 22 September 2008, p. 114 and 127.

2 The initiative was awarded the Special Erste Foundation Award for Social Integration in June 2011. More about the award on the following link: http://www.socialintegration.org/wpcontent/uploads/2012/09/EFASI2011_winners_EN_FINAL_GENERAL.pdf.

3 Director of the Institution Vuk Mirković was in office for 27 years, including in 2000 and 2002, when two children disappeared from the institution under mysterious circumstances, as well as in 2008, when the CPT found that the residents at the Institution were abused by chaining, isolation and unsanitary conditions in which they were forced to live. He was transferred to the position of Deputy Director of the Social Welfare Centre in Podgorica (“Mirković received promotion instead of a punishment”, *Vijesti*, 26 January 2011).

4 During 2010 partner NGOs submitted a request to the Supreme State Prosecutor (SSP) to initiate investigation of the events at the Institution. After nearly two years the SSP stated that the investigation did not show results because representatives of the Institution and the Ministry had not submitted the requested documents or those that would point to the commission of criminal offenses. Letter to the SSP and SSP’s response are available on the website www.hraction.org.

5 In April 2010, subject to the permit of the Government of Montenegro, CPT published the report in English on its website. Montenegrin Government published the translation of the report in September the same year. HRA requests to the Montenegrin Government to publish the report from 2009 are available at www.hraction.org.

6 Following this project, Maja Raičević became executive director of NGO Centre for Women’s Rights.

Fourth unannounced visit was conducted on 19 October 2011 by Tea Gorjanc- Prelević, Project Coordinator, HRA; Maja Raičević, Assistant Project Coordinator, Shelter; and Milan Šaranović, Assistant Project Coordinator, EQUISTA.

During the fifth announced visit on 27 October 2011, Maja Raičević, Assistant Project Coordinator, Shelter, conducted an interview with the Director of the Institution, Vaselj Dušaj.

Sixth, unannounced visit to the Institution took place on 23 March 2012 and was carried out by Maja Raičević, Assistant Project Coordinator and Jovana Hajduković, social worker, Shelter.

Seventh and eighth visit to the Institution were conducted by Maja Raičević on 3 and 24 August 2012.

Ninth visit was carried out by Maja Raičević, Assistant Project Coordinator and Jovana Hajduković, social worker, Shelter on 23 January 2013.

Tenth visit was conducted on 31 January 2013 by a team consisting of Maja Raičević, Assistant Project Coordinator, Shelter; Milan Šaranović, Assistant Project Coordinator, EQUISTA and Jovana Hajduković, social worker, Shelter.

Eleventh - unannounced visit was conducted on 13 February 2013 by Maja Raičević and Jovana Hajduković.

Final, twelfth visit, after which the final report was published, took place on 18 February 2013. During the visit an interview with the director of the Institution Vaselj Dušaj was conducted, attended by Maja Raičević and Jovana Hajduković.

1.3. Aim, method and sources of information

The subject of this report is a description and assessment of the respect for human rights of residents in the Public Institution Komanski Most for People with Special Needs. The aim of the report is to contribute to improving the living conditions of the residents, while pointing out good practices and deficiencies in the work of the Institution, especially through monitoring the implementation of recommendations of the CPT and the Ombudsman in relation to this institution. The report follows the progress in the field of human rights of people with intellectual disabilities that has been made during the project implementation.

In addition to the above twelve visits to the Institution, in order to objectively report on the respect for human rights of its residents and assess the fulfilment of recommendations presented in the form of the final report, monitoring team also used other available sources of information, such as interviews with the Institution staff, staff of the Podgorica Social Welfare Centre (social worker and a psychologist), residents, residents' parents and representatives of other civil society organizations dealing with the rights of people with intellectual disabilities. Furthermore, monitors requested and obtained responses in writing from the Institution Director, the Ministry of Labour and Social Welfare and the Ministry of Health. Relevant international standards and recommendations⁷ were taken into account, applicable regulations in Montenegro

⁷ Universal Declaration of Human Rights; European Convention for the Protection of Human Rights and Fundamental Freedoms; Convention on the Rights of Persons with Disabilities; Convention on the Rights of the Child; UN Standard

related to social and health care and status of persons with intellectual disabilities⁸, material for monitors from the training conducted by experts of the Latvian Centre for Human Rights and the Belgrade Centre for Human Rights, reports of the CPT⁹ and the Montenegrin Ombudsman¹⁰ and their recommendations, as well as available international standards for this type of institution.¹¹ All these sources, along with the report, are available on the project's website: www.hracion.org/monitoring_u_ustanovama_zatvorenog_tipa.

The problem encountered in the analysis of the respect for human rights in institutions for people with special needs was the lack of national standards related to this area and the lack of literature concerning the operation of similar institutions. Specifically, the process of de-institutionalization of institutions for the care of persons with intellectual disabilities is well underway in Europe, which implies different working principle and a number of innovations that have been planned in Montenegro through the reform of social and child care. This process, which is ongoing, provides for drafting of the new Law on Social and Child Protection¹² and relevant by-laws that should regulate this area in detail (Social and Child Protection Strategy and accompanying regulations), and that were not yet adopted during the project implementation.

The visits were carried out by monitors of different professional backgrounds, additionally educated on this matter at the training held from 12 to 14 May 2011 in Podgorica.¹³ In addition to HRA and partner NGOs representatives, the monitoring team included psychiatrist Dr Olivera Vulić, representative of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in Montenegro, employed at the Podgorica Health Centre (Dispensary for Mental Health), who was engaged as the project monitor in a professional capacity as a psychiatrist.¹⁴

In drafting of the report, the monitoring team used qualitative research, content analysis, legal analysis especially in the form of comparison of national legislation with international standards and recommendations. As regards scientific research techniques, the monitors used observation and interview.

Rules on the Equalization of Opportunities for Persons with Disabilities; CPT recommendations in the reports to the Council of Europe member states, etc.

8 The Constitution of Montenegro (Sl. list CG, 1/2007); Anti-Discrimination Law (Sl. list CG, 46/2010); Law on the Rights of Mentally Ill Persons (Sl. list RCG, 32/05); Law on Healthcare (Sl. list CG, 39/2004 and 14/2010); Law on Social and Child Protection (Sl. list CG, 78/2005); Decision on the organization of the Public Institution for accommodation of people with special needs (Sl. list RCG, 11/06); Rulebook on internal organization and job classification in the Public Institution "Komanski most" published on the notice board of the Institution, no. 04 -842, Podgorica, 10 December 2010; Statute of the Public Institution "Komanski most" of 1 June 2006; Rules on detailed conditions for the exercise of the fundamental rights of social and child welfare (Sl. list RCG, 5/94, 31/95 and 47/01); Work Program for 2011 in the Public Institution "Komanski most", January 2011.

9 Report on the visit to Montenegro carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 15 to 22 September 2008, available at: 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>.

10 Special report of the Ombudsman on the human rights of mentally ill persons placed in institutions, March 2011, available at: <http://www.ombudsman.co.me/izvjestaji.php>.

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

12 The Law on Social and Child Protection was adopted by the Parliament of Montenegro on 28 May 2013.

13 Training was conducted by experienced and reputable trainers from partner organizations - the Belgrade Centre for Human Rights and Latvian Centre for Human Rights.

14 Ms. Vulić previously sought the opinion of the CPT's Vice-President and received confirmation that she may participate as a monitor in this project.

2. HISTORY OF THE INSTITUTION

Komanski Most Institution was established in 1976 as an institution for children and young people with moderate, severe and profound intellectual disabilities. The Institution has about 3 acres of land, comprising three wards for accommodation of residents. The total area of the facility and the surrounding area is 2,623 m².¹⁵

Pursuant to the Decision on the organization of the Public Institution for accommodation of persons with special needs¹⁶ of 2 February 2006, Komanski Most Institution was organized as a public institution for people with intellectual disabilities.

3. RESIDENTS' LIVING CONDITIONS

3.1. Number of residents

At the time of drafting the first report (June - November 2011), the Institution accommodated 121 persons with intellectual disabilities: 64 men, 47 women and 10 children, while in February 2013, at the end of the reporting period, the Institution accommodated 116 persons: 59 men, 48 women in 9 children.

Residents are placed in three wards: Ward A, accommodating men, Ward B, accommodating women and Ward C, accommodating children.

3.2. Hygienic conditions

During the majority of visits the hygiene level was satisfactory and the situation in this regard improved as the project progressed. According to staff, hygiene of the rooms is maintained several times a day, and bedding is regularly replaced in all rooms. This represents an apparent improvement compared to the situation found by the CPT in September 2008, as well as compared to the experience of HRA and Shelter during the 2010 visits.¹⁷

3.3. Ward A – men

Newly-renovated Ward A, accommodating men, has been divided into three blocks, in accordance with the capabilities of residents, implementing thus Ombudsman's

¹⁵ Data from the official website of the Public Institution "Komanski most": <http://juzkomanskimost.me/>. The terminology is consistent with the chronology of the official term referring to people with intellectual disabilities.

¹⁶ Decision on the organization of the Public Institution for accommodation of people with special needs (*Sl. list RCG*, 11/06).

¹⁷ "In some of the dormitories, there was urine and faeces on the floor, walls and bedding. Furthermore, the establishment was infested with mice." CPT Report on the 2008 visit to Montenegro, p. 114.

recommendations.¹⁸ The first accommodates residents with profound intellectual disabilities,¹⁹ with limited or no ability to look after themselves, incapable of communication and mobility. Second part of this ward accommodates residents with severe intellectual disability, and the third - residents with moderate impairment in intellectual development.

During the visit in October 2011, on the ground floor of Ward A, in the common room, monitors noticed the table taking up most of the room, while residents with severe intellectual disability mostly lay or sat on the floor around the table. Monitors suggested that more comfortable furniture would be more suitable for the common room, especially because it did not appear that any of the residents present in the room at the time of the visit could perform any activities at the table; furthermore, monitors did not receive any information that the table was being used for occupational therapy. It was also necessary to re-paint the room or clean the walls which are dirty. Our recommendation was adopted. During the visit in February 2013 monitors found the residents sitting on mats and staff painting the living-room in Ward A (for details see Appendix, recommendation 3).

3.4. Ward B – women

Recommendations from the 2008 CPT Report²⁰ and Ombudsman's recommendations from 2008²¹ and 2011²² regarding the separation of residents by gender have been met by adapting Ward B, accommodating only women.

Ward B consists of two parts. One part accommodates female residents with moderate intellectual disabilities, with whom it is possible to implement occupational therapy. Rooms of some female residents in this part are equipped with a TV set. Second part accommodates female residents with severe intellectual disabilities, semi-mobile and immobile, who have not adopted hygiene and self-service habits. In Ward B there is a staff room equipped with a video surveillance monitor, which enables supervision of the movement of female residents and persons entering the ward. This is a novelty compared to 2010, when there was no proper supervision of persons entering the ward. During HRA and Shelter's visits that year, it was noted that adult male residents freely entered the section of Ward B accommodating semi-mobile and immobile female residents, which could have led to the risk of their abuse.

Renovation and equipping of gynaecology clinic and general medical clinic in Ward A started in 2011 and was fully completed in 2012. Access to the general medical clinic is more difficult for wheelchair users, while access to the gynaecology clinic is adequate, as the door width complies with the standards.

18 "Separate adult residents by gender - accommodation in separate wards, as well as by age and level of their abilities (within the same ward)." Special report of the Ombudsman on the human rights of mentally ill persons placed in institutions, March 2011, p. 20.

19 The terminology is harmonized with the ICD 10 - International Classification of Mental and Behavioral Disorders, World Health Organization (WHO).

20 CPT Report, p. 119: "As regards mixed-gender wards, particular precautions are required to ensure that residents are not subjected to inappropriate interaction with other residents which threaten their privacy; in particular, female residents should have their own protected bedrooms and sanitary areas. The CPT recommends that the Montenegrin authorities take steps in the light of the above remarks."

21 Report on the work of the Ombudsman for 2008, p. 75.

22 "Take all necessary measures to ensure adaptation - reconstruction and equipping of women's ward in the Public Institution "Komanski most" in order to improve accommodation conditions and quality of life." Special report of the Ombudsman on the human rights of mentally ill persons placed in institutions, March 2011, p. 20.

In accordance with our recommendations, earlier practice of using bed sheets to fix immobile residents to a wheelchair (in order to prevent a fall) has been discontinued. During the visit of the monitoring team in February 2013, we were informed that all adult wheelchair users were provided with wheelchairs and appropriate seat belts through the Health Insurance Fund. A mobile platform for lowering and raising the residents was also provided, thanks to a donation (for details see Appendix, recommendation 2).

Staff room was earlier equipped only with chairs, there were no beds that would be suitable for a short break during the night duty. During the first visit in July 2011, Director informed the monitors that beds for this purpose would be donated soon, as noticed during the final visits.

3.5. Ward C – children

Children’s ward, Ward C, is completely separated from the rest of the complex. At the entrance to the Ward there is an intercom; the door is constantly locked, so that the children are completely separated from adults, which is in compliance with recommendations of the CPT²³ and the Ombudsman²⁴.

Adapted area includes bedrooms, living room, dining room with a kitchen, bathroom, toilets and additional room for the washer and dryer for children’s clothes. According to monitors’ observations, hygiene level in the rooms in children’s ward is satisfactory. However, during the visits in July and August 2012 we noticed that the maintenance of personal hygiene of children was not at a proper level. Specifically, in addition to direct observations of monitors, there was a bathing schedule for children in the staff room indicating that children bathe once a week, which is insufficient, especially in conditions of high summer temperatures as during the visit. This problem is obviously related to insufficient number of personnel for the care of children (as indicated below, under Section “Institution staff”). During the visit of the monitoring team in February 2013, the level of hygiene in the children’s ward was satisfactory and the staff informed us that our recommendation was implemented in practice (details in Appendix, recommendation 8).

Positive change noticed by the monitors concerns individual schedules of children’s activities put up on the walls, as well as pictorial instructions for the use of premises that illustrate their purpose, which were not there earlier.

Within the same ward there is a yard for children. Yard is accessed through the balcony - there are two steps to the left and a ramp to the right, which was not made according to the standards. By the end of the project a ramp for wheelchair users in children’s yard was provided (for details see Appendix, recommendation 5). The yard has new playground equipment, however, given the ability of the majority of residents, only a small number of children can use it independently. Given the insufficient number of staff to look after the children during their stay in the yard, it seems that children rarely use this equipment.

23 CPT Report on the 2008 visit to Montenegro, p. 119: “The CPT is of the view that to accommodate children and unrelated adults together inevitably brings with it the possibility of domination and exploitation; therefore, as a rule, children should be accommodated separately from adults.”

24 “Take all necessary measures for ensuring complete separation of children from adult users of the Komanski Most Institution by constructing isolated yard area.” Special report of the Ombudsman on the human rights of mentally ill persons placed in institutions, March 2011, p. 20.

3.6. Common yard and recreation rooms

In front of other facilities there is a green area with benches. However, there is no proper sports ground and equipment intended for recreational activities of residents, which has not changed by the end of the reporting period. Exterior could be more functional, suitable for recreation of the residents.

During the visits of the monitoring team in 2011 the Institution also lacked a gym and premises for physical therapy, necessary for the proper treatment of residents. However, a room for physiotherapy and kinesitherapy was equipped prior to the completion of the final report (for details see Appendix, recommendations 1), where we found the residents during the final visit exercising with a physiatrist.

3.7. Dining room

During the third visit carried out in 2011 one part of the dining room was renovated, which partially met the Ombudsman's recommendation²⁵, however, the planned kitchen renovation was not yet started. Dining hall was freshly painted, with newly installed PVC doors and windows. During our third visit in 2011, the monitors spoke with a cook, who informed them that the nutritional value of meals was very good, as monitors saw for themselves. However, the Institution lacked proper kitchen equipment (dishwasher and potato peeler) to compensate for the lack of staff, an issue that was resolved by daylong engagement of Institution's residents. Accessible ramp was set at the entrance to the dining room, while the doors to sanitary units were not wide enough for wheelchair users. By the end of the implementation of monitoring the kitchen was renovated and a dishwasher and potato peeler provided (see Appendix for details, recommendation 6).

3.8. Rooms and common areas

Rooms in all wards are equipped with cabinets where residents can leave their personal belongings. However, not a single cabinet can be locked, although, according to the CPT standards, those residents who show a certain degree of autonomy must be provided with lockable cabinets for their personal belongings.²⁶ In the majority of cabinets for personal belongings there were only bedding and personal hygiene items. It can be concluded that only a small number of residents has personal belongings. It is necessary to ensure the possibility to lock personal belongings, at least for those residents who are able to take care of themselves. In addition, many parts of the facilities, especially walls, still seemed cold and needed to be decorated in cooperation with the residents, to ensure more pleasant and homelike stay for residents, since the Institution is their home. Also, during the previous visits the monitors noticed that the changing of female residents was taking place in the corridor, separated from the ward entrance by a glass door,

²⁵ "Take all necessary measures to adapt the dining room and kitchen in the Komanski Most Institution to the needs of its users - residents". Special report of the Ombudsman on the human rights of mentally ill persons placed in institutions, March 2011, p. 20.

²⁶ CPT Report on the 2008 visit to Montenegro, p. 118: "Provide more congenial and personalised surroundings for residents, in particular by: ensuring that the rooms offer privacy, providing residents with lockable space for their personal belongings, and improving the decoration and equipment of the dormitories and common areas."

exposing female residents to the views of all persons in the ward, including guests. It seemed that the personnel were unaware of the need to ensure residents' privacy. Female residents spontaneously accepted this practice, which leads to the conclusion that it was well-established. Art. 4 of the Law on the Rights of Mentally Ill Persons²⁷ stipulates that "mentally ill persons are entitled to the protection of personal dignity, humane treatment and respect for their person and privacy." Furthermore, the UN Convention on the Rights of Persons with Disabilities stipulates the obligation of the state in this regard. During final visits we did not notice that the residents were being exposed in front of others during changing (see Appendix, recommendation 7).

Compared to the last year, significant improvement in the accommodation conditions is evident in all the facilities. Interior of the residents' rooms is generally satisfactory. By the end of the monitoring implementation the space was partially personalized, and rooms of certain residents with a high level of independence completely resemble home.

3.9. Views of parents

Several residents' parents with whom the monitors spoke also believe that the living conditions at the Institution improved considerably. According to them, the state of hygiene and overall care for the residents have been at a much higher level after the appointment of a new director Vaselj Dušaj. Mother of one of the residents noted that her visits are no longer limited, that only her daughter uses items she brings to her (food, personal hygiene items and clothes) and that her daughter's belongings are separated from other residents' belongings, which was not the case earlier. Monitors have not received parents' critics in relation to the housing conditions. However, the fact is that in most cases parents and other immediate relatives do not visit residents of the Institution, despite the efforts of the Institution's management in collaboration with social welfare centres to enable them to visit residents by compensating for their travel expenses (for details see Section 8 below, "Contacts with family and community members").

3.10. Wheelchair users

Residents who use wheelchairs (about 10) had dilapidated and inadequate assistive devices, which do not fulfil their primary role to help, and may result in deterioration of health of a user.²⁸ In a written response to our questions of 21 October 2011, one of which related to deterioration of these devices, particularly evident in a wheelchair used by resident G.Đ., and the possibility of addressing the Health Insurance Fund, the Institution's Director stated that "in March 2011 G.Đ. was provided with a wheelchair that did not fit him because of his physical constitution" and that "the abovementioned donation provided all users with used wheelchairs, and as for the procurement of better ones, the Institution submitted an official letter to the Pension and Disability Insurance Fund". During the visit conducted on 27 October 2011, Director informed the monitors that a donation from Germany provided for 15 wheelchairs; however, those noticed during the visits were quite worn out and absolutely inadequate for children and a number of adult residents, while staff had to tie users with improvised straps, so that they would not fall

²⁷ Law on the Rights of Mentally Ill Persons, *Sl. list RCG*, 32/05.

²⁸ For instance, some wheelchairs do not match the size of a resident, who may fall out of them, and some do not allow users to reach and move the wheels themselves etc.

out of their wheelchairs. Users G.Đ. and others had to be provided with adequate wheelchairs. This was done by the end of the project implementation, through the Health Insurance Fund (for details see Appendix, recommendation 9). A mobile platform for lowering and raising the residents during bathing was also provided by the end of the project implementation, through a donation (see Appendix, recommendation 2).

3.11. Recommendations of November 2011

- Provide funds to construct a gym and premises for physical therapy.
- Improve the care of immobile residents and assist staff in the work with them by providing safety belts for wheelchairs, gurneys, mobile platforms for lowering and raising residents from a bathtub and mobile sinks.
- Refurbish common room in Ward A to make it more comfortable for the residents and meet their needs and abilities. Wash or paint the walls.
- Equip the Institution's yard with adequate inventory for recreation of adults.
- Provide adequate wheelchair ramp in the children's yard.
- Start the planned kitchen renovation as soon as possible, provide for a dishwasher and potato peeler to reduce the issue of support staff shortage and facilitate the work of residents engaged in the kitchen.
- Ensure the right to privacy of the Institution's residents by making sure that staff do not change and uncloth residents in front of others and by providing lockable space for residents' personal belongings, in accordance with their abilities.
- Improve personal hygiene of children by giving them a bath at least twice a week.
- Provide wheelchair users with adequate assistive devices and ensure that all access points and entrances be adapted for wheelchair users. It is necessary to make a request to the Health Insurance Fund for the purchase of new assistive devices.

THE TABLE IN APPENDIX provides detailed description of the degree of fulfilment of the recommendations (recommendations 1-9).

4. INSTITUTION STAFF

4.1. Number of staff compared to the number of residents

At the beginning of the monitoring the Institution employed 68 people, and 41 staff members worked directly with the residents (total of 121), in shifts:

- four defectologists;
- two educators;
- one social worker;
- four occupational therapists;
- eleven nurses, and
- nineteen carers.²⁹

The main issue in the functioning of the Institution is shortage of staff, particularly of specialized personnel in direct contact with residents. Low staffing levels in the already difficult working conditions lead to fatigue and additional stress, which naturally increase the risk of inadequate reactions towards residents.

Komanski Most Institution Director finds the ratio of staff to the number of residents to be a major problem in the functioning of the Institution. According to the Director, German standards (that he learned about during a study visit to the institution accommodating persons with intellectual disabilities in Germany) envisage the ratio of 3 staff members per 1 resident, while in the Institution this ratio is reversed - 1 staff member per 3 residents.³⁰ During the monitoring visits in the afternoons and on weekends, the number of residents in all the wards exceeded the number of employees severalfold.

The share of female staff at the Institution is far greater, which, according to employees, caused difficulties in the work with immobile residents, since the institution did not have modern equipment to facilitate their work in a physical sense. Also, in this type of institution physical strength is often needed to restrain or catch a resident in the case of attempted escape, which has happened in practice. By February 2013 the work with immobile residents was facilitated thanks to a mobile platform for lowering and raising of residents, provided through a donation.

Two carers per shift are engaged in Ward B, which is a very small number compared to 48 residents currently residing at this ward. One nurse is on duty and she visits all three wards. Director justified the existing situation with the vacation season, as most employees use their right to annual leave during the summer months. However, during our monitoring visits in October 2011, when the vacation season was over, the number of staff found was slightly higher than in previous visits. During the last unannounced visit, there were a carer and educator in children's

²⁹ Data from the official website of the Public Institution "Komanski most": <http://juzkomanskimost.me/>.

³⁰ In Slovenia, for example, the Centre for training, work and protection Dolfke Boštjančič, Draga (Centre za usposabljanje, delo in varstvo Dolfke Boštjančič, Draga, www.center-db.si) accommodates 400 residents and employs the same number of staff.

Ward C, defectologist and educator in Ward A, and a nurse and carer in Ward B. One or two staff members in the children's Ward and four staff members in charge of 111 residents is insufficient even for the most basic care, let alone for other prescribed activities for residents.

According to the *Work Program for 2011*,³¹ the Institution's expert team consists of: head of work/educational occupational treatment, social worker, head nurse, legal expert, psychologist, psychomotor re-education specialists and neuropsychiatrist. Expert team meetings are managed by the head of work/educational occupational treatment. Director attends the expert team meetings as appropriate. However, the Director informed us that Komanski Most Institution lacks a psychologist, and that a neuropsychiatrist is not a permanent employee of the Institution, but pays occasional visits, so it is unclear how he can be a member of the expert team. In any case, there is a contradiction between the needs of this institution prescribed in official documents and the actual situation in practice.

Komanski Most Institution and the Ministry of Labour and Social Welfare have only partially implemented recommendations of the CPT³² and the Ombudsman³³ concerning the strengthening of Institution's staff capacities. In 2010, five nurses and eight carers were employed.

Rulebook on internal organization and job classification in the Public Institution "Komanski most"³⁴ provides that the Institution shall employ six educators with a university degree in special education or humanities and social sciences, to carry out educational activities and assist in achieving the overall development of psycho-physical abilities of residents, based on identified individual characteristics. The number of employed defectologists, social workers, occupational therapists and nurses was in accordance with the Rulebook. The Institution employed a total of nineteen carers - three below the required number (14 carers and 8 auxiliary carers). During the visit conducted on 27 October 2011 the monitors learned that the Institution engaged a physiotherapist, who at the time did not yet begin to perform his duties.³⁵ In order for practice to be in accordance with the prescribed norms, it was necessary to open at least two new positions - for a psychologist and educator (andragogist). However, we believe that the Institution Administration should not only meet the requirements initially prescribed by the Regulations, but ensure hiring of additional staff, particularly professional staff such as defectologists, oligophrenologists, speech therapists, music therapists, etc.

Conditions have since improved significantly, and during the last visit in February 2013, apart from three external experts, the Institution also engaged three carers, two persons in charge of hygiene and one in charge of the laundry room. Oligophrenologist is not yet engaged, although the vacancy announcement has been published (more details in Appendix, recommendation 10).

31 Available at the Komanski Most Institution web page: <http://juzkomanskimost.me/images/stories/Dokumenti/PROGRAM%20RADA%20ZA%202011.pdf>.

32 CPT Report on the 2008 visit to Montenegro, p. 126: The CPT recommends that the Montenegrin authorities explore the possibilities of providing enhanced conditions of service for staff, so as to facilitate appropriate staff recruitment and retention, and offer both initial and ongoing training to staff. The numbers of staff in direct contact with residents should be substantially increased, including nurses, educators, work therapists, social workers, etc.

33 "Take measures to increase the number of employees in the Institution, particularly those in direct contact with residents (nurses, teachers, carers, occupational therapy specialists, social workers), according to the number of residents and in line with the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)."

34 Rulebook on internal organization and job classification in the Public Institution "Komanski most" published on the notice board of the Institution, no. 04 -842, Podgorica, 10 December 2010.

35 Information obtained during the visit on 27 October 2011.

The kitchen too is understaffed. During the third visit, monitors found only one cook in the afternoon shift, without support staff. Ancillary kitchen tasks were performed by residents with moderate intellectual disabilities. Institution staff consider residents' work in the kitchen to be a type of occupational therapy. It is evidently difficult for the cook, who is alone in the afternoon shift, to supervise the work of residents and at the same time prepare food, so it is necessary to hire additional support staff in the kitchen. Some residents complained to monitors about having to work in the kitchen all day, with a short break in between meals, which they found very exhausting. We noted that providing a dishwasher and potato peeler would solve some of the issues concerning the lack of staff in the kitchen, which was done by the end of the project. In the afternoon there is still only one cook in the kitchen, which, according to the director, is sufficient. Residents' work in the kitchen is still considered as occupational therapy (for details see Appendix, recommendation 11).

In children's Ward, during four visits in the first reporting period (up to November 2011), monitors found only one carer (for ten children), and during only one visit – a carer and educator, of a total of 6 employees in this ward (4 carers and 2 educators). It is obvious that the needs of ten children are much higher, so it is very difficult to provide even the palliative care, let alone other activities. According to the carer, at the time of the monitoring visit her shift lasted for 12 hours. Whatever the circumstances of staff annual leaves, it is absolutely unacceptable that only one person be in charge of ten children with disabilities for 12 hours continuously (monitors were informed that not all children sleep in the afternoon). Such work schedule is inhuman for both staff and residents, and it is reasonable to expect that it could jeopardize the health and safety of children.³⁶ Annual leave period issues need to be overcome in a timely planned manner, through hiring additional labour force for a limited time. In any case, Komanski Most Institution should intensify its cooperation with the secondary medical school, so that its students spend more time in this institution on practice. During our afternoon visits, including the final one of 13 February 2013, we found that the situation has not changed – only one carer is engaged in the children's ward (C) in the afternoon shift, which is not enough considering the needs of children (for details see Appendix, recommendation 12).

4.2. Staff training

When it comes to staff training, the Ombudsman's recommendations³⁷ were not met until November 2011.

Working with people with intellectual disabilities is very difficult. With that in mind, in addition to adequate education prior to employment, it is essential that staff obtain continuous training during their service. There is no organized initial training for the newly employed, as they are expected to have gained the knowledge throughout their studies. There is no continuous staff training on new approaches and methods for working with persons with intellectual disabilities. Until the end of 2011, staff training was organized only in cooperation with UNICEF representatives (Cath Irvine, Director of the Intensive Interaction Institution in London) and only for two educators

³⁶ Although on all occasions children's carers have been extremely friendly and attentive to children, as well as to visitors-monitors, we are confident that the independent performance of their duties during regular shifts, especially during 12-hour shifts, requires superhuman effort.

³⁷ "Take all necessary measures to implement the continuing training of personnel in the Institution." Special report of the Ombudsman on the human rights of mentally ill persons placed in institutions, March 2011, p. 36.

who work in children's Ward. They have been trained to apply *the method of intensive interaction* in working with children. Having received the certificate for coaches, these educators now pass their knowledge to carers who work in children's Ward.

Compared to the practice in the region (e.g. in Serbia, where all persons engaged in direct work with residents attend at least 40 hours of accredited training programs per year³⁸), training of staff in the Institution is absolutely insufficient. Employees in this institution believe that they need further education, especially expert training concerning the methods of work with aggressive residents (methods of verbal command in cases of aggression, as well as manual techniques for overcoming resistance), currently implemented at their own discretion, because, according to their statement, during many years of practice staff have themselves created a method of treatment of individual residents. CPT recommendation that "initial attempts to restrain agitated residents should, as far as possible, be non-physical (e.g. verbal instruction) and that, where physical restraint is necessary, it should in principle be limited to manual control"³⁹ shall be consistently observed in practice only after personnel have been trained in this area.

One of the forms of staff training was a study visit to a similar institution located in Finland, organized by UNDP in October 2011. However, these sporadic visits do not encompass all employees in need of additional training and exchange of experience with colleagues. Developed countries address the problem of training of staff working with people with intellectual disabilities by introducing the training for work with this population already in the basic medical studies. *European Manifesto: Basic Standards of Healthcare for People with Intellectual Disabilities* states that medical students at the undergraduate level spend 0 to 36 hours dealing with topics in this area, and thus gain just an insight into this issue. Those starting to work with persons with intellectual disabilities acquire the knowledge gradually, through training programs. In Finland and the Netherlands, as part of a special medical care, there is a specialist doctor in charge of the treatment of people with intellectual disabilities.

In the preliminary report published in November 2011, we noted that the Institution does not provide specialized training concerning the daily care, or the necessary training concerning the inclusion and rights of residents. There is no proper supervision, which is also necessary given the nature of the work that staff performs.

Meanwhile, from January 2012 through February 2013 a series of specific trainings for staff were held, as well as trainings on human rights for people with intellectual disabilities, and several study visits to similar institutions were organized; thus, we believe that progress has been made in the field of staff education (for more detail see Appendix, recommendation 14). The need for supervision and professional support for staff was also confirmed by the visit of Finnish consultant engaged by the UNDP under the project of transformation of the Institution, because, according to the staff, her expertise and stay at the Institution helped resolve professional dilemmas and provided a confirmation of good practice that exist at the Institution. This type of support should be carried out continuously.

38 See "Minimum standards and specification of services - Institutional placement of children and youth," The Republic Bureau for Social Protection of the Republic of Serbia, 2008, available at: www.pzs.gov.rs

39 CPT Report on the 2008 visit to Montenegro, p. 129.

4.3. Stimulus for staff

Although Komanski Most Institution lacked staff, both medical and professional -focusing on residents' education and rehabilitation, the monitoring team noticed affectionate and intimate relationship of certain employees with the residents. However, employees are striving to meet high expectations, but on the other hand are not provided an incentive, although this has been recommended by the CPT⁴⁰ and Ombudsman⁴¹. This situation has not changed, although the Administration announced some measures (for more detail see Appendix, recommendation 13).

4.4. Views of parents

Several parents that we spoke to rated positively their cooperation with the staff, noting that parents' communication with the newly hired staff has been much better and that all their complaints so far have been taken into consideration. In contrast, personnel working at the Institution for a longer time, in the parents' opinion, hardly change their inadequate methods of working with residents, applied until recently. In addition, important information received from the parents is that the supervision over the work of employees has improved upon the arrival of a new director, who also visits the Institution on weekends, so there is an impression that all employees, due to intensified supervision, treat residents better.

4.5. Recommendations of November 2011

- Employ a psychologist, pedagogue (andragogist) and three more carers, in accordance with the current Rulebook on internal organization and job classification in the Public Institution "Komanski most". Consider hiring additional staff, particularly a defectologist - oligophrenologist, speech therapist, etc.
- Provide for adequate number of staff during the vacation season as well, by engaging people with appropriate qualifications registered with the Employment Bureau of Montenegro. Enhance cooperation with the secondary medical school and Faculty of Medicine.
- Prevent the practice where one employee works a 12-hour shift alone with ten children.
- Additionally motivate employees by providing them with expert consulting support, supervision, performance evaluation and adequate remuneration for work in difficult conditions.
- Conduct ongoing training for all staff at the Institution, which would include specialized training concerning the daily care of residents and improvement of their capabilities, as well as training on their rights, in order to raise the level of professionalism and improve the treatment of residents.

40 CPT Report on the 2008 visit to Montenegro, p. 126: "The CPT recommends that the Montenegrin authorities explore the possibilities of providing enhanced conditions of service for staff, so as to facilitate appropriate staff recruitment and retention, and offer both initial and ongoing training to staff. The numbers of staff in direct contact with residents should be substantially increased, including nurses, educators, work therapists, social workers, etc."

41 Bearing in mind difficult working conditions, consider the possibility of increase in salaries to employees in institutions, in order to increase motivation for recruitment and retention of employees in institutions.

➤ Ensure proper equipment for the care of immobile residents that would facilitate employees' work with them in a physical sense.

➤ Engage additional male staff. "Carers" do not have to be only women, especially bearing in mind that Komanski Most Institution accommodates more male than female residents (64:47).

THE TABLE IN APPENDIX provides detailed description of the degree of fulfilment of the recommendations (recommendations 10-16).

5. ILL-TREATMENT AND MEANS OF RESTRAINT

5.1. Prevention of aggression, mechanical restraint and isolation room

Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms⁴² stipulates the following: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

It is not uncommon in this type of institutions that the increased awareness of staff is required, as residents in psychomotor restlessness may be hazardous to themselves and the environment. Employees at the Institution do not deny the occurrence of violent behaviour of residents, but also point out that their response in such situations does not present a major difficulty. Monitoring team has gained the impression that staff speak unwillingly of this subject. We believe that there is no need to conceal problems that are certainly an integral part of life in this kind of institution. By the end of the monitoring the Institution staff have not had special training in techniques to prevent aggressive residents’ behaviour (for details see Appendix, recommendation 17).

Staff noted that the use of chains and other inadequate means of restraint, criticized in the CPT’s report on its 2008 visit⁴³, was fully discontinued. In the earlier period, fixation of residents was a common practice in Komanski Most Institution. For example, resident of the Institution G. had been constantly fixated until the appointment of a new director, Vaselj Dušaj. Staff noted that leather fixations for restraining residents have not been used over the past several months, so the central registry on the use of physical restraints, that any institution that conducts fixation should have, does not exist. In its report the CPT pointed out that the physical abuse of residents was unacceptable⁴⁴ and that the isolation room, whose use is sometimes justified, should never be used to punish the residents.⁴⁵

According to employees at the Institution, isolation for the purpose of punishing is also not implemented. Although the isolation room mentioned in the CPT report is no longer used, there is another room in the same ward (Ward B) which serves this purpose. It is necessary to

42 Available at: <http://www.ombudsman.co.me/propisi.php>.

43 CPT Report on the 2008 visit to Montenegro, p. 127: “The low staffing levels, combined with a lack of alternative strategies and material and regime provision, resulted in a considerable reliance on the use of physical restraint. On Ward B, the delegation found, in an unstaffed and locked area, patients fixated to beds or other furniture, mostly with torn strips of cloth but also by chains and padlocks; one of them was sitting on a bench completely naked. The CPT must stress that chaining residents is totally unacceptable and could well be considered as amounting to inhuman and degrading treatment, in addition to being potentially physically harmful. Further, in the dormitories, some beds had soft restraints attached to them. The fact that the Institution’s gate, locked wards and dayroom entrances were manned by residents, some in overt possession of soft restraints, clearly indicated that they could be involved in the restraining of other residents.”

44 CPT Report on the 2008 visit to Montenegro, p. 111: “A clear message must be given to staff that physical and psychological ill-treatment of residents is unacceptable and will be dealt with severely. The Institution’s management should also actively address factors that may have contributed to such staff behaviour (see p. 124 and 125).”

45 CPT Report on the 2008 visit to Montenegro, p. 127: “The CPT recommends that steps be taken to ensure that this room is never again used for such a purpose. Moreover, the Committee wishes to stress that seclusion should never be used as a punishment vis-à-vis mentally disabled persons.”

ensure that this room be never again used for the purpose of punishment. Residents are usually contained in rooms until a state of psychomotor agitation passes. Isolation rooms should be completely empty, and the walls lined with cushioned sponge (the so-called padded cell), to prevent head injuries. In November 2011 the monitoring team suggested that Komanski Most Institution should have such room, but with clearly defined guarantees and a record of who orders such measure, when, how long residents stay in it, where this is recorded. By the publication of the final report, the Institution equipped the isolation room and sensory room, but the Rulebook on application of isolation room was not yet completed (more detail in Appendix, recommendation 21). In addition, it would be advisable to establish an independent board composed of experts and citizens, to periodically review all these records and conditions at the institution.

During the first visit to the Institution, a girl diagnosed with autism was visibly upset, manifesting that in self-harm. Her hands had visible injuries from earlier, suggesting frequent anxiety. It is necessary that staff members be trained on methods to apply in such situations (e.g. apply bandages on hands or other adequate means to prevent self-harm). According to Dr Grbović, the Institution has provided a number of helmets, which should be used in situations when residents hit their heads against a hard surface. However, residents refuse to wear them. Monitoring team believes that application of this type of equipment in the work with residents at the Institution is not desirable. It is necessary to find an appropriate way to prevent residents' self-injury, preferably by providing adequate padded isolation room in the event of restlessness. By the end of the project implementation, in February 2013, equipping of the isolation room was in a final stage (more detail in Appendix, recommendation 21).

In addition to self-injury, another difficulty in working with the residents is the fact that they inflict injury to each other. In the last three months in 2011 three such incidents occurred at the Institution. During the third visit there was a female resident in one of the rooms with bandages on her head, and staff informed the monitors that another resident had pushed her, causing injury.

It is very difficult to completely eliminate the problem of self-injury and causing injury to others, but the situation would certainly be much better if the number of professional staff in direct contact with residents was significantly higher, as recommended in the CPT report.⁴⁶ Thus, in case of necessity, one qualified person could be engaged to work with only one resident (1:1), and in extreme cases a resident could be placed in a padded isolation room, when assessed as the only option to eliminate the risk of self-injury. Autistic persons can very easily become disoriented when isolated in this way, so it is necessary to introduce all possible guarantees to assess the state of urgency, i.e. its beginning and end.

46 CPT Report on the 2008 visit to Montenegro, p. 112: "The authorities' obligation to care for residents includes the responsibility to protect them from other residents who might cause them harm. This requires an adequate staff presence at all times, including at night and weekends. Staff should be both properly trained and resolved to intervene when necessary."

5.2. Views of residents

In conversation with some of the residents, monitors were informed that staff do not physically abuse them, which was also confirmed by the parents of residents. This is certainly a positive step in the functioning of this institution. We could not verify one anonymous tip about the abuse of a female resident, who allegedly had visible bruising on the body.

5.3. Chemical restraint

As for restraint techniques, the Institution staff use solely manual restraint and verbal command, and in extreme cases pharmacotherapy – the so-called chemical restraint (use of sedatives, antipsychotics, mostly intramuscularly), which is sometimes unavoidable in this type of institutions.

Chemical restraint must be accompanied by certain guarantees, same as mechanical restraint. The so-called “treatment on demand” (ordered by a psychiatrist in the case of resident’s psychomotor restlessness) puts too much responsibility on the nursing personnel and opens the door for potential abuse. This type of so-called blank approval for the application of ampoule treatment in the case of psychomotor restlessness can be justified only in exceptional cases and during a very limited period of time.

It is necessary that a doctor always be informed of cases when “treatment on demand” is administered, so that s/he can examine the reasoning for the application. The use of therapy “on demand” at the Institution is entered into a duty handover notebook, at the order of a neuropsychiatrist. It is advisable to introduce a special registry for this purpose, for recording time, type, dose and circumstances for the application of ampoule treatment, name of the doctor who ordered the treatment and name of the nurse who applied such treatment. Data on received ampoule therapy should be entered in the residents’ medical records. It will be possible to gain accurate insight into the frequency of resorting to chemical fixation and monitor and learn about good and bad practices only if a central registry is introduced at the Institution. Also, possible use of mechanical means of restraint (such as leather straps) must be accompanied by the same guarantees, i.e. must be recorded in the register provided for that purpose. By the end of the project implementation, the situation in this area remained unchanged (more detail in Appendix, recommendations 18 and 19).

5.4. Recommendations of November 2011

- Train staff to use appropriate techniques to prevent residents’ aggressive behaviour.
- Introduce additional guarantees for the use of chemical restraint. For example, introduce a separate register for ampoule treatment for recording time, type, dose and circumstances for the application of ampoule treatment, name of the doctor who ordered the treatment and nurse who applied such treatment. Data on received ampoule therapy should be entered in residents’ medical records.

- Introduce the same guarantees for the use of mechanical restraint - establish a register of fixation.
- Train staff in order to prevent residents' self-harm, particularly in autistic people, and provide technical means used for that purpose in the developed countries.
- Provide an isolation room with padded walls, where the residents would be placed in the case of agitation.

THE TABLE IN APPENDIX provides detailed description of the degree of fulfilment of these recommendations in February 2013 (recommendations 17-21).

6. TREATMENT OF RESIDENTS

According to the CPT standards, “the treatment of persons with mental disabilities should include a wide range of therapeutic, rehabilitative and recreational activities, such as access to appropriate medications and medical care, occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports. Residents should have regular access to suitably-equipped recreation rooms and have the possibility to take outdoor exercise on a daily basis; it is also desirable for them to be offered education and suitable work, the aim of which is to prepare residents for independent or at least autonomous life” (p. 122).

Institution staff believe that parents often make the mistake of fully taking over the duty of meeting the needs of their children with disabilities. Therefore, it often happens that adult residents who have lived with their families are incapable of performing routine everyday activities such as dressing, maintaining personal hygiene, etc., even if they have a predisposition. For those reasons, it is very difficult to teach some of the adult residents, who now reside in the Institution, to lead an independent life.

6.1. Treatment of adult residents

Institution’s Work Program for 2011 provides for the work-occupational engagement of residents. In a written response to our questions of 21 October 2011, Director stated that “work and occupational groups have been established, as well as work training groups.” During the five visits, monitors did not come across the examples of work-occupational engagement of residents, with the exception of work in the kitchen, job of a doorkeeper and help in the care of other residents (also considered work therapy by staff). During the monitoring visits, most residents were sitting on the benches in the yard.

In an interview with Institution’s staff, monitors learned that the treatment of adult residents implies activities in proportion to their remaining abilities. This refers to the maintenance of hygiene and self-service habits. It has been noticed that persons with motor disorders were devoid of any daily activities, completely bedridden and often unable to go out to the yard. It is necessary to provide daily activities and the possibility of being outdoors for these persons as well.

Work therapy, according to staff, takes 3 hours per day, while the residents are under constant supervision. There are four work therapists and, in Director’s opinion, this is sufficient, given the number of residents.

Work therapy can currently be carried out with 16 male residents and 13 female residents. The therapy implies: maintenance of green areas, maintenance of orchards located within the Institution, work engagement in the kitchen or maintenance of hygiene of the Institution’s premises. In an interview with male and female residents, monitors learnt that they found the work in the kitchen very difficult. Parent of one of the residents noted that the resident had initially been interested in maintenance of the orchard, but lost his interest after a month, and that afterwards he had no other work therapy. The question is how effective the existing work therapies are and whether they provide the desired results. It is necessary to introduce work therapies in accordance with residents’ preferences and abilities.

Occupational therapy, according to defectologists, includes stacking cubes and cutting paper. Work and occupational treatment are monitored by teams composed of defectologists, educators, social workers, work therapists, nurses and carers. It has been planned to set up greenhouses, where residents would have an opportunity to be engaged in the cultivation of flowers, as a form of work-occupational therapy. One of the options, which can be put into practice, is the establishment of cooperation with entrepreneurs who would buy final products produced during the work-occupational treatment. Funds obtained in such manner, according to the Director, should be invested in the necessary work material or organization of trips in order to have a positive effect on the motivation of residents.

At the time of the CPT's visit in 2008 "there was an almost total lack of occupational, educational and recreational activities; only some 20 residents were involved in such activities" (p. 121). From that time until now, very little has been done as regards this issue. The current situation is not satisfactory either and these activities are still largely at the level of improvisation. Komanski Most Institution lacks adequate support from other institutions and professional personnel in devising these programs. During the visit of the monitoring team in February 2013 we concluded that funds had not been invested in equipping of workshops either (for details see Appendix, recommendation 25).

Residents' opportunities to communicate with people outside the Institution are very limited. For the purpose of socialization of people with intellectual disabilities it is necessary to pay more attention to leisure activities and introduce various sports, recreational, cultural and artistic events. Institution occasionally organizes cultural and entertaining activities for a limited number of residents with adequate skills. These imply visits to certain events in the city.

As a part of recreational activities, in the period from 10-18 June 2011 and in cooperation with the Children's home "Mladost", the Institution organized summer vacation in the coastal town of Bijela for five children and seven adult residents.⁴⁷ Other residents are not involved in any kind of activity, although recommended by the CPT⁴⁸ and Ombudsman.⁴⁹ Interaction with the local community improved by the end of the reporting period (Appendix, recommendation 28), however, a larger number of residents should be included in activities outside the Institution (Appendix, recommendation 23).

According to the CPT standards, it is necessary to offer all residents outdoor exercise as a part of recreational activities.⁵⁰ Furthermore, it is necessary to include physical therapy, which is an important part of both medical and psychosocial treatment. By the end of the reporting period we observed improvements in the area related to sports and recreational activities of residents that are implemented in the new room for physical therapy. Still, outdoor recreation should be improved too (Appendix, recommendation 22).

47 In Slovenia, for example, the Centre for training, work and protection Dolfke Boštjančič, Draga (Centre za usposabljanje, delo in varstvo Dolfke Boštjančič, Draga, www.center-db.si) conducts a variety of activities such as horseback riding, taking care of animals, swimming, picnics, camping, training for computer literacy, cultural and artistic activities etc.

48 CPT Report on the 2008 visit to Montenegro, p. 122: "The CPT recommends that the Montenegrin authorities make efforts to ensure the implementation of the individual treatment and rehabilitation plans by involving all residents in activities adapted to their needs. Achieving this goal will require recruiting more qualified staff."

49 Take all necessary measures for the development of individual programs for all adult residents in the Institution "Komanski most" and their involvement in work-occupational therapies.

50 CPT Report on the 2008 visit to Montenegro, p. 122: "The CPT recommends that steps be taken to offer all residents, health permitting, at least one hour a day of outdoor exercise in a reasonably spacious setting, which should also offer shelter from inclement weather."

There are no individual plans of treatment and care for adults; the Director stated⁵¹ that these plans will be devised following residents' evaluation by the Commission for Evaluation established by the Ministry of Labour and Social Welfare.

In our opinion, very little has been invested in improving the treatment of residents and their training on independent living. Of course, the lack of professional staff is reflected in the quality of work with residents. All of the above indicates that the majority of adult residents have been deprived of educational treatment and that more could be done for them to achieve their maximum development. Social support system is not at an adequate level. Therefore, residents stay at this institution for a long time. Based on available information, monitors concluded that the quality of activities provided for the residents is unsatisfactory, and that most issues concerning this topic remained at theoretical level. Three parents of residents also share this viewpoint and claim that there have been no major changes when it comes to activities related to rehabilitation and work-occupational therapy. They believe that such activities barely exist.

Residents should be given the opportunity to decide on the program and schedule of activities, on decoration of the premises in which they reside, as well as the institution's exterior. Situation somewhat improved until the end of the project, but additional effort should be made (Appendix, recommendation 24).

6.2. Treatment of juvenile residents

UN Convention on the Rights of the Child⁵² under Art. 23, para 1 stipulates that "States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community." Art. 23, para 2 of the same Convention states that "States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child."

Three children placed in the Institution are included in the educational programs of the Centre "1 June"⁵³ and two attend "Institution for professional rehabilitation of disabled children and youth".⁵⁴ The European standard implies the inclusion in the education system at the lowest level, i.e. in kindergartens, and then the inclusion of children with disabilities in the education system by forming a class with specialized personnel in schools. According to the Director, individual care and treatment plans have been developed in cooperation with the Social Welfare Centre for each child placed at the Institution, and their review is carried out twice a year.

Due to attention problems, educational class does not exceed 30 minutes. Method of intensive interaction is used in the work with children. UNICEF Expert Consultant has trained two educators to apply this method, who are now passing their knowledge to the children's carers. This method is implemented by an educator trying to communicate with the child at a level that s/he understands through careful listening and observing of the children. Intensive interaction has been applied

51 Director Vaselj Dušaj's written response to HRA questions of 21 October 2011.

52 UN Convention on the Rights of the Child: <http://www2.ohchr.org/english/law/crc.htm>.

53 Institutions of social and child protection for education and training of disabled children.

54 Institutions of social and child protection for the professional rehabilitation of disabled children and youth.

in the Institution for the past two years, and according to staff some progress is evident in the children this method has been used with. Occupational therapy is conducted with the children unfit for educational programs.

However, the fact that during all five visits there was an insufficient number of staff working with children (only one carer during three visits and only once both carer and educator), who were not even able to meet the needs of palliative care for children, leads to the conclusion that programs for children are not implemented in a way that could ensure their proper development.

When it comes to work and occupational therapy and the introduction of new contents for the work with residents (adults and children), the situation was not changed by the end of the project (for details see Appendix, recommendations 22 and 26).

6.3. Recommendations of November 2011

➤ Improve the existing and introduce additional work, educational and recreational activities for residents. Create activities for all residents, including for persons with profound intellectual disabilities and those with motor disturbance.

➤ For the purpose of socialization of people with intellectual disabilities, devote more attention to leisure activities and enrich them with various sports, recreational, cultural and artistic events, outside the Institution as well.

➤ Provide technical assistance of other, especially educational institutions, so that the Institution's efforts to design and implement work, educational and recreational activities are not isolated.

➤ Provide residents with the opportunity to decide on matters concerning themselves, such as activities programs and schedules, decoration of the premises in which they reside, as well as of the exterior of the Institution.

➤ Equip workshops for resident's occupational therapy.

➤ Encourage staff to implement as many programs and activities as possible in the work with residents, in order to increase the level of residents' functionality.

➤ Introduce new therapeutic methods following the example of developed countries (e.g. sensory room where the treatment is carried out in isolation from external influences of light and sound, with the aim to stimulate the senses, especially in children.⁵⁵ This method encourages proper development of experience of the outside world, controls aggression, relaxes the child).

➤ Ensure stay at the seaside or occasional trips outside the Institution for all residents whose psycho-physical abilities allow for such activities and interaction with the local community.

➤ Engage volunteers to assist staff with the proposed activities. Encourage educational institutions, NGOs and other civil society organizations, as well as potential donors to cooperate with Komanski Most Institution and its residents.

THE TABLE IN APPENDIX provides detailed description of the degree of fulfilment of these recommendations in February 2013 (recommendations 22-29).

55 More on this and other methods at: http://www.inkluzija.gov.rs/?page_id=4010.

7. HEALTHCARE

7.1. Primary healthcare

Public Institution Komanski Most accommodates persons with intellectual disabilities.⁵⁶ The most common are moderate and severe intellectual disability. A small number of residents have mild intellectual disability. Residents' healthcare is regulated by the Law on Healthcare of Montenegro⁵⁷, namely Art. 78 of this Law, which reads: "Social and child care institutions, institutions for the execution of criminal sanctions and other institutions for accommodation of certain persons, state bodies with specific needs in the area of health care and business organizations for persons located or employed in them, can organize or perform healthcare services at the primary level of healthcare under the conditions stipulated herein for the appropriate medical institution." The Ministry of Health prescribes the conditions for the establishment of ambulatory care clinics. However, these conditions have not yet been prescribed, so the Institution's clinic is not registered.

It is essential that the Ministry of Health prescribes these conditions as soon as possible in order to carry out the registration of the clinic, which would also imply new job classification and evaluation of the Institution's real needs in terms of healthcare. This was not done by the end of the project implementation (for details see Appendix, recommendation 31).

CPT always insists on equality in the care system, i.e. equivalence of care,⁵⁸ as the residents of the Institution must be entitled to all the rights granted to all other policyholders in the basic healthcare package. Residents should be included in the mandatory screening tests – mammography and cervical cancer screening.⁵⁹ It is essential that the Ministry of Health draw up a protocol for users with intellectual disability to have the same level of healthcare as all other citizens. By the completion of the project in March 2013 the residents were not included in the mandatory screening tests, however, in 2012 all residents underwent systematic medical examination, including lab tests, X-ray examination and internal medicine physician examination (see Appendix, recommendation 36).

One of the key problems related to healthcare of residents of the Institution is the issue of healthcare financing, i.e. uncertainty whether this is the responsibility of the Ministry of Health or Ministry of Labour and Social Welfare. The Health Insurance Fund granted additional

56 Under the International Classification of Diseases - ICD, mental retardation can be mild, moderate, severe and profound:

Mild mental retardation - IQ between 50 and 69, which corresponds to mental age of 9-12 year old children.

Moderate mental retardation - IQ between 35 and 49, corresponding to mental age of 6-9 year old children. Other mental disorders are often associated, as well as the signs of damage to the central nervous system (paresis, paralysis, epilepsy...). Number of persons with moderate mental retardation has children autism and other pervasive disorders.

Severe mental retardation - IQ usually between 20 and 34, corresponding to mental age of 3-6 year old children. Lesions of the central nervous system are often present, as well as epilepsy.

Profound mental retardation - IQ below 20. Mostly incontinent, immobile, capable of the most rudimentary forms of non-verbal communication. Neurological and other physical impairments are associated, as well as epilepsy, visual and hearing impairment. Atypical autism is very frequent in those who are mobile.

57 Law on Healthcare of Montenegro, *Sl. list RCG, 39/2004*.

58 CPT standards, p. 27.

59 Art. 34, para 6,7 and 8 of the Law on Healthcare, *Sl. list RCG, 39/2004* of 9 June 2004.

funds to Komanski Most Institution for healthcare expenses. As of 1 January 2011, the costs of healthcare have been covered by the budget of the Institution⁶⁰, which is rather modest at 230 Euros monthly per resident.

According to an assessment of our team's expert consultant, somatic healthcare is at satisfactory level. All residents have their individual medical records, maintained in both paper and electronic form in the same way as the records of all other citizens of Montenegro entitled to the primary healthcare. All residents undergo a thorough physical examination upon the admission at the Institution. Referral to specialist examinations does not pose a problem, because internal computer database allows for writing of referrals. This system works in practice, but it has not been addressed systematically, so it is advisable to connect the internal Institution's database with the public healthcare database and provide for appropriate protocols that will ensure continuity of healthcare, regardless of who is a treating physician. Situation remained the same until the end of the project implementation (for details see Appendix, recommendation 35). Since Komanski Most Institution's healthcare system relied on the efforts of an individual, Dr Grbović, who also performed duties of a chosen doctor at the Health Centre in Podgorica and held the post of an Assistant Minister of Health, there were valid reasons for concern in terms of his further ability to dedicate time to the care of residents at the Institution.

On 23 March 2012 the Institution declared an outbreak of flu (virus A/H3), which lasted until 10 April 2012. During that period the number of patients with flu symptoms was 65, of which four residents were hospitalized at the Clinical Centre of Montenegro, and two residents passed away. Basic and High Public Prosecutor's Offices initiated an investigation procedure to determine whether all prescribed measures had been taken regarding the flu epidemic. Also, consultative hearing was conducted before the Parliamentary Committee for Healthcare, Labour and Welfare. Commission of the Ministry of Labour and Social Welfare found that there had been no failures in the residents' treatment. At the end of 2012 all residents were vaccinated after receiving the consent of their parent or guardian. Two residents were not vaccinated – first because a parent did not give consent for vaccination, and second because of poor health.

7.2. Health insurance cards

All residents of the Institution, regardless of whether they are citizens of Montenegro, are entitled to primary healthcare and other rights in the field of healthcare. Most residents are Montenegrin citizens included in the regular healthcare system.

Seven female residents under the competence of the Social Welfare Centre (SWC) in Podgorica did not have a health insurance card. Although noted in the Institution's written response⁶¹ that Podgorica SWC has undertaken necessary activities to regulate the healthcare of these residents, medical staff of the Institution told monitors that this process has been pending a long time, due to inefficiency of the competent SWC. Consequences of such inefficiency have been evident during the visits. On 30 March 2011, a medical specialist prescribed an orthopaedic device (Shantz collar) for one of the residents, which was impossible to obtain due to the lack

⁶⁰ More about financing and acquisition of funds for the work of the Institution in the Decision on the organization of the Public Institution for accommodation of people with special needs (*Sl. list RCG*, 11/06).

⁶¹ Director Vaselj Dušaj's written response to HRA questions of 21 October 2011.

of a health insurance card. As a result, at the time of the monitoring visit this resident wore an improvised collar and had serious neck problems, causing her pain and difficulty swallowing. The fact that even after nine months of its prescription this orthopaedic device was not provided - is unacceptable. This points to a problem with Podgorica SWC, which failed to provide a health insurance card during the mentioned period. During the visit of 23 March 2012 we learned that the above mentioned resident died in January 2012⁶². High State Prosecutor in Podgorica started investigative procedure regarding her death and death of two residents in Komanski Most Institution, in order to determine if they had been treated in accordance with the rules of medical science and profession. By the end of the project implementation, the procedure of obtaining health insurance cards was completed with respect to all residents (for details see Appendix, recommendation 30). The public prosecutor did not order an investigation into the death of the three persons.

7.3. Consultant physicians

According to the Director, nursing staff, which includes 11 nurses, is present at the Institution 24 hours a day. The Institution does not have a doctor employed full time, but engages 3 external medical consultants - chosen doctor, occupational medicine specialist and neuropsychiatrist, as well as a dentist who visits the Institution at least once a week, or more if necessary. During the first visit, monitors were told that negotiations about hiring a gynaecologist were in progress, however, no one has been hired until the fifth visit in October 2011. At the end of 2012, within Ward B, gynaecological clinic was open (see Appendix, recommendation 34).

During interviews with staff and residents' parents, monitors have learned that a dentist was available only for emergencies and mostly on sick leave, so this type of healthcare was virtually inaccessible. It was necessary to ensure that a dentist be available at least once a week and perform regular preventive examinations of residents, in addition to interventions in acute problems. By the end of the project the Institution engaged a dentist (for more detail see Appendix, recommendation 32).

Neuropsychiatrist visits the Institution once a week. The use of psychotropic drugs⁶³ is extensive, given the pathology of residents. Supply of drugs is satisfactory. After medical specialists issue prescriptions, head nurse is in charge of the procurement. The cost of medicines is not borne by the Institution - medicines are obtained in pharmacies with doctor's prescription. According to Dr Grbović, medicines used at the Institution are on the list of the Health Insurance Fund (HIF), obtained through a public tender and the same as those available to the general population. The costs of drugs that are not included in the HIF list of medicines and all supplementary medicinal products are borne by the Institution, additionally burdening its budget. In February 2013 Komanski Most Institution still funded from its own budget the procurement of drugs for its residents who are not on the HIF list (see Appendix, recommendation 30).

62 We were not informed about the immediate cause of death, nor were we able to get a death certificate. We were informed that the autopsy was not performed, and on 23 March 2012 we submitted a letter to the Protector of Human Rights and Freedoms, seeking to determine whether the death of Institution's resident was due to negligence of government agencies or staff of the Institution.

63 Medicines that contain substances influencing primarily the central nervous system and altering brain function, which changes person's perception, mood, consciousness and behaviour.

7.4. Most common health problems of residents

The most common health problems among residents often include locomotor and central nervous system diseases, such as hypertension, diabetes, obesity and hypothyroidism. The Institution currently accommodates 2-3 persons suffering from schizophrenia, who are treated by consultant psychiatrist Dr Zorica Barac-Otašević, employed at the Clinical Centre of Montenegro. She administers therapy which is then packed in individual dozers, so it should not happen that nurses give therapy independently, although monitors learned from informal sources that this has occurred in practice. According to Dr Grbović, there were no cases of suicide, while attempts at self-injury that could have serious consequences are rare.

Residents of childbearing age have been protected by receiving an intrauterine device.⁶⁴

During the visit, monitors noticed that the posture of a number of immobile female patients seemed to cause them constant pain. It would be necessary to provide an appropriate type of physical therapy for such residents, in order to ease somewhat their extremely difficult physical condition (for more detail on the engagement of expert consultants see Appendix, recommendation 10).

During the first monitoring visit, medical staff reported two residents suffering from cancer, one of whom died in the meantime. According to the medical staff, such patients receive no special treatment for this type of disease. According to Dr Grbović too, patient suffering from skin cancer (melanoma) does not currently receive any kind of therapy, pursuant to the recommendation of an oncologist from the Clinical Centre (CC). As stated by Dr Grbović, in cancer cases diagnosed in residents, therapy is proposed by treating doctors from the CC. Residents are sometimes sent to the CC for examination, which cannot be performed or is performed only partially because the residents are unable to obey verbal instructions of a doctor, in which case the doctor writes in the report that “the patient refuses to cooperate”. Despite these difficulties, the state is obliged to provide appropriate medical personnel able to treat this population, which requires specialized training of medical staff. One way to ensure this is mentioned on page 20 of this report.

7.5. Views of parents

As for concerns about the health of residents, interviews with the parents confirmed monitors’ findings. They noted that the staff respond only in acute situations, for example in the case of severe toothache, while there are no regular dental examinations. One of the parents noted that one resident died of diabetes, which raises the question of the level of healthcare provided to residents at this institution. Also, a complaint set forth by one of the parents concerned medical treatment received by residents. The suspicion namely concerns the possibility that nurses combine medications and change the quantity of prescribed medications at their own discretion, not according to doctors’ instructions.

⁶⁴ CPT Report on the 2008 visit to Montenegro, p. 123: „During the visit, the delegation was informed by staff that some residents had sexual relations. The management’s approach in this respect was to ensure that most sexually active female residents received an intrauterine device. With regard to pregnancies, the policy was to carry out abortions after evaluation of each case by a council of gynaecologists. A psychiatrist was also consulted, but from the information gathered it appeared that the residents’ guardians were not involved in the process. In view of the numerous ethical and legal issues involved (among others, the issue of residents’ capacity to express consent to sexual relations and to eventual abortions), the CPT would welcome the comments of the Montenegrin authorities on the above-mentioned subject.”

The pathology of residents requires doctor's daily presence. In case that the Ministry of Health legalizes the clinic, a doctor should be employed full time. Also, the clinic should be adequately equipped so that more necessary analyses could be carried out in the Institution. Residents would "cooperate better" during certain examinations if they were in the familiar environment of their "home" and in the presence of the Institution's doctor (employed full-time) who would have the knowledge and sensibility to approach all residents in a manner suited to each individual resident. During the visit of the monitoring team in February 2013, Director of the Institution informed us that the Ministry of Finance provided its consent for engagement of a doctor of general medicine, however, no candidate applied and the vacancy announcement remained open (for more detail see Appendix, recommendation 33).

7.6. Procedure to determine death

Autopsy should be performed on all persons who pass away in closed institutions to clarify their cause of death, unless they were suffering from a terminal illness. The CPT recommends that the relevant authorities draw up a clear protocol for dealing with unexpected deaths in social care homes.⁶⁵ In the CPT's opinion, an autopsy should be carried out in all cases where a patient dies in hospital, unless a clear diagnosis of a fatal disease has been established prior to death.⁶⁶

In Montenegro this is not the case. This area is regulated by the Law on Healthcare, which defines a coroner.⁶⁷ The Ministry of Health is currently drafting the rules to regulate the work of a coroner, death establishing process, autopsy request, necessary forms. Such rules should be adopted as soon as possible. Situation remained the same until the project completion (for more detail see Appendix, recommendation 33).

65 CPT Report on the 2007 visit to Bosnia and Herzegovina, p. 127.

66 CPT Report on the 2006 visit to Turkey, p. 35.

67 Art. 128 of the Law on Healthcare:

Autopsy shall be performed as a special measure to establish the cause of death.

Autopsy shall be performed on a corpse:

- 1) of a person who passed away in a medical institution, if the exact cause of death has not been determined;
- 2) at the request of a medical doctor who treated the deceased;
- 3) of a person brought to a health facility whose cause of death is unknown;
- 4) at the request of a medical doctor who determines the cause of death;
- 5) at the request of a family member of a deceased;
- 6) if requested by an investigation authority because there is suspicion that the death was caused by the commission of a criminal offense or in connection with the commission of a criminal offense;
- 7) when of particular importance for the health of citizens or for epidemiological and sanitary reasons;
- 8) if death occurs during diagnostic or therapeutic procedures;
- 9) if death occurs within 24 hours of admission of a person in a health facility;
- 10) if a person was subject to clinical trial of a drug or medical device, or other scientific testing.

7.7. Recommendations of November 2011

- Raise the level of dental care at the Institution as soon as possible and introduce regular medical examinations. Hire a full-time general practitioner, or as a minimum engage external general practitioner with the significantly increased number of hours spent at the Institution as compared to the current situation.
- Accelerate the negotiation process and hire another external expert–gynaecologist, as soon as possible. Provide funds to cover the Institution’s costs for the procurement of drugs that are not on the Health Insurance Fund list.
- Connect internal Institution’s medical database containing medical records of patients with the public healthcare database and develop appropriate protocols that will allow the continuity of residents’ healthcare regardless of staffing solutions.
- Ensure appropriate therapy for residents suffering from cancer. Healthcare should also be preventive. Include residents in the mandatory screening tests that are now part of the basic primary healthcare package.
- Define the legal obligation to perform an autopsy on persons who pass away in the Institution in accordance with Art. 128 of the Law on Healthcare. It is essential that the Ministry of Health adopt rules that regulate the work of a coroner.
- Ministry of Health should adopt relevant regulations and ensure registration of the Institution’s clinic in accordance with Art. 78 of the Law on Healthcare, which would imply new job classification and its equipping in accordance with the regulations.

THE TABLE IN APPENDIX provides detailed description of the degree of fulfilment of these recommendations in February 2013 (recommendations 30-37).

8. CONTACT WITH FAMILY AND COMMUNITY MEMBERS

8.1. Contact with parents (guardians)

Policy of the Institution does not limit contact with the outside world. Apart from being able to visit residents without prior notice and limitations, parents and guardians may take part in all activities relating to the residents and carried out in the Institution. However, these rights are used rarely. Unfortunately, according to the Director and defectologist, a very small number of parents (relatives) maintain contact with the residents, only about 15%. Pursuant to the Ombudsman's recommendations,⁶⁸ the Institution has taken certain measures to animate families in order to establish and maintain contact. According to the Director, Komanski Most Institution covers part of the travel costs for residents' parents who are in difficult financial position. This action of the Administration is commendable, but the results are still lacking and further efforts need to be made to involve the parents. It is necessary to ensure that staff members work with the parents and organize more intensive cooperation with social welfare centres, to involve them in taking measures for ensuring parents' active participation (for details see Appendix, recommendation 42).

As regards decision making about the lives of residents, one parent noted that there were parents interested in improving cooperation with the Institution's Administration and staff. He had addressed the Ministry of Labour and Social Welfare with the request to consider the possibility of including representatives of the residents' parents in the Governing Board of Komanski Most Institution. By the time of completion of this report, there was no response to this proposal (for details see Appendix, recommendation 38).

8.2. Contact with the community

In its report on the 2008 visit to the Institution, the CPT invited the Montenegrin authorities "to pursue their efforts to encourage residents' contacts with the outside world (e.g. by means of inviting voluntary visitors, NGOs, etc.)". As regards contact with other institutions and civil society, the Institution shows improvement compared to the earlier period.

The Director put emphasis on Institution's cooperation with the sports club "Budućnost", thanks to which about 20 residents of the Institution had a chance to go to a sports match, which they found very enjoyable. Unfortunately, this is an isolated case in the practice of the Institution - interaction between the community and residents is very limited. Activities such as going out to the city, to concerts, performances and sporting events should be organized more frequently, in cooperation with other organizations and institutions, as is the case in Slovenia.⁶⁹ By the end of the project we noted several positive examples of cooperation of the Institution with individuals and groups of citizens (for details see Appendix, recommendation 39). In addition, Komanski Most Institution now has a website, which is a step forward in making the work of the Institution more transparent.

⁶⁸ Take all necessary measures to animate parents – guardians and families, in order to maintain regular contact with the residents and actively participate in the process of treatment and rehabilitation.

⁶⁹ For example, in Slovenia more intensive cooperation has been established between centres for people with mental disabilities and medical schools and faculties. This helps form specialized personnel for working with this population (Source: Centre za usposabljanje, delo in varstvo Dolfke Boštjančič, Draga, <http://www.center-db.si>).

However, it seems that other institutions are not sufficiently involved in the work of the Institution and do not provide adequate technical support. It is necessary to enhance cooperation with other state institutions, especially those dealing with education, employment and care for persons with intellectual disabilities, as well as civil society organizations. It is extremely important to raise the level of cooperation with local governments and social welfare centres, in order to develop support service for people with intellectual disabilities at the local level.

8.3. Supervision over the Institution's work

In 2008 the CPT recommended the establishment of an independent body responsible for inspection of residents' care "authorised, in particular, to talk privately with residents, and make any necessary recommendations to the authorities on ways to improve the care and conditions afforded to residents."⁷⁰ Independent body was not established by the end of the project implementation, but the Ombudsman, UNICEF and NGOs have the opportunity to visit the Institution in order to monitor its work. Komanski Most Institution cooperates with the relevant ministries and once a month a meeting is organized with the Ministry of Labour and Social Welfare representatives (for details see Appendix, recommendation 42).

8.4. Cooperation with educational institutions

The Institution has established cooperation with the Faculty of Medicine and Faculty of Political Science (Social Policy and Social Work majors), which includes students' two-hour visits to the Institution in order to learn about its functioning.⁷¹ However, cooperation has not proceeded as planned, including visits of students. It is necessary to encourage students to volunteer, which can be achieved in cooperation with their teachers. Also, it is necessary to develop programs that would motivate students to work with this category of population and become a part of the Institution's expert team after graduation. As mentioned above, it is necessary to improve cooperation with the secondary medical school and ensure that part of their practice is regularly performed at the Institution. During the visit of the monitoring team in February 2013 there were still no volunteers at the Institution, but the fact that the living conditions of residents have improved significantly and that the activities of NGOs involved in Institution's activities have media coverage encourage initiatives of this type, which require continuous support (for details see Appendix, recommendation 39).

8.5. Promoting the rights of people with intellectual disabilities

Media too have a major role in achieving more humane relationship of the society towards the residents of the Institution. One of the Ombudsman's recommendations addressed to the Institution related to this issue.⁷² It is necessary to establish cooperation with media representatives in order to raise public awareness about the importance of the presence of people with intellectual disabilities in community life and to promote, assist and support people residing

⁷⁰ CPT Report on the 2008 visit to Montenegro, p. 136: "The CPT invites the Montenegrin authorities to introduce a firm legal basis for regular visits to the Komanski Most Institution by bodies which are independent of the social care authorities, taking into account the above remarks."

⁷¹ *Ibid*, fn. 69.

⁷² Take necessary actions in order to eliminate prejudice of the general public against people with mental health problems.

at the Institution. By the end of the project implementation, Institution's Management invested significant efforts to increase the transparency of its work and through the previously mentioned activities affect change in public awareness and reduce prejudice against people with intellectual disabilities. There is a need for greater support of the Ministry of Labour and Social Welfare in creating a public campaign that would further promote the rights of this population (for details see Appendix, recommendation 40).

8.6. Recommendations of November 2011

- Establish an independent body to monitor the work of the Institution and ensure participation of residents' parents in its work, as well as in the Governing Board of the Institution.
- Establish cooperation with different organizations in order to organize sports, cultural, recreational and entertaining activities for residents, e.g. out-of-town trips or trips to the city, shows, concerts and sporting events.
- Organize public campaign and raise the awareness about persons with intellectual disabilities with the help of the media.
- Komanski Most Institution should continue taking measures to encourage family contact with the residents, with the help of social welfare centres.
- Improve the quality of cooperation of the Ministry of Labour and Social Welfare, social welfare centres, local community, secondary medical school and faculties with the Institution. It is necessary to enhance cooperation with other state institutions, especially those dealing with education, employment and care for people with intellectual disabilities, as well as civil society organizations.
- Take measures to open counselling centres, mental health clinics and day care centres, in order to help and support people with intellectual disabilities and their families.

THE TABLE IN APPENDIX provides detailed description of the degree of fulfilment of these recommendations in February 2013 (recommendations 38-43).

9. STATUS ISSUES AND OTHER RIGHTS OF RESIDENTS

9.1. Placement in the Institution

Pursuant to Art. 25 of the Law on Social and Child Protection (*Sl. list RCG, 78/2005*), “people with physical, mental or sensory disability, who cannot be provided care in any other way due to housing or health or social or family circumstances” also have the right to be placed in an institution (as a form of social protection). Accordingly, the Decision on the organization of the Public Institution for accommodation of people with special needs (*Sl. list RCG, 11/06*) stipulates that Komanski Most Institution is a public institution for placement of people with intellectual disabilities.

Competent social welfare centre decides on the right to placement at the institution in the first instance, and the Ministry of Labour and Social Welfare decides on appeal against the decision of the centre. Action can be brought against the decision of the Ministry of Labour and Social Welfare before the Administrative Court of Montenegro.

9.2. Deprivation of legal capacity and placement under guardianship

On the basis of Art. 224 of the Family Law, guardianship authority is required to initiate the guardianship procedure as soon as it learns that a person should be placed under guardianship due to an intellectual disability. Since adults may be placed under the custody of a relative or social welfare centre only if they have previously been fully or partially deprived of their legal capacity in non-contentious proceedings on account of mental illness, mental retardation or other causes due to which they cannot look after their own rights and obligations, social welfare centre should initiate this procedure *ex officio*, which is by its nature urgent. Once a person has lost his/her legal capacity in court proceedings (e.g. due to intellectual disability), social welfare centre shall place that person under guardianship on the basis of a court decision (Art. 236 of the Family Law) and, if necessary, at the initiative of a guardian, or *ex officio* if in the interest of the person deprived of legal capacity, initiate the procedure for placement at the institution (again led by a social welfare centre) in accordance with Art. 100 of the Law on Social and Child Protection.

However, since no Montenegrin law expressly forbids placement at the institution of persons who have not previously lost their legal capacity (i.e. court did not find intellectual disability), social welfare centres often place persons at Komanski Most Institution on the basis of medical documentation, without prior judicial procedure and placement under guardianship.⁷³ Thus, adults who were not deprived of their legal capacity or placed under guardianship resided at this Institution for a long time.⁷⁴ The situation in which closed institutions hold people against their will and without a court decision, or without the actual possibility for a court to effectively decide on the legality of their stay in that institution, violates their human right to freedom guaranteed

⁷³ Explanation received from the legal expert of the Podgorica Social Welfare Centre.

⁷⁴ Although Komanski Most Institution’s 2011 Work Program states that the Institution only admits persons under custody.

by international treaties.⁷⁵ In contrast, in a situation where these persons have not lost their legal capacity, partially or fully, while someone else looks after their property and other rights and obligations, without legal authority, represents further violation of their rights to property, privacy, marriage, etc. It was therefore absolutely necessary without further delay to conduct proceedings regarding possible deprivation of legal capacity and placement under guardianship which were not initiated or conducted for years, but which are now in progress - as monitors were informed. It should also be noted that now, in accordance with *the Institution's 2011 Work Program*,⁷⁶ Komanski Most Institution can only accommodate persons placed under guardianship. By the end of the reporting period, in February 2013, court proceedings concerning the deprivation of legal capacity were not completed for all persons residing at the Institution (for details see Appendix, recommendation 45).

Regarding the protection of children with intellectual disabilities, social welfare centres carry out protection measures in accordance with the proposal of the first level Commission for directing children with special needs, operating on the basis of Art. 16 of the *Rules on the criteria for determining the type and degree of impairment, disability or disorder in children and youth with special needs and the manner of inclusion in educational programs*. The said Commission is under the authority of the Ministry of Education and Science. The Ministry of Labour and Social Welfare continuously, within its competencies, communicates with social welfare centres on the subject of implementation of regulations relating to the protection of these groups of children and adults. Also, a manual on the treatment in these cases has been developed and delivered to the centres.

Representatives of the Podgorica Social Welfare Centre notified us that the Ministry is informed about the cases of residents of the Institution, actively, but we have not received confirmation that there is a document precisely regulating the competence of both institutions. Social Welfare Centre organizes meetings with representatives of the Ministry of Labour and Social Welfare once a month to address this issue. The Government needs to initiate the adoption of by-laws that would accurately determine standards and procedures for the work with residents, starting from referral to the Institution and ending with the program of social support after discharge. There is no organized monitoring of residents' individual treatment plans, to ensure that individual plans are not solely formal backing for the current regulations. By the end of the reporting period, the Ministry of Labour and Social Welfare failed to pass by-laws which would precisely define standards and procedures for referral to the Institution and the program of social support after discharge from the Institution (for details see Appendix, recommendation 44).

Resident's guardian, which is usually a social welfare centre, is obliged to manage the property of the resident conscientiously and take all necessary actions to obtain funds for the implementation of measures in the resident's interest ordered by the social welfare centre,⁷⁷ and these expenses are primarily settled from the resident's income, property, funds received from persons obliged to support the resident, social welfare support and other sources.⁷⁸ In its report on the 2008 visit to the Institution, the CPT pointed to a possible conflict of interest which arises when a social welfare centre is appointed a guardian and at the same time decides on the

75 Art. 5, para 1, item e and para 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Art. 9, para 1 of the International Covenant on Civil and Political Rights.

76 Komanski Most Institution's Work Program for 2011, available at: <http://juzkomanskimost.me/images/stories/Dokumenti/PROGRAM%20RADA%20ZA%202011.pdf>.

77 Art. 195 of the Family Law, *Sl. list RCG*, 1/07.

78 Art. 196 of the Family Law, *Sl. list RCG*, 1/07.

admission and discharge of residents.⁷⁹ In response to this CPT's remark, the Government provided an unconvincing explanation that the area of guardianship "is regulated in detail by provisions of the Family Law. By placing persons under custody, the Law provides protection of status and property rights and other interests of residents. From the above, it can be concluded that children and adults are fully covered by legal protection of their person and property as well as in terms of placement in appropriate institution of social care."⁸⁰ Situation in this respect remained unchanged at the time of the last visit in February 2013 (see Appendix, recommendation 46). This issue certainly deserves a more detailed analysis and strengthening of guarantees for the protection of the rights of residents under the guardianship of a social welfare centre. This especially if taken into account that the competent centre has failed to ensure validation of a health insurance card of a seriously ill resident of the Institution for a period of seven months, which violates her right to medical treatment.⁸¹ Such actions indicate serious negligence in the performance of duties and require proper investigation.

9.3. Categorization and re-categorization of residents

Process of categorization of persons⁸² is the responsibility of social welfare centres and should be carried out prior to the placement at the Institution. Re-categorization is carried out in relation to residents included in the proceedings for establishing guardianship, when a court seeks the opinion of a neuropsychiatrist. Ministry of Labour and Social Welfare has established the Commission for re-evaluation of all residents of the Institution, which is the basis for the development of individual treatment plans for residents. The Commission consists of representatives of the Institution, psychiatrist, psychologist and chosen doctor. Individual plans for the protection of residents provide for placement under guardianship or extension of parental rights. Current state of these procedures is as follows⁸³: 56 procedures for deprivation of legal capacity are pending (12 residents are from Nikšić, 1 from Plužine, 2 from Šavnik, 3 from Kotor, 2 from Budva, 1 from Ulcinj, 4 from Rožaje, 29 from Podgorica, 2 from Kolašin), 56 procedures for placement under guardianship were completed, while three residents await completion of the procedure on the restriction of parental rights at the initiative of the Bijelo Polje Social Welfare Centre. The Institution also accommodates five people from the region, three of which have the status of displaced persons.

These data and the situation at the Institution indicate that the re-categorization of residents has so far been carried out in extremely rare cases, which means that the residents, once classified into these categories, remain there until the end of their stay in the Institution. This has largely prevented the development of residents. There is a justifiable concern about the professional capacity of social welfare centres to assess the needs and abilities of each person individually. It is obvious that primarily the staff at the Institution carry the burden of evaluation and only after

79 CPT Report on the 2008 visit to Montenegro, p. 133: "The potential conflict of interest which arises when a Social Welfare Centre is appointed as a guardian and at the same time is responsible for admission and discharge decisions needs be addressed. The CPT recommends that the Montenegrin authorities take the necessary steps to avoid such a conflict of interest."

80 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 (CPT) on its visit to Montenegro from 15 to 22 September 2008, 11 March 2010, available at: <http://www.cpt.coe.int/documents/mne/2010-04-inf-eng.htm>.

81 More detail on p. 34.

82 The process of determining IQ in persons with mental retardation.

83 Official letter from the Institution's Director, no. 04-870 of 24 October 2011.

the placement of a person. This raises the question whether the placement at the Institution truly was the best solution for all the people who reside there. The situation improved only partially, i.e. in 2011 the Ministry of Labour and Social Welfare formed Working Group for the assessment of a type, form and degree of a deficiency, disturbance or disorder of residents, whose opinion should have represented the basis for development of individual plans for all residents (for details see Appendix, recommendation 49). The following example illustrates the situation at the Institution when it comes to legal capacity and re-categorization of residents:

The procedure for depriving resident M.P., who has a mild intellectual disability, of her legal capacity was completed after 14 years of her stay at the Institution. Her guardian is the Ulcinj Social Welfare Centre. M.P. was orphaned at an early age and the Centre had no adequate solution to her situation – she was first placed in a retirement home and then transferred to Komanski Most Institution. Defectologist at the Institution with whom the monitors spoke confirmed that M.P. does not belong there, as the Institution should not accommodate people with mild intellectual disabilities. During the reconstruction of the Institution, residents, including M.P., stayed in the retirement home in Risan, where M.P. started an emotional relationship with I.B. M.P. wishes to leave the Institution and enter into marriage with I.B., who regularly visits her at the Institution. The Director does not allow M.P. to exit the institution, as he has no authority to make such decision. According to legal provisions, a decision about the possibility to leave the Institution and enter into marriage must be made by the Social Welfare Centre, as her guardian. Under the Family Law “Marriage cannot be entered into with a person who is incapable of reasoning due to mental illness or other reasons”. Despite this resident’s desire to leave the Institution⁸⁴ and start a new life with her partner, competent authorities have not yet decided whether and when she will be able to accomplish that. This example confirms poor performance of the entire system for the protection of persons with intellectual disabilities, which provides space for violations of human rights of residents. People with intellectual disabilities have the right to self-determination⁸⁵ same as everyone else. Denial of this right deprives them of the opportunity to improve their chances for a decent life.

We have received information that ten years ago two female residents had left the Institution and entered into marriage, with the approval of competent social work centres, but we do not have detailed information on their status, i.e. procedures that may have been conducted in relation to their deprivation of legal capacity and placement under custody.

9.4. Introduction to rights

Introduction to rights is of great importance for this marginalized population, as well as the establishment of an appropriate control mechanism for the protection of their rights. In a report drafted in response to the CPT recommendations⁸⁶, the Government of Montenegro stated: “With a view to explain the terms and conditions of admission, stay and discharge, public establishment Komanski Most plans to draw up information brochure and disseminate it to residents-custodians,

84 Interview with M.P. during two visits in September and October 2011.

85 Art. 19 of the UN Convention on the Rights of Persons with Disabilities: „Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement.“

86 The CPT recommends that such a brochure be drawn up and systematically distributed to residents, their families and guardians(CPT Report on the 2008 visit to Montenegro, p. 134).

professionals and public at large.”⁸⁷ In this context it should be noted that the Ombudsman made the same recommendation in his report.⁸⁸ By the end of the project the Institution prepared informative brochure about the Institution itself and services it offers (for details see Appendix, recommendation 47), while the brochure including also a section on human rights of the residents has been created by NGOs within the project “Monitoring Respect for Human Rights in Closed Institutions in Montenegro”, in cooperation with the Ministry of Labour and Social Welfare.

In 2011 the Ombudsman also recommended the establishment of the mechanism of control and supervision over the work of the Institution,⁸⁹ however, this recommendation was not met by the end of the reporting period (see Appendix, recommendation 45).

9.5. Deinstitutionalization

Human rights activists argue that the concept of institutionalization represents an obvious violation of human rights. The United Nations Convention on the Rights of Persons with Disabilities explicitly guarantees the right of these people to live and be involved in the community, and that states must “take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community”.⁹⁰ The process of deinstitutionalization in Montenegro has begun, but has been slow. Opening of day care centres for children and youth with intellectual disabilities offers a non-institutional care, and, according to the Director, efforts are being made to achieve that in future the Institution accommodates only adults with intellectual disabilities. Non-institutional care programs are aimed at children, which is certainly very affirmative. However, there are no such support programs for adults with intellectual disabilities and occupational program offered to them at the Institution is monotonous and demotivating; thus, they are not provided adequate training for independent living. In order to ensure respect for human rights to the full extent to persons with intellectual disabilities, it is necessary to develop a strategic approach at the national level and provide these persons and their families psycho-social, educational and pedagogical support (organize counselling centres, parenting groups, home care, centres for occupational training, protective workshops, supported employment...) (see Appendix, recommendation 51). As for transition planning, in its 2011 Work Program the Institution envisaged several transition projects, including construction of residential small house communities, assisted living and half-day room or day room.⁹¹ By the end of our project progress was made in the implementation of service transformation plan relating to children, but not to adults (for more detail see Appendix, recommendation 50).

87 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 (CPT) on its visit to Montenegro from 15 to 22 September 2008, 11 March 2010, available at: <http://www.cpt.coe.int/documents/mne/2010-04-inf-eng.htm>.

88 “Develop an informative brochure on the terms of admission, stay and discharge of residents from an institution and their rights, and make it available to residents, their parents or guardians, experts and general public”, Special report of the Ombudsman on the human rights of mentally ill persons placed in institutions, March 2011: http://www.ombudsman.co.me/docs/izvjestaji/POSEBN_IZVJESTAJ_NS_21.03.2011.doc

89 “Take all necessary measures to establish mechanisms for the control and supervision of the work of institutions, as well as uniform standards for providing service to users”, Special report of the Ombudsman on the human rights of mentally ill persons placed in institutions, March 2011: http://www.ombudsman.co.me/docs/izvjestaji/POSEBN_IZVJESTAJ_NS_21.03.2011.doc.

90 International Convention on the Rights of Persons with Disabilities, Art. 19 (Law on Ratification of this Convention was published in *Sl. list CG*, 02/09 of 27 July 2009).

91 For more detail see Institution’s Work Program for 2011: <http://juzkomanskimost.me/images/stories/Dokumenti/PROGRAM%20RADA%20ZA%202011.pdf>.

9.6. Recommendations of November 2011

- Ministry of Labour and Social Welfare without delay to adopt by-laws to specify the standards and procedures for admission and stay of residents, as well as for social support after discharge from the Institution.
- Form an independent body to monitor the procedures of determining guardianship, categorization of persons prior to admission to the Institution, re-categorization after the placement at the Institution, as well as the work of the Institution. Allow residents' parents, experts and representatives of civil society concerned with human rights to be involved in the work of this body.
- Develop an information brochure with the purpose of introducing the residents' rights to employees at the Institution, residents and their families.
- Provide for greater involvement of residents and their families in decision-making processes that affect them and their stay at the Institution (e.g. allow them to choose their roommate, activities they want to practice, design their living space; ensure that parents representative be included in the Governing Board of the Institution, etc).
- Regularly perform re-categorization of persons placed at the Institution and review the need for their further stay.
- Implement transitional planning (transition projects: residential communities, assisted living and half-day or day room).
- Develop a system of social support for adults with intellectual disabilities and establish counselling centres, centres for occupational training, protective workshops, supported employment, etc, in order to prevent institutionalization.

THE TABLE IN APPENDIX provides detailed description of the degree of fulfilment of these recommendations in February 2013 (recommendations 44-51).

10. CONCLUSION IN RELATION TO THE MONITORED INSTITUTION

By the end of the project implementation in February 2013, of 30 recommendations provided by the CPT based on its visit to Komanski Most Institution in September 2008, 16 recommendations (53.33%) were applied, 10 (33.33%) were partially applied and 4 were not applied (13.33%).

Of a total of 51 recommendations of the NGOs monitoring team given in November 2011, 22 recommendations were applied (43.13%), 17 were partially applied (33.33%), while 12 (23.52%) were not applied.

We conclude that more than 2/3 of the CPT's recommendations from 2009 were fully or partially applied, and that about 3/4 of recommendations of the NGOs monitoring team were fully or partially applied during the period of approximately one year only. Taking into account this result, we consider the monitoring project very successful.

We wish to commend the efforts of the Public Institution "Komanski most" and the Ministry of Labour and Social Welfare on the implementation of recommendations from our 2013 report, and especially those outlined by the CPT in 2009, related to the improvement of the living conditions of residents, hygiene, adaptation and renovation of the wards and kitchen, increase in the number of employees in direct contact with residents, prohibition of physical and psychological abuse of residents and their fixation, etc. Equipping of the gynaecological clinic, procurement of medical supplies and orthopaedic devices and employment of four specialists from the field of medicine have significantly improved the healthcare of residents. Physiotherapy room has been equipped with modern fitness equipment and a physician was hired. Transparency in the work of the Institution has significantly improved and efforts were made to establish contact with the outside world and residents' families.

We commend the willingness of Institution's Director Mr. Vaselj Dušaj to cooperate with our team, as well as his personal commitment to mobilize the community to raise funds for the Institution. As a result, the Institution obtained a modern sensory room, mentioned in the report from 2013 as an example of good practice in working with children with autism. Collaboration with the community and civic associations had an impact on raising social awareness about the population placed at the Institution, so there are more people of good will and organizations who wish to help this Institution.

However, further improvement is needed in the following areas:

- occupational therapy and treatment of residents, which remained at the same level as in the period of drafting the first report of the monitoring team, although this is a key component to the welfare and progress of residents and the Institution itself;
- transitional planning and creating of the conditions for supported housing for adult residents at the Institution;

- activities for immobile residents;
- greater involvement of residents and their parents or guardians in the work of the Institution and decision-making concerning both residents and the facility;
- necessity to encourage and motivate staff by providing them with the opportunity to improve the work with residents through their own recommendations, and to ensure better care for staff through provision of benefits, training, professional supervision and support of specialists;
- further improvement of understanding of the human rights of Institution’s residents, which includes the right to humane attitude of staff towards residents and respect for their dignity, right to privacy and right to decision-making and self-representation to the highest possible extent;
- Ministry of Labour and Social Welfare should invest further efforts to address the status issues of residents. It is necessary to adopt an ordinance as soon as possible in order to specify the procedures for referral, admission and stay of residents, as well as for providing social support after discharge from the Institution. Also, an independent body needs to be established to monitor the procedures of determining a guardian, categorization of persons prior to admission to the Institution, re-categorization following admission to the Institution, as well as the work of the Institution.

We believe that the Public Institution “Komanski most” has started the process of positive transformation from the institution where severe human rights violations had occurred, to the institution that cares about its residents and promotes their rights in the community.

Our special thanks go to the director and staff of Komanski Most Institution for their cooperation and understanding during the two-year monitoring of the Institution.

11. APPENDIX - TABLE WITH THE ASSESSMENT OF IMPLEMENTATION OF RECOMMENDATIONS

Assessment of the fulfilment of recommendations relating to the Public Institution "Komanski most" in February 2013.

No.	Recommendation addressed to:	Recommendation	Current situation	Assessment of the fulfilment
Residents' living conditions				
1.	Director of the Institution	Provide funds to construct a gym and premises for physical therapy. (MT)	Room for physical therapy and kinesiotherapy has been provided. Physiotherapy equipment was donated by the UN in Montenegro as part of the project "Delivering as One". The room is equipped with electrical apparatus for current therapy and assistive devices such as static bicycle, treadmill, massage bed, hydraulic bed suitable for wheelchair users, exercise mats, large gymnastic balls, rollers and ladders. In addition to electrical therapy, ultrasound therapy is also applied, as well as electrical stimulation.	<u>Recommendation fulfilled.</u>
2.	Director of the Institution	Improve the care of immobile residents and assist staff in the work with them by providing safety belts for wheelchairs, gurneys, mobile platforms for lowering and raising residents from a bathtub and mobile sinks. (MT)	Wheelchairs and seat belts have been provided for all adult wheelchair users through the Health Insurance Fund. Mobile platform for lowering and raising wheelchairs users was provided through donations.	<u>Recommendation fulfilled.</u>
3.	Director of the Institution	Refurbish common room in Ward A to make it more comfortable for the residents and meet their needs and abilities. Wash or paint the walls. (MT)	During our visit, residents were sitting on the floor on mattresses. ¹ Also, staff members were painting the walls in Ward A. ²	<u>Recommendation fulfilled.</u>

¹ See the Report, p. 8.

² Ward A was renovated two years ago, however, the management informed us that the roof is leaking and that necessary repairs to the roof need to be done in the said Ward, which requires additional funds. The plan is to also build a shelter that would connect the wards with kitchen, so that residents have a shelter in case of inclement weather.

4.	Director of the Institution	Equip the Institution's yard with adequate inventory for recreation of adults. (MT)	Director informed us that negotiations with the Ministry of Labour and Social Welfare to provide funds for the yard equipment are ongoing ³ . Funds for the construction of a greenhouse have been provided.	<u>Recommendation partially fulfilled.</u>
5.	Director of the Institution	Provide adequate wheelchair ramp in the children's yard. (MT)	Wheelchair ramp in the children's yard has been provided.	<u>Recommendation fulfilled.</u>
6.	Director of the Institution	Start the planned kitchen renovation as soon as possible, provide for a dishwasher and potato peeler to reduce the issue of support staff shortage and facilitate the work of residents engaged in the kitchen. (Ombudsman, MT)	Kitchen has been renovated and dishwasher and potato peeler have been provided.	<u>Recommendation fulfilled.</u>
7.	Director of the Institution	Ensure the right to privacy of the Institution's residents by making sure that staff do not change and undress residents in front of others and by providing lockable space for residents' personal belongings, in accordance with their abilities. (CPT, MT)	Space has been personalized. During the visits we did not notice that residents change their clothes in front of others.	<u>Recommendation fulfilled</u> bearing in mind that not all residents, who can use it, have been provided with lockable space._
8.	Director of the Institution	Improve personal hygiene of children by giving them a bath at least twice a week. (MT)	Staff informed us that the recommendation is put into practice. During the visits, the hygiene of children was satisfactory.	<u>Recommendation fulfilled.</u>
9.	Director of the Institution	Provide wheelchair users with adequate assistive devices and ensure that all access points and entrances be adapted for wheelchair users. (MT)	Recommendation implemented in practice. Ward A has been equipped with two elevators adapted for wheelchair users. Elevators were donated by the First Bank of Montenegro.	<u>Recommendation fulfilled.</u>

3 The Institution's courtyard is equipped with a basketball court, improvised soccer field, table tennis table (professional), that they play outdoors when the weather is nice. Their needs are conditioned by their age, motor ability and general health.

Institution staff				
10.	Director of the Institution	Employ a psychologist, pedagogue (andragogist) and three more carers, in accordance with the current Rulebook on internal organization and job classification in the Public Institution "Komanski most". Consider hiring additional staff. (CPT ⁴ , Ombudsman ⁵ , MT).	<p>In the period since the publication of the report until February 2013, the following personnel have been employed: three carers, two charwomen and a laundry person. In addition to 3 external consultant physicians - chosen doctor,⁶ occupational medicine specialist and neuropsychiatrist, as well as a dentist⁷, four more consultants have been engaged: gynaecologist⁸, orthopaedist, psychiatrist, physical therapist and neurologist.</p> <p>As part of the professional development program at the Institution, eight interns started their internship on 15 January 2013, of the following profiles: psychologist, pedagogue, defectologist, three social workers, political scientist - major in international relations and graphic designer.⁹ It is also necessary to hire an oligophrenologist at the Institution.</p>	<p><u>The recommendation is almost completely fulfilled. However, it is necessary to engage an oligophrenologist. The Institution has published a vacancy announcement for this position on 29 October 2012, but, in the words of the Director, there is a shortage of experts in this field and the Employment Bureau of Montenegro did not register any unemployed person with this degree. Therefore, the vacancy announcement shall remain open.</u></p>

4 "The numbers of staff in direct contact with residents should be substantially increased, including nurses, educators, work therapists, social workers, etc" (p. 126), CPT Report on its 2008 visit to Montenegro.

5 Take all necessary measures to ensure a sufficient number of specialized staff and employees who have direct contact with residents (nurses, educators, carers, occupational therapy specialists, social workers), as well as support staff.

6 See recommendation no. 33.

7 See recommendation no. 32.

8 See recommendation no. 34.

9 During our visit on 23 January 2013, interns were in the wards, in direct contact with residents. Graphic designer painted the walls of the living room in Ward C. Employees say they have been relieved and that it is easier to work with residents with the help of interns. In an interview Director of the Institution told us that after the internship period is over he will seek the approval of the Ministry of Finance to employ those interns who show interest in the work at the Institution.

11.	Director of the Institution	Provide for adequate number of staff during the vacation season as well, by engaging people with appropriate qualifications registered with the Employment Bureau of Montenegro. Enhance cooperation with the secondary medical school and Faculty of Medicine (MT).	There is still only one person in the kitchen in the afternoon shift ¹⁰ , so the lack of personnel is compensated by engaging residents, who work during the entire day, with breaks.	<u>Recommendation partially fulfilled, since the cooperation with the secondary medical school and Faculty of Medicine remained at the same level¹¹.</u>
12.	Director of the Institution	Prevent the practice where one employee works a 12-hour shift alone with ten children. (MT).	According to the Director, additional cares was hired for the afternoon shift in Ward C. However, during our afternoon visits, including the last one carried out on 13 February 2013, we found that only one carer is engaged in the children's ward during the afternoon shift, which is inadequate, given the needs of children.	<u>Recommendation not fulfilled.</u>
13.	Director of the Institution	Additionally motivate employees by providing them with expert consulting support, supervision, performance evaluation and adequate remuneration for work in difficult conditions. (MT, CPT ¹²)	According to staff, wages have remained the same as before, and there are no benefits for work in difficult conditions. According to the Directors, during this year activities are planned to start the procedure for accelerated retirement plan, which will be initiated before competent authorities. Visit from a consultant from Finland, engaged by the UNDP under the project aimed at the transformation of the Institution, has proven the importance of this type of staff support. In staff's opinion, her stay at the Institution and her expertise helped them solve professional dilemmas and provided confirmation of good practices that exist at the Institution.	<u>Recommendation partially fulfilled, because employees have not been provided with continuous professional consulting support and supervision. Also, the wages remain the same.</u>

10 Although assistant cook was engaged after the publication of our first report.

11 According to the Director, the Institution is open for cooperation with the secondary medical school and Faculty of Medicine, but the cooperation depends on educational programs of these institutions.

12 "The CPT recommends that the Montenegrin authorities explore the possibilities of providing enhanced conditions of service for staff, so as to facilitate appropriate staff recruitment and retention, and offer both initial and ongoing training to staff (p. 126)", CPT Report on its 2008 visit to Montenegro.

14.	Director of the Institution	Conduct ongoing training for all staff at the Institution, which would include specialized training concerning the daily care of residents and improvement of their capabilities, as well as training on their rights, in order to raise the level of professionalism and improve the treatment of residents.	<p>Specific trainings were held at the Institution from 30 November to 2 December 2011, which included the following topics:</p> <ul style="list-style-type: none"> - health, motivation and well-being of staff and vocational rehabilitation at the workplace, - mental health and behaviour in order to adapt, - behaviour problems, challenging behaviour, stereotypes, - work with people with a pronounced need for support, - alternative communication, - sex education. <p>The lecturer was Ms. Jelena Vahakuopus, UNDP consultant in the project aimed at the Institution's transformation.</p> <p>On 29 November 2011 training was held at the Institution for its employees and representatives of social welfare centres, on the following topics: Convention on the Rights of Persons with Disabilities and the current legal issues in this area, as well as the Definition of intellectual disability and basic questions in rehabilitation. Lecturers were Ms. Jelena Vahakuopus and Mr. Siniša Bjeković.</p> <p>In addition to mentioned trainings, study visits were organized to similar institutions in Germany, Finland and Serbia.</p>	<u>Recommendation fulfilled.</u>
15.	Director of the Institution	Ensure proper equipment for the care of immobile residents that would facilitate employees' work with them in a physical sense. (MT)	Recommendations are put into practice. See recommendations no. 2 and no. 9.	<u>Recommendation fulfilled.</u>
16.	Director of the Institution	Engage additional male staff. "Carers" do not have to be women only, especially bearing in mind that Komanski Most Institution accommodates more male than female residents (64:47). (MT)	Since the publication of the Report, one nurse was employed and engaged in Ward A.	<u>Recommendation fulfilled.</u>

III-treatment and means of restraint				
17.	Director of the Institution	Train staff to use appropriate techniques to prevent residents' aggressive behaviour. (Ombudsman, MT) Montenegrin authorities to take appropriate steps to protect residents from other residents who might cause them harm. (CPT, p. 112)	Personnel did not complete special training, but this topic was mentioned in other trainings organized in the Institution.	<u>Recommendation partially fulfilled.</u>
18.	Director of the Institution	Introduce additional guarantees for the use of chemical restraint. For example, introduce a separate register for ampoule treatment for recording time, type, dose and circumstances for the application of ampoule treatment, name of the doctor who ordered the treatment and nurse who applied such treatment. Data on received ampoule therapy should be entered in residents' medical records. (CPT, MT).	Situation remained unchanged. There is still only a notebook for recording all administered therapies. Ampoule therapy is entered in residents' medical records (Report, p. 18).	<u>Recommendation not fulfilled.</u>
19.	Director of the Institution	Introduce the same guarantees for the use of mechanical restraint - establish a register of fixation. (MT) Take further steps to ensure that a comprehensive and clearly-defined policy on the use of such means is introduced (p. 129). (CPT)	Staff at the Institution pointed out that they do not resort to mechanical restraint, so the register book of fixation does not exist.	<u>Recommendation partially fulfilled.</u>
20.	Director of the Institution	Train staff in order to prevent residents' self-harm, particularly in autistic people, and provide technical means used for that purpose in the developed countries. (MT)	Milena Šoć, consultant hired by UNICEF, spoke <i>inter alia</i> about techniques to prevent self-injury and aggression, especially in autistic persons. Isolation room and sensory room that can also serve this purpose were provided, but additional training for staff is needed. According to the Director, the funds for training of personnel to work in the sensory room were provided by donors.	<u>Recommendation fulfilled.</u>

21.	Director of the Institution	Provide an isolation room with padded walls, where the residents would be placed in the case of agitation. (MT) Committee wishes to stress that seclusion should never be used as a punishment vis-à-vis mentally disabled persons (p. 127). (CPT)	Equipping of isolation room is in the final stage, the only task left is to set up a ventilation system. Drafting of the Rulebook on the application of isolation room is in progress.	<u>Recommendation fulfilled.</u>
Treatment of residents				
22.	Director of the Institution	Improve the existing and introduce additional work, educational and recreational activities for residents. Create activities for all residents, including for persons with profound intellectual disabilities and those with motor disturbance. (CPT ¹³ , Ombudsman ¹⁴ , MT).	Opportunities for indoor recreation have significantly improved after equipping the room for physiotherapy, which includes modern exercise equipment. Institution accommodates about 40 residents capable of working. However, occupational therapy has not improved and no new activities were introduced. On the contrary, some of the earlier programs have been nearly suspended due to a lack of working material, but are still performed only owing to the good will of occupational therapists who are coping with the situation using materials from nature where residents intervene artistically, creating icons and figures of wood. We suggest that these interesting handicrafts be used as decorations on the walls in the Administrative building and displayed at a public exhibition. In this manner the Institution would valorise the work of its residents, sensitize the public and collect funds for the working material. While collecting the funds for construction of a greenhouse is commendable, it is also important not to neglect an orchard located behind the wards. Orchard maintenance would have multiple benefits for residents' stay outdoors and working arrangement, as well as for the Institution's grocery supply. Also, we noted that physical labour, such as work in the kitchen and laundry room, are treated as occupational therapy and are often the only form of engagement of residents.	<u>Recommendation fulfilled in the part related to sports and recreational activities for residents.</u> <u>However, the recommendation was not fulfilled with regard to working and educational activities, because not enough attention is paid to occupational therapy, although it would greatly contribute to the welfare and progress of residents and the very Institution. Furthermore, persons with severe intellectual disabilities are still not engaged in any type of activities.</u> It is also necessary to ensure outdoor recreation, which would mainly be achieved through the orchard maintenance. <u>It is necessary to further improve and enhance both educational and working activities, and regularly supply workshops with the working material.</u> ¹⁵

13 It is desirable to offer residents education and suitable work, the aim being to prepare residents for independent or at least more autonomous living (p. 122); CPT recommends that the Montenegrin authorities make efforts to ensure the implementation of the individual treatment and rehabilitation plans by involving all residents in activities adapted to their needs. Achieving this goal will require recruiting more qualified staff (p. 122), CPT Report on its 2008 visit to Montenegro.

14 Take all necessary measures for the development of individual work programs for all adult residents in the Institution "Komanski most" and their involvement in occupational therapy.

15 See recommendations no. 25 and no. 26.

23.	Director of the Institution	For the purpose of socialization of people with intellectual disabilities, devote more attention to leisure activities and enrich them with various sports, recreational, cultural and artistic events, outside the Institution as well. (CPT ¹⁶ , MT)	Recommendation implemented in practice, however, activities outside the Institution should be more frequent and involve a larger number of residents. ¹⁷	<u>Recommendation partially fulfilled.</u>
24.	Director of the Institution	Provide residents with the opportunity to decide on matters concerning themselves, such as activities programs and schedules, decoration of the premises in which they reside, as well as of the exterior of the Institution. (MT)	In an interview with residents we learnt that they do not receive an allowance, or receive an amount smaller than prescribed. In contrast, Director stated that residents receive pocket money and usually spend it when visiting various cultural and sports activities, also when going shopping, and if it is a resident who is not capable of managing money, staff buy them products according to their needs (lipstick, cream, hair color, etc.). A resident working as a gatekeeper at the Institution's gate receives a €20 monthly salary, while residents engaged in the kitchen and laundry room do not receive compensation for their work.	<u>Recommendation partially fulfilled.</u>
25.	Director of the Institution	Equip workshops for resident's occupational therapy. (MT)	During the visit on 23 March 2012 we found a group of female residents in occupational therapy which included knitting and tapestry-making using wool yarn. However, in the meantime the lack of materials for the work almost led to the suspension of this activity. The existing workshop for making cardboard does not operate because of the inability to place products on the market. For unknown reasons, the activity of making fuel material from discarded wooden crates, improvised by occupational therapists and enjoyed by residents, has also been suspended.	<u>Recommendation not fulfilled</u> , because no funds have been invested in equipping workshops or, in general, in occupational therapy. (Director informed us in a telephone interview of 18 February 2013 that all of the materials needed for occupational therapy are to be purchased as soon as possible, and that the plan is to reconstruct the workshop and hire specialized staff to work with the residents. We were also informed that the making of fuel material was discontinued, because, he believes, the said activity does not contribute to the benefit of residents)

16 CPT recommends that steps be taken to offer all residents, health permitting, at least one hour a day of outdoor exercise in a reasonably spacious setting, which should also offer shelter from inclement weather (p. 122), CPT Report on its 2008 visit to Montenegro.

17 This year, a seven-day stay at the resort on Ivanova korita has been provided for 24 residents. In August 2012 residents of the Institution attended the event "Montenegrin Ethno Festival 2012", and in October 2012 they visited the airline company Montenegro Airlines. Also, in August 2012 members of the monitoring team, in cooperation with the Institution's management organized a trip to beach Velika plaža. Prior to the New Year holidays residents visited "Delta City" shopping mall. It is crucial to continue with this practice and collaborate with as many different organizations, to offer residents more diverse activities.

26.	Director of the Institution	Encourage staff to implement as many programs and activities as possible in the work with residents, in order to increase the level of residents' functionality. (MT)	Activities such as occupational therapy need to be improved and staff provided with necessary material and conditions for the work with residents. Also, efforts should be made to reorganize personnel within the Institution in order to engage occupational therapists trained for that job.	<u>Recommendation not fulfilled</u> , because during the visits to the Institution monitors noticed that staff do not have enough work materials, adequate working conditions, or sufficient support of the management for their initiatives.
27.	Director of the Institution	Introduce new therapeutic methods following the example of developed countries (e.g. sensory room where the treatment is carried out in isolation from external influences of light and sound, with the aim to stimulate the senses, especially in children. This method encourages proper development of experience of the outside world, controls aggression and relaxes the child). (MT)	During the last visit we saw a sensory room, equipped in accordance with European standards - according to staff. ¹⁸	<u>Recommendation fulfilled</u> .
28.	Director of the Institution	Ensure stay at the seaside or occasional trips outside the Institution for all residents whose psycho-physical abilities allow for such activities and interaction with the local community. (MT)	Recommendation implemented in practice. ¹⁹	<u>Recommendation fulfilled</u> .
29.	Director of the Institution	Engage volunteers to assist staff with the proposed activities. Encourage educational institutions, NGOs and other civil society organizations, as well as potential donors to cooperate with Komanski Most Institution and its residents. (MT)	There are still no volunteers engaged at the Institution, however, the fact that residents' living conditions have improved significantly and that activities of NGOs involved in the Institution's activities have media coverage encourage initiatives of this type, which should be continuously supported. Director said that the Institution is open to any cooperation, including volunteer work.	<u>Recommendation partially fulfilled</u> .

18 Director said that in the forthcoming period it is necessary to provide funding for professional training of at least two persons in Belgrade or in Zagreb (three-week training per employee amounts to €1200).

19 See recommendation no. 23.

Healthcare				
30.	Director of the Institution and Ministry of Health	<p>Provide equal health care to residents of the Institution and to other policyholders. To this end, above all:</p> <p>1) provide health cards for all residents without further delay,</p> <p>2) provide adequate resources to finance the cost of procurement of medicines for residents which are not included in the Health Insurance Fund list, as well as other means of treatment, and</p> <p>3) provide training for specialized staff at the Clinical Centre of Montenegro in order to properly treat children and adults with intellectual disabilities. (CPT²⁰, MT)</p>	<p>1) Procedure of obtaining health cards for all residents has been completed.</p> <p>2) Situation remained unchanged.</p> <p>3) Situation remained unchanged.</p>	<p><u>Recommendation partially fulfilled, because the Institution still funds the cost of procurement of medicines which are not included in the Health Insurance Fund list. Also, training for specialized staff at the Clinical Centre of Montenegro on proper treatment of children and adults with intellectual disabilities has not been provided. However, according to the medical staff at the Institution, cooperation with the staff of the Clinical Centre of Montenegro Hospital is at a high level.</u></p>
31.	Ministry of Health	<p>Ministry of Health should adopt relevant regulations and ensure registration of the Institution's clinic in accordance with Art. 78 of the Law on Healthcare, which would imply new job classification and its equipping in accordance with the regulations. (MT)</p>	<p>By-law relating to the registration of Institution's clinic was not adopted. According to the response of the Ministry of Health, drafting of the Law on Healthcare is planned for the second quarter of this year, so it is possible that some amendments will include the provision of Art. 78.²¹</p>	<p><u>Recommendation not fulfilled.</u></p>

20 The treatment of mentally disabled persons should involve a wide range of therapeutic, rehabilitative and recreational activities, such as access to appropriate medication and medical care, occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports. Residents should have regular access to suitably-equipped recreation rooms and have the possibility to take outdoor exercise on a daily basis (p. 122), CPT Report on its 2008 visit to Montenegro.

21 Response of the Ministry of Health to Human Rights Action of 13 February 2012.

32.	Director of the Institution	Raise the level of dental care at the Institution as soon as possible and introduce regular medical examinations. (MT)	New dentist was hired and dental care of residents improved.	<u>Recommendation fulfilled.</u>
33.	Director of the Institution	Hire a full-time general practitioner, or as a minimum engage external general practitioner with the significantly increased number of hours spent at the Institution as compared to the current situation. (MT)	Director of the Institution informed us that the Ministry of Finance provided its approval for engaging a general practitioner, ²² as well as another head nurse.	<u>Recommendation fulfilled.</u>
34.	Director of the Institution	Engage another external expert – gynaecologist, as soon as possible. (MT)	Gynaecologist has been engaged and regularly performs examinations in the newly equipped gynaecological clinic. ²³	<u>Recommendation fulfilled.</u>
35.	Ministry of Health	Connect internal Institution's medical database containing medical records of patients with the public healthcare database and develop appropriate protocols that will allow the continuity of residents' healthcare regardless of staffing solutions. (MT)	Situation remained unchanged, internal Institution's medical database is still not connected to the public healthcare database. See the Report, p. 33.	<u>Recommendation not fulfilled.</u>
36.	Director of the Institution and Ministry of Health	Ensure appropriate therapy for residents suffering from cancer. Healthcare should also be preventive. Include residents in the mandatory screening tests that are now part of the basic primary healthcare package. (MT)	According to the Director, there are no residents with cancer in the Institution at the moment. Residents were not included in mandatory screening tests, but during the last year all residents underwent full medical check-ups, including laboratory, X-ray examination and internist examination. All residents underwent full medical check-up and received therapy determined by a neuropsychiatrist, including also neurologist examination, laboratory for diagnostic purposes. ²⁴	<u>Recommendation partially fulfilled,</u> because residents were not included in mandatory screening tests.

22 Director expressed his concern because persons with adequate degree of education - doctors of general medicine - have no interest in working at the Institution and no person applied for the vacancy announcement. Vacancy announcement for this position will be republished.

23 Gynaecology clinic opened in late 2012. According to staff and information provided in the Work Report for 2012, full medical examination of the entire female population was conducted and appropriate therapy administered, laboratory analyses were carried out, as well as 20% of follow-up examinations.

24 Work Report for 2012.

37.	Ministry of Health	Define the legal obligation to perform an autopsy on persons who pass away in the Institution in accordance with Art. 128 of the Law on Healthcare. It is essential that the Ministry of Health adopt rules that regulate the work of a coroner. (MT)	Situation remained unchanged. ²⁵	<u>Recommendation not fulfilled.</u>
Contact with family and community members				
38.	Ministry of Labour and Social Welfare	Establish an independent body to monitor the work of the Institution and ensure participation of residents' parents in its work, as well as in the Governing Board of the Institution. (MT)	Situation remained unchanged. On 3 December 2012 a meeting was held with residents' parents, i.e. guardians. They were familiarized with the work of the Institution and given an opportunity to express their comments and suggestions.	<u>Recommendation not fulfilled, because the parents should at least be allowed to participate equally in the work of the Governing Board of the Institution.</u>
39.	Director of the Institution	Establish cooperation with different organizations in order to organize sports, cultural, recreational and entertaining activities for residents, e.g. out-of-town trips or trips to the city, shows, concerts and sporting events. (CPT ²⁶ , MT)	Recommendation put into practice. See recommendation no. 23. We noted several positive examples of cooperation between the Institution and individuals and groups of citizens ²⁷ , in order to raise funds for the Institution and involve residents in cultural events to a greater extent. This practice needs to be further developed.	<u>Recommendation fulfilled.</u>
40.	Ministry of Labour and Social Welfare	Organize public campaign and raise the awareness about persons with intellectual disabilities with the help of the media. (Ombudsman ²⁸ , MT)	Management of the Institution has made significant efforts to increase the transparency of its work and through the previously mentioned activities affect changes in public awareness and reduce prejudice against people with intellectual disabilities. There is a need for greater support of the Ministry of Labour and Social Welfare in the development of a public campaign that would further promote the rights of this population.	<u>Recommendation partially fulfilled.</u>

25 Ministry of Health's response to Human Rights Action of 13 February 2013 states: As regards the rulebook on the work of a coroner, we wish to point out that the obligation of performing an autopsy of a person who died in the hospital, in accordance with applicable law, if the exact cause of death was not determined, applies to all hospitals, including thus special hospitals; by-law, which is in the process of drafting, will closely regulate, among other things, the manner of reporting on such persons.

26 The CPT invites the Montenegrin authorities to pursue their efforts to encourage residents' contacts with the outside world, e.g. by means of inviting voluntary visitors, NGOs, etc. (p. 135), CPT Report on its 2008 visit to Montenegro.

27 More on these activities at: <http://juzkomanskimost.me>.

28 Take necessary action to inform the general public in order to eliminate prejudice against people with mental health issues.

41.	Director of the Institution and Ministry of Labour and Social Welfare	Komanski Most Institution should continue taking measures to encourage family contact with the residents, with the help of social welfare centres. (MT)	Recommendation implemented in practice. ²⁹	<u>Recommendation fulfilled.</u>
42.	Ministry of Labour and Social Welfare	Improve the quality of cooperation of the Ministry of Labour and Social Welfare, social welfare centres, local community, secondary medical school and faculties with the Institution. (MT)	Recommendation put into practice. According to the Director, each month at the premises of the Institution a meeting is held with representatives of the Ministry of Labour and Social Welfare and representatives of all social welfare centres. ³⁰	<u>Recommendation fulfilled.</u>
43.	Ministry of Labour and Social Welfare	Take measures to open counselling centres, mental health clinics and day care centres, in order to help and support people with intellectual disabilities and their families. (Ombudsman ³¹ , MT)	Through the project “Reform of social and child care – social inclusion improvement”, implemented in cooperation with UNDP and with financial support from the European Commission ³² , the Ministry drafted the Review of the local social services in Montenegro in 2012, which shows that the majority of services have been aimed at the elderly, persons with disabilities and children with disabilities. It is necessary to ensure continuing viability of these services and greater representation of support services for adults with intellectual disabilities. ³³	<u>Recommendation partially fulfilled.</u>

29 Institution pays for travel costs of residents’ parents (or guardians) from its own budget, in order to foster family contact. On 3 December 2011 a meeting was held at the premises of the Institution between residents’ family members, parents or guardians and staff of the Institution.

30 Director stated that the Institution’s cooperation with social welfare centres varies - from very correct cooperation to great tardiness of certain centres in resolving status issues of residents. Director emphasized that the best cooperation has been established with Pljevlja Social Welfare Centre.

31 Take all necessary measures for the establishment and development of various support services to families with a mentally ill family member, at the local level.

32 Program IPA 2010.

33 Response of the Ministry of Labour and Social Welfare to Human Rights Action of 6 February 2013 states that „majority of the identified services have been aimed at the elderly, children with disabilities and people with disabilities”.

Status issues and other rights of residents				
44.	Ministry of Labour and Social Welfare	Ministry of Labour and Social Welfare without delay to adopt by-laws to specify the standards and procedures for admission and stay of residents, as well as for social support after discharge from the Institution. (MT)	Procedures for referring, admitting and accommodating residents, as well as for providing social support after discharge from the Institution still take place under the old Law on Social and Child Care from 2005 ³⁴ and Ordinance on the essential requirements for basic rights to social protection. ³⁵ New standards in the field of social and child care, including those pertaining to the Public Institution Komanski most, will be approved after the adoption of the new Law on Social and Child Care. ³⁶	<u>Recommendation not fulfilled.</u>
45.	Ministry of Labour and Social Welfare	Form an independent body to monitor the procedures of determining guardianship, categorization of persons prior to admission to the Institution, re-categorization after the placement at the Institution, as well as the work of the Institution. Allow residents' parents, experts and representatives of civil society concerned with human rights to be involved in the work of this body. (MT)	Such body has not been created. Representatives of the Ministry of Labour and Social Welfare believe that through the performance of activities by the Institution, competent social welfare centres and the Ministry of Labour and Social Welfare at the regular monthly meetings, related to the development and monitoring of individual treatment plans for residents, they have covered the monitoring of professional work in the Institution and relationship of the parents/guardians and guardianship authorities towards each resident individually. ³⁷	<u>Recommendation not fulfilled. We remind that the Ministry's supervision has not been sufficient to ensure that the situation in Komanski most is not as appalling as described in the CPT Report from 2008. Also, the procedures for determining legal capacity were not implemented in a number of cases, without justification. Thus, this Institution has been accommodating adults for a long time period, who have not yet been deprived of their legal capacity or placed under guardianship.³⁸ Situation when a closed-type institution holds people irrespective of their will, without a court order, i.e. when a court is unable to effectively decide on the legality of their stay in the institution - is in violation of their human right to freedom, guaranteed by international treaties.³⁹</u>

34 Sl. list RCG, 78/05.

35 Sl. list RCG, 08/06.

36 Response of the Ministry of Labour and Social Welfare to Human Rights Action of 6 February 2013.

37 Response of the Ministry of Labour and Social Welfare to Human Rights Action of 6 February 2013.

38 Although the Work Program for 2011 in the Public Institution "Komanski most" indicates that the Institution admits only persons under guardianship.

39 Art. 5, para 1, item e and para 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; Art. 9, para 1 of the International Covenant on Civil and Political Rights.

46.	Ministry of Labour and Social Welfare	The potential conflict of interest which arises when a Social Welfare Centre is appointed as a guardian and at the same time is responsible for admission and discharge decisions needs be addressed. Montenegrin authorities should take the necessary steps to avoid such conflict of interest. (CPT)	Situation remained unchanged.	<u>Recommendation not fulfilled.</u>
47.	Director of the Institution	Develop an information brochure with the purpose of introducing the residents' rights to employees at the Institution, residents and their families. (MT)	Information brochure was developed, however, it contains information about the Institution and the services it offers, not the human rights of its residents.	<u>Recommendation partially fulfilled. Brochure by NGOs involved in the project for monitoring respect for human rights at the Institution⁴⁰ is currently being drafted; it will include a section on the human rights of residents and information for parents.</u>
48.	Director of the Institution	Provide for greater involvement of residents and their families in decision-making processes that affect them and their stay at the Institution (e.g. allow them to choose their roommate, activities they want to practice, design their living space; ensure that parents representative be included in the Governing Board of the Institution, etc). (MT)	See recommendation no. 24. In December 2012 the Institution organized a meeting with residents' parents, where they were able to present their suggestions, comments and observations. Still, this is not enough to ensure their involvement in making important decisions concerning the residents and their stay in the Institution. Similar meetings should also be arranged with residents.	<u>Recommendation partially fulfilled.</u>

40 Brochure will also be developed as part of the project "Monitoring Respect for Human Rights in Closed Institutions in Montenegro", funded by the European Commission and the German Embassy.

41 Work Report for 2012.

42 Law on Vocational Rehabilitation and Employment of Disabled Persons (Sl. list RCG, 49/08, 73/10, 39/11).

49.	Director of the Institution and Ministry of Labour and Social Welfare	Regularly perform recategorization of persons placed at the Institution and review the need for their further stay. (MT)	Recategorization of residents and development of individual care plans should be carried out following the evaluation of the Working Group for assessment of the type, form and degree of a deficiency, disturbance or disorder of the residents, formed by the Ministry of Labour and Social Welfare in 2011. Individual care plans provide for residents' placement under guardianship or extension of parental rights. Competent social welfare centres initiated this procedure before the competent courts for all residents of the Institution; however, for some of them the legal action is still pending. The same notice was received while working on the Report more than one year ago.	<u>Recommendation partially fulfilled.</u>
50.	Director of the Institution and Ministry of Labour and Social Welfare	Implement transitional planning (transition projects: residential communities, assisted living and half-day or day room) envisaged under the Work Program for 2011 for the Public Institution Komanski Most. (MT)	Although the Master Plan for the transformation of child protection service envisages the establishment of a number of services to ensure adequate placement of children currently living in the institutions into families and the community, as well as services to prevent further admission to the institutions, ⁴¹ this process has not yet started. It is also necessary to implement transitional planning for adults within the Institution.	<u>Recommendation partially fulfilled,</u> because the service transformation plan refers only to children.
51.	Ministry of Labour and Social Welfare	Develop a system of social support for adults with intellectual disabilities and establish counselling centres, centres for occupational training, protective workshops, supported employment, etc, in order to prevent institutionalization. (MT)	Vocational rehabilitation and employment of persons with disabilities is regulated by a special law ⁴² and accompanying regulations ⁴³ that prescribe the establishment of Commissions for vocational rehabilitation with employment bureaus. <u>Commissions established with the employment bureaus, which carry out the assessment of one's disability, remaining job skills and employment opportunities have been available only since July 2012, and in Podgorica only as of December 2012.</u> ⁴⁴ In addition, there are still no services that would allow application of the law, especially when it comes to people with intellectual disabilities.	<u>Recommendation not fulfilled, because the previous Government's efforts to build a social support system referred only to children, not adults with intellectual disabilities.</u>

43 Rulebook on the conditions and criteria for determining the percentage of disability, work capacity and employment opportunities and Rulebook on amendments to the Rulebook on the composition and methods of work of the Commission for vocational rehabilitation.

44 Response of the Ministry of Labour and Social Welfare to Human Rights Action of 6 February 2013.