RESPECT FOR HUMAN RIGHTS OF DETAINED AND SENTENCED PERSONS IN THE ADMINISTRATION FOR EXECUTION OF CRIMINAL SANCTIONS (AECS)

REPORT OF NGO MONITORING TEAM

HUMAN RIGHTS ACTION

CENTRE FOR ANTIDISCRIMINATION "EQUISTA"

CENTRE FOR CIVIC EDUCATION

WOMEN'S SAFE HOUSE

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Embassy of the Federal Republic of Germany Podgorica

Podgorica
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1. INTRODUCTION

1.1. About the project

The project "Monitoring Respect for Human Rights in Closed Institutions in Montenegro", whose aim is to promote human rights of persons residing in these institutions, is implemented by 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, and funded by the European Union through the Delegation of the European Union to Montenegro and the Embassy of the Federal Republic of Germany in Podgorica.

Under this project, on 25 October 2011, the project leader NGO Human Rights Action, the Ministry of Justice and the Administration for Execution of Criminal Sanctions (AECS) concluded the Agreement on Cooperation[1]. The Agreement allowed the team of trained monitors to visit AECS facilities in Podgorica and Bijelo Polje with prior notice of minimum 24h; access to medical records and documentation regarding the disciplinary procedures of detained and sentenced persons; presentation of the report on visits and discussion on the report at the round table; development of a handbook on the rights of detained and sentenced persons and cooperation in a public campaign aimed at familiarizing the general public with the rights of detained and convicted persons.

Immediate aim of the monitoring was the development of a report on the adoption of recommendations from the 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 (hereinafter: CPT, Report on 2008 visit[2]) and recommendations of the protector of Human Rights and Freedoms of Montenegro (Ombudsman).

The report was published at a round table on 21 June 2012 in the presence of AECS management representatives, Minister of Justice and representatives of the EU Delegation. In addition to the assessment of application of the CPT and Ombudsman's recommendations, NGOs monitoring team gave a total of 164 recommendations to improve respect for human rights in prisons in line with international standards and recommendations. Some of the recommendations were repeated recommendations of the CPT and the Ombudsman.

At the end of the project, on 27 March 2013, final assessment of NGOs monitoring team on the implementation of recommendations was presented, with the participation of representatives of the prison management, Assistant Minister of Justice - Head of the Directorate for Execution of Criminal Sanctions of the Ministry of Justice and Head of the EU Delegation to Montenegro.

Present publication contains the report of June 2012 ("Report on the respect for human rights of detained and sentenced persons in the Administration for Execution of Criminal Sanctions") with a table containing 164 recommendations and assessment of their application by the end of

1 More detail about Agreement on Cooperation at: http://www.predsjpol.gov.me/vijesti/109386/Potpisan-Sporazum-o-saradnji-na-projektu-Monitoring-postovanja-ljudskih-prava-u-ustanovama-zatvorenog-tipa-u-Crnoj-Gori.html.
2 Report available at: http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.htm.

the project in March 2013. Results of a research conducted among prisoners “Respect for human rights in the Administration for Execution of Criminal Sanctions – views of inmates” in March and April 2012 is also an integral part of this report.

The project also included development of a brochure on the basic rights of prisoners in Montenegrin, English and Albanian languages, and a short documentary. Management of the prison received publications “Prevention of ill-treatment and torture - a manual for police and prison staff”, Ivan Janković and Radmila Dragičević-Dičić, issued by the Belgrade Centre for Human Rights in 2011, and «Prohibition of torture and other ill-treatment - a collection of selected judgments of the European Court of Human Rights», editor Žarko Marković, edition of the Human Rights Action, 2013.

Cooperation with the Ministry of Justice and AECS Management in this project was exceptional and represents an example of constructive cooperation between state bodies and non-governmental organizations. The results of this project are shared.

Our special thanks for the patience and time dedicated to this project go to Duško Marković, Minister of Justice and Human Rights and Deputy Prime Minister, Slavica Rabrenović, Assistant Minister of Justice - Head of the Directorate for Execution of Criminal Sanctions of the Ministry of Justice, Miljan Perović, AECS Director, Milan Tomić, Assistant Director of AECS, Uroš Bogavac, Chief of the Institution for Sentenced Prisoners during the first phase of the project, Milan Radović, Chief of the Institution for Sentenced Prisoners in the second phase of the project, Katarina Mitrović, Chief of the Prison for short sentences, Branislav Petrović, Chief of the Healthcare service, Radoslav Sekulović and Željko Redžić, heads of Security Service, Žana Asanović, AECS Director Secretary, Anka Cerović, of AECS Legal Department and Mušika Dujović, President of the High Court in Podgorica.

We also wish to thank all AECS officials who spoke to us for their trust and especially all who participated in our survey on the views of prisoners.

Our thanks for the support go to the Delegation of the European Commission to Montenegro, especially Mitja Drobnič, Head of Delegation, Alberto Cammarata, Head of the Political, EU Integration and Trade Section and Jadranka Milić, in charge of the supervision of the project, as well as to the Embassy of the Federal Republic of Germany, especially Vera Bordfeld, Deputy Ambassador and Smilja Goli.

1.2. Visits and other sources of information

During the period from November 2011 to February 2012 the members of the NGOs monitoring team visited AECS facilities in Podgorica fourteen times and Bijelo Polje Prison two times. In the second phase of the project, we paid eleven more visits to AECS.

Visits were conducted by members of the monitoring team, who are legal experts and social workers by profession. The team also included a doctor - psychiatrist. All team members were trained on prison monitoring at the training held from 12 - 14 May 2011 in Podgorica.[3]

During the visits, special attention was paid to the treatment of persons deprived of liberty by prison staff, the conditions in which these persons live, and, in general, the way of functioning

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

of AECS. Attention was also paid to the conditions in which the prison staff perform their duties, inasmuch as it was possible, given that the Director of AECS at the time of publishing of the report in June 2012, Milan Radović, did not allow the monitors to discuss this issue with AECS employees. Information on the work of institutions for execution of criminal sanctions was collected during the visits, through interviews with inmates, their families and loved ones, but also through following the reports of international bodies and organizations, state agencies, non-governmental organizations and the media.

Cooperation with AECS management, Milan Radović, who was the director during the drafting of the first report, until 31 May 2012, was generally satisfactory, bearing in mind that this project is the first more comprehensive and extensive monitoring of prisons in Montenegro by civil society organizations. AECS officials were friendly and tried to meet monitors' demands. Monitors were not allowed to talk with the employees or survey them about their working conditions, but, nevertheless, necessary information with regard to that was obtained from employees and the Ministry of Justice.

However, it should be noted that the monitors were not allowed to talk to sentenced persons without the presence of AECS officials until mid 2012, when new director Miljan Perović was appointed, which jeopardized the credibility of information obtained in these interviews, also including the compliments to AECS Management. On the other hand, thanks to the understanding and support of the Minister of Justice and Human Rights Duško Marković and Assistant Minister Slavica Rabrenović, this disadvantage was somewhat offset by conducting an anonymous survey among sentenced persons in Podgorica in March and April 2012.

The questionnaire contained 64 combined type questions developed by members of the monitoring team. Of a total of 840 persons serving a prison sentence, 495 of them were surveyed, i.e. 58.9%, which is very satisfactory, if taken into account that at the time of the survey a large number of prisoners were at work, and a number refused to participate in the survey expressing doubts about its anonymous nature. Statistical analysis of the survey was carried out by Dr. Olivera Komar and Radmila Bogojević from the Faculty of Political Science. Members of the monitoring team interviewed or surveyed 11 persons who had been sentenced to imprisonment in AECS in the past two years.

Each scheduled visit was approved, and access to the premises was unlimited. Records concerning the status of persons deprived of liberty, which were not an official secret, if existed, were available.

Monitors paid several visits to persons in the Remand Prison, as well as random visits to all Remand Prison premises, by monitor's choice, which had been allowed by the President of the High Court in Podgorica Mušika Dujović.

During the preparation of this report, authors used international standards and recommendations, standards and reports of the CPT[4] and the Protector of Human Rights and

4 The report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on a visit to Montenegro from 15 to 22 September 2008, available at: http://www.cpt.coe.int/documents/mne/2010-03-inf-eng.htm, and responses of the Government of Montenegro to the CPT report of March 2010 available at: http://www.cpt.coe.int/documents/mne/2010-04-inf-mne.pdf. In this report the authors refer to the CPT's recommendations on specific issues presented in the reports on visits to other European countries as well.

Freedoms (hereinafter: Ombudsman) of Montenegro[5] and their recommendations, the European Prison Rules and other available international standards[6], experience and publications of partner organizations the Belgrade Centre for Human Rights[7] and Latvian Centre for Human Rights[8]. Aforementioned sources, as well as this report, are available on the project web page: http://www.hraction.org/?page_id=1069.

5 Special report of the Ombudsman on the human rights of prisoners and detainees, March 2011, available at: http://www. ombudsman. co. me/izvještaji.php.

6 Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules.

7 "The treatment of persons deprived of liberty", Report I, Belgrade Center for Human Rights, Belgrade 2010, and "Prohibition of torture and the rights of persons deprived of their liberty in Serbia", Report II, Belgrade Center for Human Rights, Belgrade 2011.

8 Monitoring report on closed institutions in Latvia, 2006, 2003 (http://cilvektiesibas.org.lv/en/closed-institutions/).

2. CONCLUSION PUBLISHED AT THE END OF THE PROJECT IN MARCH 2013

2.1. Introduction and conclusions

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

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

The problem of overcrowding in AECS is very present. Accommodation facilities are reconstructed to some extent, however, new prison facilities in Bijelo Polje and Podgorica have not been constructed, as the CPT was informed in 2008. Funds for the construction of a prison in Bijelo Polje, prison for long sentences in Podgorica and Special Prison Hospital have finally been provided, although it is uncertain when the construction would start and these objects become operational. Institution for Sentenced Prisoners currently accommodates 244 people over its capacity. Although the accommodation capacity in detention (Remand Prison) is not exceeded and the number of detainees has almost halved compared to 2008, accommodation of detainees is still cramped (monitors noticed a room on the second floor accommodating 11 people in about 25 m^2, which is far from the minimum international standard of 4 m^2 per person). Prisoners in unit A in the Institution for Sentenced Prisoners are in a particularly difficult position, given that there are, for instance, 28 people in a room of about 50 m^2 with inadequate heating. However, AECS management stated that funding has been provided to tear down this unit next year and construct a new one instead in accordance with the standards, which is encouraging.

Remand Prison in Podgorica should be fully renovated or a completely new building should be built for this purpose. Detainees stay locked in small rooms usually 23 hours a day, sometimes for six or more years. Except for a one-hour walk, which lasts only half an hour on Thursdays and Fridays during the visits, and the possibility to ride a dilapidated stationary bike in a particularly

small room, detainees have not been offered any other activity outside the cell, contrary to the recommendation of the CPT, which states that they should be engaged in such activities for 8 hours a day. All in all, persons who are in custody and should therefore be protected by the presumption of innocence live in much worse conditions than prisoners, which should also be borne in mind by judges imposing or continuing detention. Monitors have also visited one minor who was held in detention this year. Conditions of his accommodation were also poor - the room was small and unpainted, although he was able to stay in the yard of the Remand Prison for three hours a day, unlike other detainees. He was allowed to receive visitors once a week, same as other detainees, contrary to the CPT recommendation according to which juveniles' contact with the outside world should be "actively promoted".

2.2. Disciplinary sanctions, measures and procedures

Most of the recommendations have been implemented, documentation of disciplinary actions is properly kept and House Rules are available to both detainees and prisoners. Punishment of solitary confinement for more than 21 days occurred in 10% of cases, but such longer placements under solitary confinement were usually terminated earlier. As regards the upcoming amendments to the Law on Execution of Criminal Sanctions, latest recommendations of the CPT in relation to solitary confinement should be borne in mind, in particular the one stating that solitary confinement should not take longer than 14 days. The new Law should also improve guarantees of fairness of disciplinary proceedings, extend the deadlines for court protection, prescribe periodic reviews of decisions on solitary confinement and transfer, prescribe remedies against those decisions, etc. Decisions on transfer still do not contain an instruction on legal remedy. It is necessary to encourage inmates to take advantage of mediation team services in the event of a conflict.

2.3. Treatment

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

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

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

In accordance with the recommendation of the CPT, it is necessary to change the regime for detainees, whose position is particularly unfavourable. Lack of outdoors activities has devastating effect on their mental and physical health, given that detainees spend majority of their time in the cells, with the exception of a one-hour walk, especially if taken into account that some of them have been in custody for 6 years or even longer. It is particularly worrying that nearly the same regime applies to juveniles in custody.

It is necessary to invest further efforts to build a post-penal treatment, which would reduce recidivism.

2.4. Contact with the outside world

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

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

2.5. Healthcare service

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

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

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

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

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

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

2.6. Prison staff

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

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

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

2.7. Fulfillment of recommendations of the European Committee for the prevention of torture (CPT) and NGo monitoring team

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

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

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

From a total of 59 recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to the Government of Montenegro in

relation to AECS set out in the Report on its visit to Montenegro from 15 to 22 September 2008, 17 recommendations were not adopted (28%), while 42 (72%) were adopted in whole or partially. When compared with the result from June 2012, it is evident that during the past 8 months as many as 20 (33,9%) CPT's recommendations, which had not been implemented earlier, were fully implemented, which represents a very significant progress.

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

3. REPORT ON THE RESPECT FOR HUMAN RIGHTS OF DETAINED AND SENTENCED PERSONS IN AECS OF JUNE 2012

3.1. History of the Administration for Execution of Criminal Sanctions (AECS)

Monastery Ladnica can be considered the first Montenegrin state prison, whose first prisoner was the last governor of Montenegro Vuko Radonjić, named after him Guvernadurica. However, the first Penitentiary (so-called *Kažnjeni zatvor*) was established in 1893 on the territory of today's Podgorica, known as Jusovača. The building was erected during the Ottoman rule in the part of Old town, in Drač, by Juso Mučin Krnić, called Jusuf-beg, commander of the police station, after whom that building and the entire complex were later named Jusovača. Juso's descendants sold it to the Montenegrin authorities for 150 napoleons, who converted it into a Penal institution for political prisoners in 1893. Kingdom of Yugoslavia declared this prison as the Central Penitentiary for Montenegro.

Although there were three more prisons in Podgorica (Lamarin, Radio-station prison or Markoni, House of Rogošići prison and the notorious camp in Zabjelo), Jusovača played an important role first as the remand prison and then as a transit, oldest Podgorica prison. Jusovača was used as a prison after the Second World War, i.e. by the end of the 1960's and opening of the Institution for sentenced prisoners in the outskirts of Podgorica, in Spuž.

In the form in which it now operates, the Administration for Execution of Criminal Sanctions (AECS) was established in 1994 under the Regulation of the Government of the Republic of Montenegro for the purpose of creating a single penalty system in Montenegro. It is located on the ninth kilometre from the centre of Podgorica, Podgorica-Danilovgrad old road, Velje brdo 81412 - Spuž.

AECS is divided into four organizational units, namely: Remand Prison, Institution for Sentenced Prisoners and Prison for short-term sentences located in Spuž, and Bijelo Polje Prison, located in the town of Bijelo Polje.

In the Institution for Sentenced Prisoners in Podgorica (KPD) inmates serve 40-year prison sentences, sentences longer than 6 months for sentenced males, juvenile imprisonment sentences imposed in criminal proceedings, as well as prison sentences imposed in criminal and misdemeanour proceedings for women. AECS is managed by the Director appointed by the Government for a period of four years and accountable to the Government.

At the time of drafting this report, the director of the Administration for Execution of Criminal Sanctions Milan Radović (former President of the High Court in Podgorica and Secretary General of the Parliament of Montenegro), appointed to the post on 30 July 2009 by the Government of Montenegro, was relieved of the duties of Director, at his own request, at the Government session held on 31 May 2012. At the same session, Miljan Perović was appointed the Acting Director, hitherto Chief of the Police Sector for the protection of persons and facilities.

Milan Radović's precursors are: Božidar Vuksanović (Acting Director of the Police Directorate and a former member of the Parliament of Montenegro and Director of the Customs of Montenegro) who held this post from 13 September 2005 to 23 July 2009, and Dragan Pajović (Director of the

Centre for Children and Youth Ljubović) who held this post during a period from 5 December 2003 to 13 September 2005, when relieved of that duty by the decision of the Government of Montenegro.

Supervision of the work of AECS is primarily conducted by the authorized official of the Ministry of Justice (Assistant Minister in charge of the supervision of execution of criminal sanction, Slavica Rabrenović, appointed in 2011), while the Ombudsman as well as the European Committee for the Prevention of Torture (CPT) supervise the conditions of serving prison sentences and treatment of prisoners. As of December 2011, pursuant to the decision of the Government, AECS is a body within the Ministry of Justice and has a lower degree of autonomy than before.

Since Montenegro had become a member of the Council of Europe on 3 April 2003 while in the State Union of Serbia and Montenegro, CPT visited Montenegro twice, in 2004 and 2008, and released two reports on the visits.

3.1.1. Conclusion relating to the situation in AECS, published in 2012 and made during the first monitoring phase on the basis of situation in AECS at that time and assessment of the compliance with the recommendations made by CPT in 2008

Of the 59 recommendations to the Government of Montenegro set forth by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in its report on the visit to Montenegro from 15 to 22 September 2008, 6 were fully adopted, 16 partially, while 37 were not adopted. Viewed as a percentage, about 10% of recommendations (10.2%) were adopted, 27.1% were partially adopted, and 62.7% of the recommendations were not adopted.

In order to meet these recommendations faster and more effectively, monitoring team has added more than 150 of its recommendations, hoping to help establish a system of protection of human rights in AECS that will prevent or at least significantly reduce violations of rights in future. In this sense, it is particularly worrying that recommendations relating to the protection from ill-treatment were almost completely disregarded, just as the increase in AECS capacity planned since 2009 has not yet been accomplished.

Also, promises made to the CPT in terms of increasing the opportunities for employment of persons in custody and prison were not met, so we have proposed development of a business plan for the improvement of production in AECS as a possible way to resolve this problem. With regard to this, it is also necessary to take into account the female population in AECS and diversity of work engagement that should be offered to them as well.

During the analysis of the respect for human rights in prisons the monitoring team noticed insufficient harmonization of domestic laws and regulations with the European Prison Rules, and also that regulations further limit the rights of prisoners prescribed by law; thus, we proposed amendments in this respect as well.

Regarding the protection from ill-treatment, we found that there is evidence of excessive use of force in AECS, implying inhuman and degrading treatment. Worryingly, slapping of prisoners is not uncommon. Not all members of the security service are familiar with the absolute prohibition of the use of force as a punishment. They lack a specifically tailored training on physical and

psychological skills to contain and prevent violent reactions of prisoners. One in four prisoners of almost 60% of the respondents confirmed that they had been subjected to the use of force by AECS officers, while one third had witnessed the use of force in relation to others (36.3%). In an anonymous survey the prisoners also mentioned rooms without video surveillance that are used, according to their knowledge, for the application of force. Former convicts have explained that the abuse by prison staff is not reported because in this case prison officials threaten prisoners that they would report them for allegedly attacking them. It was also noted that not every instance of the use of force is in AECS recorded, contrary to the CPT's recommendations. We proposed that a report on each application of force, along with the medical report, be submitted to a competent prosecutor for further assessment, as well as to the Ministry of Justice, following the example of Serbia. Additional attention should be paid to the prevention of violence among prisoners and to this end draft a strategy to prevent this kind of violence, as recommended by the CPT.

It is striking that in late 2011 a significantly larger number of people were waiting to begin serving their sentence (1197), compared to the current number of prisoners serving sentences in AECS (874). This problem, as well as the problem of overcrowding of existing prison facilities in Podgorica and Bijelo Polje, requires urgent insistence on alternative sanctions, along with expanding AECS capacity. On the other hand, the number of detainees in Podgorica and Bijelo Polje remand prisons has been reduced in half compared to 2008, indicating a more rational ordering of custody by the courts and a step closer to the fulfilment of European standards. However, the conditions in detention were not improved much – the minimum standard of 4 m^2 in all cells is not met, and the regime is restrictive. All cells in detention should be urgently renovated, as well as Ward A within the Institution for Sentenced Prisoners in Podgorica. In line with the budget, construction of a new prison building in Bijelo Polje and prison hospital in Podgorica is expected.

Two-thirds of surveyed prisoners claim that they do not have access to the House Rules, which should be urgently ensured; also, in future every inmate should be handed a personal copy of a brochure on the rules applicable in jail. Guarantee fairness of the disciplinary proceedings should be strengthened and ensure that everyone is provided with the decision, with advice about the right to appeal. You need to limit the duration of measures of solitary confinement in maximum 21 days. About a third of respondents said they had served a sentence of solitary confinement, and a quarter of those who have stayed in them said that during that time were not taken into the fresh air, while another quarter said it was out of solitary confinement spend less than the prescribed hour a day. Denial of contact with family members while in solitary confinement is also not lawful, and inmates have declared that this happens in practice.

Guarantees of fairness of disciplinary proceedings should be strengthened and everyone should receive court's decision with an instruction on the right to appeal. The duration of a measure of solitary confinement should be limited to maximum 21 days. About one third of respondents said they had been imposed a measure of solitary confinement, of whom one quarter asserted that during that time they had not been taken out in fresh air, while another quarter stated that they had spent less than the prescribed hour a day out of solitary confinement. Denial of the right to contact with family members while in solitary confinement is also illegal, and inmates declared that this has happened in practice.

Although the number of employed physicians in AECS has been increased to three, there is still lack of nursing personnel. It is necessary to employ an additional psychologist and increase

engagement of a psychiatrist. Security officers should not be present during the medical examination. All prisoners should be allowed the right to access their medical records. It is advisable to introduce a special register for injuries recorded on admission to prison and later during the serving of a sentence. All inmates infected with hepatitis C who are eligible for treatment should be enabled to receive the treatment. All mentally ill persons should be immediately referred to a specialized institution for treatment, not kept in prison conditions and especially not restrained for a long time, which is a form of ill-treatment. It is necessary to urgently resolve the issue of prisoner M.Z., in relation to whom the CPT strongly urged the authorities four years ago to refer him for treatment outside the prison environment. The treatment of persons addicted to psychoactive substances needs to be improved.

Regime of detention must be adapted so that remand prisoners are not kept locked in their cells 23 hours a day without any meaningful activity. More staff needs to be recruited in the treatment sector. It is advisable to develop a business plan for the improvement of production in AECS to ensure the employment of 90% of prisoners, who expressed the wish to be engaged, and provide training in computer literacy, creative workshops, etc. Foreign inmates who do not understand the language should be provided with a translation of the House Rules and engaged in activities. It is necessary to provide access to education, especially literacy courses and basic education within prison, as well as taking of exams and studying by correspondence. Post-penal system should be improved, as well as the procedure of parole. It is necessary to abolish the right of AECS director to decide on parole, and Parole Commission should be composed of various experts independent of AECS and the Government.

Visits from unmarried partners should be provided by law. It is necessary to allow conjugal visits for homosexual partners as well, since they cannot marry in Montenegro. Also, the right of detainees to phone calls should be increased and contact with the family improved. Booth-type visit rooms should be abolished.

Labour status of engaged inmates must be aligned with applicable regulations and all must receive their unpaid remuneration, without resorting to court proceedings and without additional costs. Staff should be provided with ongoing training within AECS, so that everyone can attend. The number of employees in the sectors of security and treatment should be increased.

3.2. Prevention of and protection from ill-treatment

Any form of ill-treatment, i.e. torture, inhuman or degrading treatment of prisoners is prohibited by international standards and national regulations governing the operation of AECS.[9]

Ill-treatment can occur in various forms, most common of which are abuse of coercive measures by prison officers, poor living conditions, denial of necessary medical treatment, failure to take

9 International Covenant on Civil and Political Rights, 1966, Art. 7; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 and Optional Protocol, 2002; European Convention on Human Rights, 1950, Art. 3; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 1987; Standard minimum Rules for the Treatment of Prisoners (European Prison Rules), the Council of Europe, 2006; Constitution of Montenegro, Art. 28; Criminal Code, Art. 166a, Art. 167; Law on Execution of Criminal Sanctions, Art. 14b; Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in AECS, Art. 54.

necessary measures to prevent ill-treatment among the prisoners. The State is obliged to take measures to prevent all forms of abuse.

This report discusses the measures taken to prevent ill-treatment in AECS by prison officials and to prevent ill-treatment by prisoners themselves. Separate sections of the report are devoted to other possible sources of ill-treatment.

3.2.1. Prevention of ill-treatment by prison officers

Although prison staff must periodically apply force to restrain prisoners who react violently, physical force and other coercive measures should never be used as punishment.[10] Only the measures provided for in disciplinary action may be taken against a prisoner who expresses disobedience.[11]

According to the *Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions,* physical force may be used to overcome the resistance of an inmate, prevent escape, prevent assault on an officer or other person in custody, injury to another person, self-harm and material damage.[12] Upon termination of the immediate reason for the use of coercive measures, security officer shall suspend their further use.[13] However, the Rules should be specified so as to warn the officials more precisely that it is prohibited and punishable to continue to apply force after overcoming the resistance of a person in custody.

After on open discussion with several members of AECS security service, the monitors have found that such specifying is indeed necessary. It was understood that even more experienced members of the security service were not aware that they cannot continue, for example, slapping a prisoner after already bringing him under control, regardless of what he had done before that.

This conversation convinced the monitors that the CPT recommendation that *"prison staff should be reminded that the force used to control violent and/or recalcitrant prisoners should be no more than necessary and that once prisoners have been brought under control, there can be no justification for their beating",* given after 2008 visit to AECS, has not been fulfilled.[14]

CPT has stressed the importance of training staff in charge of law enforcement (police and prison officers). "There is arguably no better guarantee against the ill-treatment of a person deprived of his liberty than a properly trained police or prison officer. Skilled officers will be able to carry out successfully their duties without having recourse to ill-treatment and to cope with the presence of fundamental safeguards for detainees and prisoners."[15]

Based on interviews with AECS Security Service Chief and members, the monitoring team concluded that none of them had been trained on human rights to the absolute prohibition of

10 CPT, Report on 2008 visit to Montenegro in, paragraph 47, Report on 2006 visit to Armenia, p. 42.
11 CPT, Report on 2005 visit to Turkey, p. 41.
12 Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions, *Sl. list RCG,* 68/06, Art. 58, para 2.
13 Ibid, Art. 54.
14 CPT, Report on 2008 visit to Montenegro, p. 47.
15 CPT standards, Extract from the 2nd General Report *CPT/Inf (92) 3*, p. 59.

abuse,[16] skills that allow minimal use of force in restraining aggressive prisoners,[17] approaching the phenomenon of self-injury as probable mental disorder, not a deliberate lack of discipline,[18] communication skills based on respect for human dignity, aimed at reducing tension, etc.

All members of the security service, who are already in contact with the inmates, should be provided specially tailored training program for the adoption of physical and psychological skills to maintain order while preventing abuse and reducing tension.

3.2.2. Complaints of prisoners

According to data provided by AECS Management regarding the number of complaints filed by persons deprived of liberty against the prison staff for ill-treatment during the past three years, not a single case was recorded in 2009, four cases of abuse of force were reported in 2010, and in 2011 one officer was reported and later fined in a disciplinary procedure.[19] One case was initiated *ex officio* for exceeding authority due to negligent performance of duties in the Security Service, while AECS has no data on cases initiated by private criminal complaints.[20]

Unlike AECS Management, which did not record any complaints for exceeding the use of force during 2009, the Ombudsman received such a complaint from detainees Igor Milić and Dalibor Nikezić, found that the excessive force has been applied against them in the form of physical force and rubber truncheons, found infringement of rights and in 2010 made recommendation to remedy the infringement, which has been partially met.[21] On the occasion of the above complaint, Deputy Ombudsman interviewed the complainants, without the presence of officials, while one of them still had visible injuries of the lower extremities and in the head area, especially around the eyes.[22] Ombudsman has recommended that the prison management initiate disciplinary procedure against all the guards involved in the event, but the procedure was initiated against three prison officers, although the Ombudsman found that five AECS employees participated in this event. Three officers were punished by reduced salary for several months and were removed from the Remand Prison while the complainants were there. Complainants have also filed criminal charges against AECS officers. Competent prosecutor's office dismissed the criminal charges, noting that the prison officials had used force against detainees "to the necessary extent". Following the prosecutor's decision not to initiate criminal prosecution, the injured parties undertook prosecution, but the complaint was dismissed, so the injured parties submitted an application to the European Court of Human Rights for abuse and ineffective investigations of abuse, and the procedure is pending.[23]

16 See European Prison Rules, 81.4.
17 See European Prison Rules, 66.
18 CPT, Report on 2007 visit to Croatia, p. 95.
19 AECS Management response to the questions of monitors, 25 May 2012.
20 Ibid.
21 Recommendation of the Ombudsman of Montenegro to the Administration for Execution of Criminal Sanctions of 29 March 2010, available at: http://www.ombudsman.co.me.
22 From the Report of the Ombudsman, 2009, the case of I.M. and D.N.
23 "XXIII Milić v. Montenegro (application no. 54999/10) XXIV Nikezić v. Montenegro (application no. 10609/11). The reason for filing the application is intervention of the officials of the Administration for Execution of Criminal Sanctions in Spuž on 27 October 2009 against the applicants, detained at the Institution, for enforcing disciplinary decisions on their transfer to the disciplinary section and searching the room, on a tip that there is a knife in it. The applicants believe that on that occasion they were the victims of torture, which would violate their rights under Article 3 of the Convention, prohibiting torture or inhuman or degrading treatment or punishment. The applicants also believe that there has been a violation of their right under Article 13 of the Convention, relating to the right to an effective legal remedy, because the Basic State Prosecutor in Podgorica failed to conduct legal, efficient and effective investigation."

In January 2011 the same persons reported new cases of ill-treatment and filed new criminal charges against the guards in the Institution for Sentenced Prisoners in AECS, but, according to the information provided by victims' attorney, the state prosecutor has thus far failed to act on charges.

In 2010, Ombudsman received a total of 44 complaints from persons deprived of liberty, of which 12 related to abuse in AECS. In eight cases the Ombudsman found no violation of rights, and in one case he found an infringement of rights (the above case of two detainees D. Nikezić and I. Milić). In one case the violation was remedied during the procedure, and a procedure on one complaint has not been completed during the reporting year.[24]

During 2011, Ombudsman received 11 complaints related to the abuse. In one case the Ombudsman found no infringement, in two cases the violation was remedied during the procedure, so the procedure was terminated, and in two cases the Ombudsman suspended the inquiry procedure as complainants discontinued cooperation.[25]

Until the completion of the report in June 2012, Ombudsman made two recommendations to AECS. In January 2012, AECS Management was recommended to take steps, without delay, to remove and transfer all items confiscated from inmates as well as items whose possession or use is not permitted from the office of the Chief of the Security Service in the Prison for Short Sentences and other offices to a special room.[26] During the procedure it has been found that the Security Service Chief M.I. held items seized from convicted persons in his office, including two "maces", which he had used against prisoner R.B., and that for holding and touching prisoner R.B. in the crotch area officer M.I. had been disciplined.

In the second case, it has been found that on 7 November 2011 the prison officer in the Institution for Sentenced Prisoners, unit C, used physical force against convict N.D. by hitting him on the head with a bundle of keys and slapping his face, and that the commander nicknamed C slapped the convict. Convict told the Ombudsman that he was disciplined after the incident with commander C, placed in solitary confinement and bedridden for 12 hours. In this case, AECS Management has never submitted video surveillance footage of events that took place in the hallway to the Ombudsman, explaining that the video surveillance memory installed in a particular department stores data for maximum seven days. Video surveillance footage was sought 16 days after the event took place, and the Management responded to the Ombudsman that the footage does not exist. *In consideration of the aforesaid, it is necessary to ensure that video surveillance footage be stored much longer than 7 days, so that all cases of violence can be effectively investigated and sanctioned, in accordance with the opinion of the Ombudsman in this case.*[27]

Eight of 11 former prisoners who have been interviewed by monitors or completed their questionnaire confirmed that AECS officers had used force against sentenced persons.[28] Former convict S.M. noted that he had not been abused, but was present during the abuse of other prisoners.[29] Another former convict Ž.Š. stated that prisoners in AECS rarely report cases of ill-

Report of the Representative of Montenegro before the European Court of Human Rights in 2011.

24 From the Report of the Ombudsman, 2010.

25 From the Report of the Ombudsman, 2011.

26 Recommendations of the Ombudsman to the Administration for Execution of Criminal Sanctions no. 513/11 of 16 January 2012.

27 Recommendation of the Ombudsman to the Administration for Execution of Criminal Sanctions of 20 February 2012.

28 Interviews with former prisoners, Podgorica, February-March 2012.

29 Interview with former prisoner, March 2012.

treatment to the prosecution, the police and the Ombudsman, because they fear the consequences. He himself claims that he was abused while serving a prison sentence, but did not report it, and witnessed the abuse of other prisoners.[30]

Former convicts interviewed by monitors explained that when inmates file complaints against prison officers to AECS Management, officers file counter charges against them for assaulting an officer in the performance of official duties and those are recorded earlier than the complaints of sentenced persons, which is why the prisoners then withdraw their complaints, if they were ever recorded, due to the charges against them. For this reason, very few cases of abuse of sentenced persons by prison staff are reported to the prison Management, and even rarer to the competent prosecutor's office. "Prison is a closed system where you feel helpless and know that your word is worth much less than an officer's word. You know you'll always get the short end."[31]

Former female prisoner, who had experienced ill-treatment while in custody in 2008,[32] said that special attention should be paid to individual AECS officers. Certain female commanders treated female convicts "as unimportant", while some female convicts who gained their sympathy had greater privileges than others. "After receiving a beating, I was sent straight to solitary confinement, so that my mother could not see me beaten up."[33]

3.2.3. Results of research among sentenced persons in AECS Podgorica

A quarter (25.9%) of sentenced persons in Podgorica[34] said that prison officials used force against them.[35]

When asked if they had witnessed the use of force against another prisoner, more than a third (36.3%) of respondents said yes.[36]

Almost half of respondents (48.6%) confirmed that there are hidden places in AECS units that are known or suspected to serve the application or concealing of the excessive use of force. In the Prison for short sentences, this percentage was lower (22.2%). When asked about places potentially used for applying force, respondents most often identified "places in unit A next to the admission section, special rooms in unit A, specific places with no cameras, space behind the commander's office, toilet in the commander's office, walking path in the disciplinary department and solitary confinement". Respondents also stated that force had been applied when "the power goes out."[37]

30 Interview with former prisoner, March 2012.
31 Interview with former prisoner, Podgorica, February 2012.
32 See CPT Report on 2008 visit to Montenegro, p. 46.
33 Interview with former female prisoner V.K., Podgorica, April 2012.
34 Research included 58.9% of all prisoners in AECS Podgorica.
35 When asked whether the prison officials have ever used force against a specific respondent during his stay in prison, of 478 answers, 124 were affirmative, 354 negative, while 17 inmates did not answer. In the Prison for short sentences in Podgorica, when asked the same question, of 85 respondents, 15 answers were affirmative, 69 negative, while one convicted person did not answer.
36 Of 471 responses, 171 were affirmative, 300 negative, while 24 convicts provided no response. In the Prison for short sentences in Podgorica, of 83 responses, 11 were affirmative, 72 negative, while two prisoners gave no response, providing for 13.3% affirmative and 86.7% negative responses.
37 From the research "Respect for human rights in the Administration for Execution of Criminal Sanctions – views of inmates", conducted in March and April 2012 in Podgorica.

3.2.4. Recording the use of means of restraint

To prevent the vulnerability and helplessness of persons in closed prison systems, an obligation is being introduced to inform the authorities outside the prison on the use of force, in order to ensure independent investigation. The CPT recommended that Montenegro maintain "a record of every instance of resort to means of force against prisoners, with an indication of the precise time and duration of their use."[38] According to the regulations in force, there is an obligation to record any use of means of restraint.[39]

Prisoner Igor Milić, with whom the monitors spoke in the presence of prison officers, had objected to the actions of security officers. During the interview he noted that the security officer had stopped him from self-harming, but that such action was particularly humiliating for him because he got more slaps after stopping with self-harm.[40] After checking the records of application of means of restraint in relation to the particular inmate, it was found that *no means of restraint have ever been applied* against this person. Monitoring team verified the events related to self-harm described by prisoner Igor Milić with a number of sources who confirmed his allegations, even regarding the received slaps. The absence of written records concerning such use of force implies that **not every case of resorting to means of restraint is recorded**, which is unacceptable.

It can be concluded that the CPT recommendation has not been implemented and that a record should be kept of every instance of resort to means of restraint against prisoners.

Additionally, the CPT considers that acts of self-injury can often indicate a problem of psychological or psychiatric nature, and that these problems should primarily be addressed therapeutically, rather than through imposing disciplinary punishment.[41]

Under the Law on Execution of Criminal Sanctions, the means of restraint are: physical force, fixation, seclusion, rubber truncheons, water hoses, specially trained dogs, chemicals and firearms.[42]

According to the Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in AECS, directors shall inform the Ministry of Justice about the use of physical force only in case of serious bodily injury to a person against whom physical force was used.[43] For example, in Serbia the Ministry is informed of every event of the use force, with the medical report of injuries and the statement of a person against whom the force was applied.[44]

Current Rules *should be amended so as to provide for medical examination in each case of application of force, and submission of a report to the relevant ministry and state prosecutor*, bearing in mind that the criminal offenses Abuse does not involve causing serious bodily injury.[45]

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38 CPT Report on 2008 visit to Montenegro, p. 47, item 1; CPT standards, item 53.

39 Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions, Art. 57, para 1, *Sl. list CG*, 68/2006 of 10 November 2006.

40 Interview with a convict during the visit, Podgorica, 2011.

41 CPT, Report on the visit to Armenia, 2007, p. 95.

42 Law on Execution of Criminal Sanctions, Art. 61.

43 Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions, Art. 57.

44 Art. 130 of the Law on Execution of Criminal Sanctions, *Sl. glasnik RS*, 85/2005, 72/2009 and 31/2011.

45 The Criminal Code, *Sl. list RCG*, 70/2003, 13/2004, 47/2006 and *Sl. list CG*, 40/2008 and 25/2010, Art. 166a: (1) Whoever abuses another person or treats him/her in a manner offensive to human dignity, shall be punished by

In its report to the Government of Montenegro published in 2009, the CPT emphasized that it is important to ensure *that prosecutors are systematically notified of any use of means of force by prison staff,* and that they are particularly vigilant when examining such cases.[46] This applies both to detainees and the prisoners. In an interview with the representatives of AECS Management it was noted that the police is informed about every case of more serious bodily injury caused by the use of restraint measures by prison officers against a convicted person, and that the police further informs the competent Prosecutor's Office. However, AECS Management could not provide more precise information on this.[47]

Records on the use of means of restraint that the monitors had access to include: reports on the use of coercive measures, official notes of one or more persons, statements of one or more witnesses and statements of persons against whom the measures of restraint had been used. However, the Rules do not provide for mandatory taking of statements of persons against whom the force was applied, so they must be amended.[48] Although the monitoring team has timely sought access to records from 2009 and 2011 as well, only the records from 2010 were available for insight. Due to such circumstances it was not possible to determine whether the records were kept properly, i.e. whether the CPT recommendation on the necessity of recording every instance of resort to means of restraint has been fully adopted.

CPT recommendation that "any relevant statements by the prisoner and the doctor's conclusions should be formally recorded and made available to the prisoner"[49] has not been fully met, because not all the statements are recorded in writing. Monitoring team members came to this conclusion during an interview with the prison Management, when it was noted that "oral hearings are carried out sometimes".[50] Law on Execution of Criminal Sanctions and Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions should be amended to expressly lay down this obligation.

In 2009 the Government of Montenegro adopted the Action Plan for the Prevention of Torture[51] in order to improve the system of record keeping by establishing and maintaining specific records, i.e. registers in all prison units for recording injuries as well as traumatic injuries to persons deprived of their liberty. Action Plan also envisaged establishing and maintaining of specific records in all prison units through registers for recording of the use of means of restraint. In both cases, it was noted that the Administration for Execution of Criminal Sanctions had implemented the planned activities and set up specific records and registers. However, after seeking access to registers, certain registers were not made available to the monitoring team members, others were available only for a specific year, while the same type of register for another year did not exist, or, as stated by the prison Chief, the access required a specific period of time and approval by AECS Management. The above implies that specific registers for each prison unit have not yet been established, and that those established are not updated regularly.

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imprisonment up to one year.(2) If the offense referred to in paragraph 1 of this Article is committed by an official in the discharge of duties, he/she shall be punished by imprisonment of three months to three years.

46 CPT, Report on the visit to Montenegro, 2009, p. 47.

47 Interview with the Head of the Institution for Sentenced Prisoners, Podgorica, 27 December 2011.

48 "Security officer shall immediately prepare a written report on the use of means of restraint, containing information relating to: the person against whom the means of restraint were used, reasons and methods of use and consequences...", Art. 57, para 1 of the Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions.

49 CPT, Report on 2008 visit to Montenegro, p. 47.

50 Interview with AECS Management, Podgorica, 29 November 2011.

51 Action Plan for the Prevention of Torture, the Government of Montenegro, 12 February 2009.

When examining documentation from 2010, it was noted that one case included a statement of a person against whom force had been used, assessed to be reasonable, and the case concerned a prisoner assaulting another prisoner. However, other cases concerning the use of force by prison officers because a convict had not responded after being order multiple times, included no statements, leading to the conclusion that a written statement is provided in case of violence among sentenced persons, while this is not always the case when the prison official assaults a convicted person. According to the sentenced persons in Podgorica in respect of whom the officers applied force, of 120 cases, only 25 people stated that they had provided a written statement about such cases, 95 people stated that they had not provided a statement, while 4 persons did not answer the question. In the Prison for short sentences, of 15 respondents against whom the force was applied, 2 had provided a written statement, 10 had not, and 3 prisoners provided no response. Thus, written statements, according to the respondents, were taken only from one in five inmates against whom the force was applied (20.8%: 79.2%).[52]

Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions (Art. 57, para 1) should be amended so as to explicitly specify that when verifying allegations about the use of force, in order to compile a written report, the Security Service Chief shall be *obliged to also take the statement of a convicted person against whom the force had been used*, and only then submit the report with the findings of fact and assessment of the correct use of means of restraint to the director.

Use of means of restraint and the records about their application are kept in a rather unique manner in prisons in Podgorica and Bijelo Polje. Director of the Administration for Execution of Criminal Sanctions is obliged to notify the court president on the use of means of restraint against a detainee.[53] AECS Management representatives claim that restraint is used rarely, only in exceptional and necessary circumstances, such as in case of self-injury or when taking inmates to court or elsewhere, while the means of restraint are not used against minors.[54] On the other hand, the survey conducted among the sentenced persons in Podgorica[55] has shown that the force had been applied in relation to at least one in four prisoners (25.9% of respondents), which cannot be considered a rare use of force.[56]

3.2.5. Fixation

As a measure of restraint, fixation is used in a considerable number of cases, as stated in an interview with staff at Podgorica Prison, while it has also been noted that the enforcement of this measure requires approval of the prison doctor, who sometimes gives his approval over a phone, since he is the only physician in the prison and therefore quite "burdened".[57] Still, the first assessment of the need to apply fixation is provided by prison authorities.[58] The Rules regulate the application of this measure not nearly in accordance with the CPT recommendation, which

52 Research "Respect for human rights in AECS – views of inmates", March/April 2012, Podgorica.

53 Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions, *Sl. list RCG*, 68/06, Art. 57, para 5.

54 Interview with the Remand Prison Management, Podgorica, 2012.

55 Research included 58.9% of all prisoners in AECS Podgorica.

56 When asked if the prison officials had sometimes used force against a specific respondent during his stay in prison, of 478 answers, 124 were affirmative, 354 negative, while 17 inmates did not respond. In the Prison for short sentences in Podgorica, of 85 respondents, 15 answered the same question with yes, 69 with no, and one person did not answer.

57 Interview with AECS Management, Podgorica, 27 December 2011.

58 Interview with AECS Management, Podgorica, 27 December 2011.

requires that this measure be used exceptionally and with the utmost restraint. In the case in which the Ombudsman decided in 2012, the injured party stated that he had previously been punished by, amongst other things, spending 12 hours bedridden in a solitary confinement.[59] Fixating even violent or recalcitrant prisoners to furniture "until they calm down" is absolutely unacceptable, and fixation should never and under no circumstances be used as a punishment.[60]

In the Report on Respect for Human Rights in Psychiatric Institutions,[61] paragraph 6.1 describes a case of F.S., mentally ill person, who spent 18 days confined to a bed in October 2010 after being admitted to the Remand Prison, without psychiatric examination. The Report contains recommendations to the Police Directorate, Ministry of Justice and the courts to ensure that in every case of suspected mental condition of an offender or criminal offender, that person be examined by a psychiatrist and/or referred to an appropriate psychiatric institution for expert opinion, while finding unacceptable the continuous practice of confinement to bed.

However, despite the recommendation, on 23 February 2012 daily newspapers published information that detainee A.Ž. stated before the investigating judge that during his first two months in the Remand Prison he had been "tied down".[62] Expert witness gave an opinion that A.Ž. has a chronic mental illness - schizophrenia, and that at the time of the murder he was unable to understand the importance of his act".

The monitoring team expresses its concern that the practice of prolonged "fixation", i.e. mechanical restriction of freedom of movement of mentally ill persons in AECS is repeating. Decision criterion remains unknown, since the Prison does not have a register for recording the circumstances that led to the implementation of this measure.

Prolonged fixation (18 days in the first case and even two months in the second case) is inadmissible. Duration of fixation should be as short as possible and that time should be measured in minutes, rather than hours.[63] Agitated patients should be treated in a different environment, preferably hospital, and their freedom of movement in prison conditions should not be hindered.[64]

Furthermore, a special register should be introduced for accurately recording all cases of resorting to measures of physical (mechanical) restricting of freedom of movement.[65]

After examining available records on the use of means of restraint in Podgorica Prison, monitors have found that in several cases rubber truncheons had been used as means of coercion, and in

59 Opinion and recommendation of the Ombudsman, no. 531/11 of 20 February 2012.

60 CPT, Report on the visit to the United Kingdom, 1997, 107; Report on the visit to Croatia, 2003, 74.

61 Report available at: http://www.hraction.org/wp-content/uploads/Postovanje_ljudskih_prava_u_psihijatrijskim_ustanovama_nov2011.pdf.

62 Daily *Vijesti*, 19 April 2012.

63 The duration of fixation should be for the shortest possible time (usually minutes rather than hours). The exceptional prolongation of restraint should warrant a further review by a doctor. Restraint for periods of days at a time cannot have any justification and would amount to ill-treatment. CPT, Visit to Denmark, 2008, p. 71.

64 Regarding its appropriate use, immobilisation should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail satisfactorily to contain those risks; it should never be used as a punishment or to compensate for shortages of trained staff; it should not be used in a non-medical setting when hospitalisation would be a more appropriate intervention. CPT, Visit to Denmark, 2008, p. 71.

65 A special register should be kept to record all cases in which recourse is had to means of restraint; the entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by the person or staff. CPT, Visit to Liechtenstein, 2007, p. 47.

one case solitary confinement, approved by the doctor's statement "capable of isolation"[66]. *Prison doctor should not provide an opinion on whether or not someone is capable of isolation, or the application of any other means of coercion*, but visit an inmate on a daily basis during the isolation, and if that is not possible, a nurse should visit him and report on his condition.[67] This is particularly important as a preventive measure, as the possibility of ill-treatment increases when a person is isolated or placed in a solitary confinement cell.

The recording of injuries resulting from the application of means of restraint in AECS, prisoners' statements about acquiring injuries and the absence of a specific register on this issue is described in more detail in section Healthcare services.

Staff at Bijelo Polje Prison reported that during the past years they have not resorted to coercive measures, because there was no need to. Fixation is used only in case of inmates being taken to a court or medical treatment. All problems that arise are resolved through conversation, without the use of means of restraint, and these are mostly minor problems that are overcome quickly.[68] What the members of the monitoring team have immediately noticed in Bijelo Polje Prison is a different, more relaxed atmosphere compared to the prison in Podgorica. None of the sentenced persons complained about the treatment in any way, so one gets the impression that there is no violence in that prison facility. CPT did not receive complaints about physical abuse from prisoners in Bijelo Polje in 2008 either.[69]

3.2.6. Recommendations

• Specify the Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions by including a warning that, when the resistance is suppressed, it is forbidden and punishable to continue to use force, i.e. use force as a punishment.

• Provide specifically tailored training to all members of the security service who already have contact with the inmates with the aim of adopting physical and psychological skills to maintain order while preventing abuse and reducing tension.

• Ensure the keeping of records of each application of coercive measures against the detainees and prisoners, without exception.

• Amend the Law on the Execution of Criminal Sanctions to prescribe in detail the procedure of using coercive measures, and particularly to ensure doctor's examination in each case of application of force, documenting of the statement of a person against whom the force was applied and bringing the case to the attention of the relevant ministry and state prosecutor.

• Amend regulations to ensure that the inmate against whom the force was applied is granted access to all his relevant statements, as well as to the doctor's conclusions.

• Ensure that AECS officers do not use improvised means of restraint and destroy all such means found with the prisoners, in accordance with the recommendation of the Ombudsman of 16 January 2012.

66 Insight into the records during the visit, Podgorica, 27 December 2011.
67 For more detail see Healthcare services.
68 Interview with staff, Bijelo Polje, 9 December 2011.
69 CPT, Report on 2008 visit to Montenegro, p. 45.

• Amend the Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions by specifying the manner of the use of means of coercion in accordance with the CPT standards, to prevent the abuse and especially punishment by using means of coercion.

• Ensure that video surveillance footage be stored much longer than 7 days, in accordance with the opinion of the Ombudsman and his recommendation.

• Prevent the recurrence of prolonged fixation of mentally ill persons in AECS, as it represents an example of abuse.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 2, 3, 4, 5, 6, 8, 10, 15 and 107).

3.2.7. Death cases in the past three years

Every death in prison must be thoroughly investigated and the cause of death must be determined in order to provide the relatives of the deceased with relevant information concerning the circumstances of death, prevent similar cases in the future and, if necessary, establish responsibility for the death.[70]

From 2009 until 1 June 2012, there were a total of six deaths in AECS, four of them in the Institution for Sentenced Prisoners in Podgorica and two in the Remand Prison Podgorica. In their responses, AECS Management failed to specify the cause of deaths.[71]

Based on the media reports, it can be concluded that in 3 cases it was a suicide and natural death in 2 cases. In one case it has not yet been clearly determined whether the death was the result of a suicide or murder.[72]

On 12 June 2011 prisoner R.J. (64) from Bijelo Polje, transferred from AECS to a hospital a day earlier, died at the Clinical Centre in Podgorica. Autopsy findings confirmed that the death was "violent and due to Xanax poisoning", and caused by suicide.[73] The family of the deceased stated that the attitude of AECS Management towards R.J.'s poisoning and death indicates "a clear suspicion that the truth about the cause of poisoning and how the deceased managed to come into possession of such a large amount of pills is deliberately concealed", which is why the wife filed a criminal complaint with the prosecutor against AECS officer N.N. for a criminal offense Negligent performance of duty.[74]

70 CPT, Report on the visit to Macedonia, 2006, p. 107.
71 Responses of the Prison Management to the questionnaire of the monitoring team of 28 February 2012 imply that 6 people died in AECS from 2009 to 2011, while the media reported 5 deaths in AECS during the same period.
72 Although in the case of death of Mihailo Terzić from November 2011, the prosecution did not accept the opinion of doctor Miodrag Šoć that Terzić had been murdered, and that death was due to strangulation, because such findings did not coincide with the findings of other experts: doctors Dragana Čukić and Mihailo Kuliš and special commissions from Ljubljana, it is not known whether the investigation in this case has been officially suspended and Terzić's death declared a suicide. More details: «Prosecution confirms that Terzić committed suicide», *Vijesti*, 10 May 2012.
73 "Prison of suspicious deaths", *Vijesti*, 20 November 2011.
74 "Why is there no suicide note?", *Vijesti*, 23 August 2011.

She said that her husband had fallen seriously ill and requested a stay of the sentence in order to be adequately treated, but that his request has not even been answered. AECS officer, who transferred R.J. to the hospital, said that the deceased took 60 Xanax pills and left a suicide note, while the Chief of the Institution for Sentenced Prisoners informed the public about the existence of the note and its referral to graphology expert, having previously informed the family of the deceased about it. However, the family claims that the Chief of the Institution for Sentenced Prisoners did not show them the letter.[75] The public is not aware of the existence of the opinion of graphology expert as regards R.J.'s letter. No new information has been released on the results of the investigation.

On 7 February 2011, in the prison in Spuž, B.J. (71) from Podgorica took his own life, despite the fact that he had been under constant supervision and control of the Remand Prison security service, as well as under medical care. He hanged himself on the window bars while other detainees in the room were sleeping. A suicide note was found in his pocket. On this occasion AECS Management stated: "On several occasions, additional examinations and analyses were carried out at the Clinical Centre of Montenegro, and he received his therapy regularly. Due to such health condition and the need for constant examination and treatment, the detainee was placed in a separate inpatient room in order to provide him with more intensive medical care. In addition to enhanced medical care, he was under constant supervision and control of the security service of the Remand Prison."[76]

The public was also upset by the death of Alen Harović (26), who died in October 2009 in AECS of heroin overdose. Despite the fact that he was ordered the measure of treatment of substance abuse and had to be placed in the Special Prison Hospital, Harović was serving a sentence in the Semi-open unit in AECS with five other prisoners in the room, including Dragan Mihailović. On 28 October 2009 around 8 pm Harović and Mihailović fell ill due to severe heroin poisoning. Mihailović was saved because he was taken to the Clinical Centre in Podgorica, and Harović was left in the cell.[77] In connection to this case, on 5 October 2010 the High Court in Podgorica imposed prison sentences from two and a half to six years on four persons for smuggling heroin into AECS.[78] Some AECS officials received disciplinary punishment for this case, but were not prosecuted.

In November 2011 Dr Mladen Ivanišević (50) from Tivat died in a prison room of the Institution for Sentenced Prisoners in Spuž. AECS Management announced that Ivanišević had fallen ill around 4:10 pm while in his room, when the prisoners placed in the same room informed the prison officers. At 4:20 pm Ivanišević was transferred to the Clinical Centre but showed no signs of life, and his death was declared soon after. It has not yet been officially announced what is the cause of Ivanišević's death, although unofficially it has been stated that he had died of a heart attack.[79] Family has expressed doubts about the cause of Ivanišević's death.[80]

The case of the death of detainee Milivoje Terzić, who was found hanged in his cell in November 2011 attracted much attention of the media and public. Of four expert findings on the cause of death, findings of Dr. Miodrag Šoć pointed to possible murder, while according to the three findings (Dr. Dragana Čukić, Dr. Mihailo Kuliš and expert committee from Slovenia who conducted superexpert examination) the cause of death is suicide. The prosecution concluded that it was a suicide, based not only on expert findings but also the content of a video surveillance footage from AECS premises, which proves that there were no unlawful activities of any person, inside or outside,

75 "AECS officials claim to have treated Radojko Jurišić professionally," *Vijesti*, 14 August 2011.
76 "Killed girlfriend because of love, then himself," *Vijesti*, 8 February 2011.
77 "Judge informed 15 hours later", *Dan*, 30 October 2009.
78 "A total of 15 years in prison", *Pobjeda*, 6 October 2010.
79 "Doctor died, complaints of severe maltreatment left", *Vijesti*, 3 November 2011.
80 "Cell hiding a secret", *Dan*, 4 November 2011.

prior to the discovery of Terzić's body, while the authenticity of the footage has been established in the Wiesbaden institute, which concluded that the footage contained no manipulative content or gaps.[81]

Detainee Spasoje Đekić (72) was found dead in Remand Prison on 17 April 2012. Autopsy report prepared at the Clinical Centre of Montenegro shows that Đekić died of natural causes.[82]

3.2.8. Prevention of ill-treatment of detained persons

Monitoring of detention enforcement

Detainee has the right to file a complaint at any time concerning the conduct of prison officials in case of violation of his/her rights or other irregularities. The prison Chief is obliged to inform on that the president of the court supervising the detainees without delay.[83] Of the total number of complaints, it is unknown how many of them refer to detention, because different organizational units do not keep records on a regular basis, although the CPT recommended establishing of a system for recording complaints and their timely processing.[84]

Prison authorities are required to visit detainees at least once a week to check the conditions of detention and treatment of detainees. In an interview with the prison Management it was stated that the prisoners are visited several times a week.[85]

Monitoring of the enforcement of detention is exercised by the court president competent for ordering detention, i.e. a judge appointed by the court president. Court president is obliged to visit detainees at least twice a year and can visit them at any time of the day or night and receive their complaints. The president or a judge designated by him must take the necessary measures to rectify irregularities noticed during the visit and prepare a report on the visit to be submitted to the President of the Supreme Court and the ministry in charge of legal affairs. President of the court and investigative judge may at any time visit all detainees, talk to them and receive their complaints.[86]

The President of the High Court in Podgorica regularly visits detained persons, according to AECS Management data, however, reports of these visits were not made Public. The President of the High Court in Podgorica rejected a request for access to his reports on the visits to detainees in detention unit at the Administration for Execution of Criminal Sanctions in Podgorica, stating in the explanation, inter alia, that "under the provision of Art. 185, para 2 of the Criminal Procedure Code, the president of the court is obliged to compile a report on his visit which is to be submitted only to the President of the Supreme Court and the ministry in charge of the judiciary."[87]

The President of the High Court in Bijelo Polje replied to the same request that the High Court does not keep records of the visits to detainees and issued passes, nor is it bound by the provisions of the applicable Court Rules.[88] According to information obtained from the Chief of the Bijelo Polje

81 "Prosecution confirmed that Terzić had committed suicide", *Vijesti*, 10 May 2012.
82 "Died a natural death", *Dan*, 7 May 2012.
83 House Rules for the execution of detention order, Art. 62, para 2.
84 CPT, Report on 2008 visit to Montenegro, p. 81.
85 Interview with the Head of the prison in Podgorica, 2012.
86 Criminal Procedure Code, Art. 185.
87 Decision of the High Court in Podgorica VIII Su.br. 3584/11 of 5 November 2011.
88 Notice of the High Court in Bijelo Polje, Su.V br. 627/11 of 24 October 2011.

Prison, the President of the High Court in Bijelo Polje visited detainees three times in 2010, and in 2011 not even once, nor did he authorize any other person to do so.[89]

3.2.9. Cases of ill-treatment in detention

In connection with the Remand Prison in Podgorica, monitoring team has received several allegations of physical ill-treatment of persons who are now serving a prison sentence, but the abuse by stuff occurred during their stay in detention in 2008. According to now sentenced persons, the abuse included kicks, punches, slaps and hits with a truncheon, sometimes even after handcuffing a detainee.[90] In the CPT report on 2008 visit to Montenegro, the ill-treatment of sentenced persons in the Remand Prison in Podgorica was described in the same manner.[91] Convicts claim that the prison authorities knew about the majority of the cases of abuse in detention, but that no prison officer was suspended, nor have the police or the prosecution been informed. They came to this conclusion because no person ever asked them anything about it or required them to provide a statement.[92]

On 3 May 2012, detainee in Podgorica Remand Prison M. Đurković was beaten in the detention room for allegedly being late for the count. He was beaten in the presence of other inmates by the security sector officials of Podgorica Remand Prison. Doctors confirmed the injuries, and the Basic State Prosecutor ordered an investigation into the case.[93] Monitoring team representative visited M.Đ.. Management of the Administration for Execution of Criminal Sanctions confirmed that their officer "used coercive means against Đurković who did not comply with the house rules". For overstepping their authority, the officer and the shift Head have been suspended.[94] However, M.Đ. claims that several persons participated in his ill-treatment.

Monitoring team wishes to compare this situation, as the only case of ill-treatment in 2012, with the situation of the beaten female detainee Vladana Kljajić, mentioned in the CPT report,[95] when the prison officers were not suspended, and the prison authorities denied the whole incident, but in a final verdict the court found that the detainee had been abused and sentenced the officers to probation.

As proved by the case of M. Đurković, as well as the case of I. Milić and D. Nikezić, even when confronted with indisputable evidence of ill-treatment, AECS Managementhesitates to sanction all persons responsible and demonstrate uncompromising position on the prohibition on torture.

3.2.10. Suspension of an officer suspected of ill-treatment

In the conclusions of its 2008 Report on Montenegro, the Committee against Torture (CAT) emphasized that in cases where there is serious doubt as to the torture and abuse, the defendant must, as a rule, be suspended for the duration of the procedure.[96] This recommendation

89 Interview with the Head of Bijelo Polje Prison, 9 December 2011.
90 Interviews with the prisoners during visits, Podgorica, 2011.
91 CPT, Report on 2008 visit to Montenegro, p. 45.
92 Interviews with the prisoners during visits, Podgorica, 2011.
93 Daily *Dan* of 7 May 2012.
94 Daily *Vijesti* of 7 May 2012.
95 CPT, Report on 2008 visit to Montenegro, p. 46
96 CAT, Concluding observations on Montenegro, 2008

is also in accordance with the Labour Law of Montenegro, which stipulates that a person prosecuted for a criminal offense related to the work must be suspended until the end of criminal proceedings.[97] It cannot be confirmed whether this practice is applied consistently, because the monitoring team could not access this type of documentation.

3.2.11. Conditions of detention

Criminal Procedure Code contains specific provisions on the treatment of persons in detention.[98] Personality and dignity of the detainee shall not be offended in the course of detention, while the only restrictions that may be imposed against detainees are those needed to prevent their flight and ensure smooth conduct of the criminal proceedings.[99] However, neither the Law on Execution of Criminal Sanctions nor prison regulations contain a clear provision stating that these imply minimum required force and only for the duration of the risk, so these should be amended accordingly, i.e. specified.

It is particularly important that the regime applicable to the persons in detention is not affected by the assessment of the possibility of being convicted of a crime.[100]

In an interview with the Chief and officers of the Security Service in the Remand Prison (Podgorica Prison), it was concluded that they attach great importance to whether a person have been detained more than once, i.e. whether he is a "multiple recidivist" or not. Also, there is an impression that all staff members have knowledge of acts committed by all the detainees. The question is whether it is necessary that staff members be burdened with this type of information, since they are not in charge of any kind of social and rehabilitation treatment. It is enough that the prison Chief or Security Service Chief has this information to assess the security risk, and not all the other guards in the Remand Prison.

Monitoring team was unable to verify the allegations of the privileged status of certain detainees. Remand Prison Chief explained that it is a true challenge to place the defendants in same cases in different rooms, in order to prevent their communication, as well as persons who are known to be in direct conflict, etc. Hence, it is difficult to verify whether some persons are alone in a room, or placed in double rooms because they have a "connection" or because different placement is really not possible at the time. However, bearing in mind that multiple former convicts suggested the existence of this type of discrimination, it would be necessary to carry out additional checks to that end.

In the Institution for Sentenced Prisoners in Podgorica, many prisoners expressed a favourable view of prison officials saying that "it is better now than before".[101] Complaints as regards abuse and torture relate mainly to their stay in the Remand Prison. However, it should be noted that one or two prison officials were always present at interviews the monitoring team members had with the prisoners.

In accordance with the CPT recommendation, prison staff should be reminded that the force used to control violent and/or recalcitrant prisoners should be no more than necessary and that

97 Labour Law, *Sl. list RCG*, 43/03 and 25/06.
98 Criminal Procedure Code, *Sl. list CG,* 49/2010, Art. 181-186
99 Criminal Procedure Code, Art. 181, para 2.
100 European Prison Rules, 95. 1
101 Interview with the prisoners during visits, Podgorica, 2011.

once prisoners have been brought under control, there can be no justification for their beating.[102] Therefore, the force cannot be completely excluded from the practice, but it is necessary to strive for its proper use, in situations and to the extent prescribed by regulations.

Statutory provisions relating to the prohibition of ill-treatment, torture and degrading treatment should be further specified and harmonize with European standards. However, the implementation of the existing provisions on the prohibition of torture in practice is still not satisfactory, as not all the cases of the use of force or excessive use of force are recorded. This practice should be changed and each case of violation of the rights of prisoners or detainees should be recorded. Any abuse of powers must lead to the initiation of criminal or disciplinary proceedings, without hesitation or exceptions. Otherwise, the responsible officials, the Security Service Chief, the prison Chief or the Director himself should therefore bear the consequences in accordance with the law. The CPT recommended that the attention of prosecutors, judges, prison directors and other competent authorities be drawn to the need to exercise extra vigilance and adopt a more proactive approach in order to ensure that no case of ill-treatment goes unnoticed and unpunished.[103]

3.2.12. Recommendation

Any case of exceeding or abusing one's authority must be recorded and must lead to initiation of the procedure of determining criminal or disciplinary liability, without hesitation and exceptions. Otherwise, the responsible chiefs, heads and director of AECS should therefore bear the consequences in accordance with the Criminal Code, which prescribes liability for abuse of official position, negligent performance of duties, concealment of a criminal offense and offender, etc.

3.2.13. Relations between prison staff and inmates

After its visit to Montenegro, the CPT particularly recommended that a firm message be delivered to staff of the Remand Prison in Podgorica that physical ill-treatment and verbal abuse of prisoners are not acceptable and will be dealt with severely.[104] In some other countries, it was explained that this means that the director and chiefs need to regularly visit the facility, observe the behaviour of staff towards prisoners, talk to prisoners and deal with their complaints.[105]

Threats and insults

Answering the question whether they have ever been seriously threatened by the prison officer, a quarter of the interviewed prisoners (25.1%) responded affirmatively. In connection with this question, the prisoners were offered to state what they have been threatened with. Their responses were classified into two categories – those who reported direct threats (e.g. "you'll be sent to solitary confinement", "you won't see the light of the day", "I'll break your bones", "we'll do everything to hinder you", "I'll make your stay here harder", "I am both the director and minister here – you'll walk when I want and how I want"…) and those who feared stating the threats because of the possible consequences.[106]

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102 CPT, Report on the visit to Montenegro, p. 47.
103 CPT, Report on 2008 visit to Montenegro, http://www.hraction.org/wp-content/uploads/Standardi-CPT-a-15-37.pdf
104 CPT, Report on 2008 visit to Montenegro, p. 45.
105 See "Prohibition of abuse - a manual for police and prison staff", Ivan Janković, Belgrade Centre for Human Rights, Belgrade, 2010, p. 165, quoting the CPT Reports to Georgia, 2007, p. 35, and Hungary, 2009, p. 60.
106 Research "Respect for human rights in the Administration for Execution of Criminal Sanctions – views of inmates", March/April 2012, Podgorica.

When asked whether prison officials insult prisoners, i.e. use derogatory words when addressing them, nearly half (43.6%) of respondents in Podgorica provided affirmative answer to this question. In the Prison for short sentences, in response to the same question, a quarter (26.4%) of convicts responded affirmatively.[107] Examples of these insults include "garbage", "mutt", "bastard", "monkey" and insults on a national basis.

It has been observed that the relations between stuff and persons serving sentences in the Prison for short sentences and Semi-open unit are better than in the Prison for long sentences and Remand Prison. When visiting the Institution for Sentenced Prisoners, units B and D, it was noted that relations between the Security Service Chief and inmates in some rooms were tense. Such atmosphere, for example, was not observed in the prison in Bijelo Polje.

Obvious positive atmosphere present among the officers and inmates at the prison in Bijelo Polje is a sign of fair relationship between the prison staff and persons serving sentences. For example, the inmates noted that prison officials wake them up in the morning quietly, without fuss, which has a positive effect on them and creates a positive opinion about the employees at this facility.[108]

One part of the survey of views of sentenced persons regarding the respect for their human rights at the Administration for Execution of Criminal Sanctions, carried out by the monitoring team, concerned the relations between prisoners and prison authorities during a massive hunger strike among AECS prisoners in February 2012.[109] The table below presents the survey results on this topic. Our recommendation, featured in the Healthcare section, is to *develop a protocol regarding the actions of AECS Management in case of a hunger strike, which would also include measures for respect for the human rights of strikers.*

Were you on a hunger strike during the past month?	Yes: 67.7%	No: 32.3%	No answer: 19.59%	Reasons: probation, solidarity, overcrowded rooms, transfer to Bijelo Polje Prison, improper treatment by commanders and management.
Did you voluntarily agree to the hunger strike?	Yes: 98.8%	No: 1.22%	No answer: 2.44%	
Were you examined by a doctor during the hunger strike?	Yes: 8.8%	No: 91.2%	No answer: 2.44%	
Did someone pressure you to end the hunger strike? If so, who did?	Yes: 74.1%	No: 25.9%	No answer: 5.30%	Prisoners noted the names and functions of AECS officers who had pressured them. These data were submitted to AECS Management and the Ministry of Justice.
Were you deprived of any rights during the strike?	Yes: 69.1%	No: 30.9%	No answer: 8.97%	Denial of phone calls, showers, family visits, walks, medical care etc.

107 Ibid.
108 Interviews with the prisoners during visits, Bijelo Polje, 2011.
109 Research "Respect for human rights in the Administration for Execution of Criminal Sanctions – views of inmates", March/April 2012, Podgorica.

The European Prison Rules stipulate that it shall be possible for prisoners to contact staff at all times, including during the night.[110] In Podgorica, however, the number of persons serving a sentence and a small number of prison employees in direct contact with them affect the quality of the work.[111] Persons serving sentences pointed to insufficient contact with prison employees they "need", who often respond to their specific requests late.[112]

Regarding the CPT recommendation that, if considered necessary for prison officers to carry truncheons, the truncheons be hidden from view,[113] it should be noted that half of the respondents - sentenced persons in Podgorica (54.1%) pointed out that officers usually carry truncheons, therefore, do not hide them from view, *so more attention need to be paid to the CPT recommendation*. (However, the situation in the Prison for short sentences is reverse, where the overwhelming majority of 95.9% of respondents said that this was not the case).

3.2.14. Violence among inmates

The obligation of staff at the facility for the execution of criminal sanctions is not only to refrain from any form of ill-treatment of prisoners, but also to prevent any violence among them. If violence does occur, prison staff must respond to it promptly and adequately in order to protect those in danger.

"During the 2008 visit, the CPT's delegation heard several allegations of inter-prisoner violence. The prison authorities admitted that there were occasional instances of inter-prisoner violence and indicated that they were striving to take the necessary preventive measures (including segregation of the possible perpetrators or victims). The CPT invites the Montenegrin authorities to develop a strategy aimed at preventing inter-prisoner violence."[114] Such strategy has not yet been developed, although it could be very useful.

The Rules stipulate that a security officer shall constantly monitor the movement of persons deprived of liberty and at all times be aware of the whereabouts of a particular person entrusted to him for safekeeping, keep notes on personal observations regarding the behaviour, movement, stay, work and mutual relationships of persons deprived of liberty, and also conduct appropriate supervision over prisoners during the walks, rest or sleep.[115] Performance of security service in the prison shall be organized in each organizational unit, continuously, in shifts.[116] However, effective prevention of violence entails monitoring which requires sufficient number of members of the security service. *The monitoring team noted that at the time of the visits, during the day, a number of officers in shifts was insufficient.*[117]

Monitoring team also proposes *urgent introduction of alarm and video surveillance systems in rooms with a large number of prisoners in unit A in Podgorica and in Bijelo Polje Prison* in order to

110 European Prison Rules, 52.2 and 52.4.
111 Interview with AECS staff, Podgorica, 2011.
112 Interview with persons serving sentences, Podgorica, 2011.
113 CPT, Report on 2008 visit to Montenegro, p. 48.
114 CPT, Report on 2008 visit to Montenegro, p. 50.
115 Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions, *Sl. list RCG,* 68/2006, Art. 27.
116 Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions, *Sl. list RCG*, 68/2006, Art. 5.
117 For more detail see section Prison staff.

reduce the risk of violence among inmates. However, it should be borne in mind that, according to the CPT, electronic equipment cannot completely replace the physical presence of prison staff, their contact with prisoners and encouragement of good relations and mutual respect.[118]

Prison authorities stated that they are trying to take all necessary preventive measures, including segregation of the possible perpetrators or victims to different units.[119] Careful assessment, classification and transfer of each prisoner is a key measure for preventing inter-prisoner violence,[120] but not the only one. There is vast international experience to be considered and compared with national experience, and development of a strategy is the right opportunity to do so.[121]

Anonymous survey conducted among the prisoners in the Institution for Sentenced Prisoners and Prison for short sentences in Podgorica showed that a relatively small percentage of respondents (12.3%) said that another inmate had applied force against them. Within the Prison for short sentences, 2 prisoners responded to this question affirmatively, and 81 negatively. When asked whether the prison officials reacted in such a case, if aware of the event and able to react, 30 answers were affirmative, 22 negative, while 6 respondents did not answer. In the Prison for short sentences, both respondents responded negatively. Thus, **42.3% of respondents held that the officers did not react when another inmate applied force against them, even though they knew about the event and were able to act in response.**

According to the prison officers in Podgorica, inter-prisoner violence occurs in a small number of cases. If it is a minor offense, prison authorities employ regular procedure and possible punishment of those responsible. However, in case of serious offenses accompanied by serious physical injuries, prison authorities inform the competent authorities and the procedure of determining criminal responsibility is initiated.[122]

It has been observed, especially in Bijelo Polje Prison, that staff mediates in improving relations between inmates who are often in some sort of conflict. This is particularly important for prison staff as well, because with a small number of staff members, especially in the security service, and a large number of sentenced persons this is necessary for the overall safety and prevention of adverse situations. Such treatment is in accordance with the European Prison Rules, which recommend that prison authorities *use mechanisms of restoration and mediation whenever possible* to resolve disputes with and among prisoners.[123]

The fact that during a two-month period only, from mid-March to mid-May 2012, several physical attacks took place in prison in Podgorica, seriously jeopardizing the safety of sentenced persons, deserves situation analysis and adoption of a strategy on the prevention of violence among inmates.

According to the media reports, with the intention to attack another convict, convict I.V. "assaulted three prison officers and caused them light bodily injury, which was reported to the Police Directorate and Prosecutor's Office. After the incident, security officers beat prisoner I.V.

118 CPT, Report on 2007 visit to the Netherlands (Antilles), p. 46.
119 Interview with the prison Management, Podgorica, 2011.
120 CPT, Report on 2007 visit to Bosnia and Herzegovina, p. 50.
121 Pay special attention to a chapter "Intentional abuse among prisoners" in the book "Prohibition of abuse - a manual for police and prison staff", Ivan Janković, Belgrade Center for Human Rights, Belgrade, 2010, p. 166.
122 Interview with the Chief of the Institution for Sentenced Prisoners, Podgorica, December 2011.
123 European Prison Rules, 56. 2.

and the events were allegedly recorded on video surveillance footage".[124] After this incident, the Basic State Prosecutor in Podgorica submitted indicting proposals to the Basic Court in Danilovgrad against the sentenced persons for criminal acts Assaulting an Officer in the Performance of Official Duties and Ill-treatment of Prisoners.

AECS officials prevented the incident between members of the so-called "Zagorič clan" and the group of prisoners. On several occasions, verbal conflicts and nearly physical fights occurred among detainees in the Remand Prison, as well as in the Semi-open unit. As a result, AECS Management raised the security alert to the highest possible level. Prison officials had to intervene to prevent a conflict between feuding inmates.[125]

On 10 May 2012, there was a fight among detainees placed in the same room, one of whom sustained a serious bodily injury.[126]

3.2.15. Recommendations

- Since more than half of prisoners claim that officers carry truncheons, it is necessary to make additional efforts to hide them from view.

- Develop a strategy on the prevention of violence among inmates. Include experts from various fields in its development, as well as staff members in contact with prisoners on a daily basis.

- Increase the number of employees in the Security Sector.

- Ensure the application of conciliation and mediation procedures to the greatest possible extent to resolve disputes among inmates.

- Install video cameras and alarm systems in rooms with a large number of prisoners.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 9, 11, 12, 13 and 14).

124 Daily *Dan* of 4 April 2012.
125 Daily *Dan* of 5 May 2012.
126 Daily *Vijesti* of 11 May 2012.

4. DISCIPLINARY SANCTIONS AND PROCEDURES

It is important to accurately prescribe disciplinary sanctions and disciplinary procedure in which they may be imposed on sentenced persons, which must meet the minimum guarantees of fairness. It is absolutely forbidden to sanction convicts by resorting to corporal punishment, fixation and other kinds of inhuman and degrading punishment,[127] depriving them of water, food or walks,[128] or to punish them collectively.[129] The existence of a formal disciplinary procedure protects prisoners from informal system of punishment, which allow for legal uncertainty and abuse of authority.[130]

4.1. Violations and sanctions

Law on Execution of Criminal Sanctions prescribes sanctions that may be imposed on convicted persons for violation of house rules, and a procedure in which these sanctions may be imposed on them.[131] The specific list of minor and serious disciplinary violations is prescribed by the House Rules for Enforcement of Prison Sentences.[132]

For minor disciplinary violations, convicted person might receive a reprimand or be denied the receipt of deliveries in duration of 3 months.[133] For serious disciplinary violations, convict may be sentenced to solitary confinement for up to 30 days.[134] It is also possible to impose suspended sentence. Disciplinary sanctions may cause the loss of the right to award[135] for a period of four months to a year. [136]

However, contrary to the Law, which explicitly states which sanctions may be imposed in the event of disciplinary violations, the Rules adds one more – "limiting" visits to a person sent to solitary confinement.[137] However, the CPT stressed that the fact that a prisoner is in solitary confinement must not serve as an excuse to discontinue or limit his contact with family and other close persons, and that the solitary confinement should never involve a total prohibition on visits.[138] Visits could be prohibited only if a disciplinary offense for which the person has been sanctioned is in direct connection with the earlier visits.[139] Anonymous survey conducted in the Institution for

127 European Prison Rules, p. 60.3 and 60.6
128 CPT, Report on the visit to Armenia, 2006, p. 51.
129 CPT, Report on the visit to the Netherlands (Aruba), 2007, p. 88.
130 CPT, Report on the visit to Finland, 2003, p. 88.
131 Art. 55, 55a, 56, 57, 58, 59, 59a and 60 of the Law on Execution of Criminal Sanctions, *Sl. list RCG*, 25/94, 29/94, 69/2003 and 65/2004 and *Sl. list CG*, 32/2011.
132 Art. 136, House Rules for Enforcement of Prison Sentences, August 2011.
133 Art. 50, Law on Execution of Criminal Sanctions. Art. 137, House Rules for Enforcement of Prison Sentences, August 2011.
134 Ibid.
135 For their good behaviour and commitment to work, as well as for other rehabilitation reasons, prisoners can be awarded: 1) extended right to receive deliveries and visits, 2) unsupervised visits, 3) visits outside the premises of the organization, 4) free visit to town, 5) weekend with the family, 6) seven-day leave during a year, 7) partial or complete annual leave outside the premises of the organization (Art. 52 of the Law on Execution of Criminal Sanctions).
136 Art. 137, para 8 of the House Rules for Enforcement of Prison Sentences, August 2011.
137 Art. 96, para 2 of the House Rules for Enforcement of Prison Sentences, August 2011.
138 CPT, Report on the visit to Cyprus, 2004, p. 86.
139 European Prison Rules, p. 60.4: "Punishment shall not include a total prohibition on family contact." Also, CPT, Report on the visit to Austria, 2009, p. 103 and Hungary, 2009, p. 113.

Sentenced Prisoners showes that the prohibition on family contact is used as a disciplinary measure, and applied when a person is sentenced to solitary confinement.[140] *It is necessary to ensure that persons serving a sentence of solitary confinement have the right to visits from family members and other close persons*. This guarantee is particularly important for the detection and prevention of ill-treatment, since one of the well known techniques of concealing injuries implies isolation of an injured person in solitary confinement for up to a month.

In the case of a serious disciplinary violation of self-injury, prisoner shall be imposed a sanction of solitary confinement. However, self-injury is often a symptom of psychiatric or psychological disorder, and should therefore be approached from the therapeutic perspective, rather than disciplinary.[141] Prisoner should be examined by a medical specialist immediately after inflicting self-harm, and, if needed, undergo medical treatment, or, if not, be imposed the prescribed sanction. Isolation of persons who inflict self-harm due to mental disorder can lead to deterioration of their condition.[142] *Legislation should be specified in view of that*, as the CPT recommended the Croatian authorities in 2007.[143] Although the Law on Execution of Criminal Sanctions (Art. 56, para 1) states that, "if necessary", a medical opinion shall be obtained prior to the imposition of disciplinary sanctions, *it should be specified that in the case of self-injury, it is obligatory to obtain a medical opinion prior to initiating disciplinary procedure.*

4.2. Solitary confinement

European Prison Rules allow solitary confinement "only in exceptional cases" and "for a specified period of time which shall be as short as possible" (p. 60.5). In Montenegro, a convicted person may be sentenced to solitary confinement for up to 30 days. In the case of conditional sentencing and revocation of that sanction for new violations, a person may be sentenced to a maximum of 45 days.[144] The CPT has recommended that the maximum sentence of 30 or 45 days in solitary confinement should be lowered, treatment of an inmate in solitary confinement improved and that contact with family during the sentence should not be prohibited.[145] The CPT informed the Montenegrin authorities that 30 days of continuous solitary confinement is too long a period and that "under no circumstances should such a period of placement in a disciplinary cell be prolonged without there being an interruption", recommending appropriate regulatory amendments.[146] For instance, the maximum duration of solitary confinement in Serbia is 15 days, and it can be extended for up to 30 days in case of the consolidation of sentences. In Croatia, the maximum duration of stay in solitary confinement is 21 days.[147] Although, as observed in practice, persons sent to solitary confinement in the Institution for Sentenced Prisoners often serve half their sentence in a solitary confinement cell and return to regular regime, it is certainly *necessary to meet the CPT recommendation and lower the maximum duration of solitary confinement.*

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140 When asked: *Is the prohibition of contact with family applied as a disciplinary measure?,* 120 convicts said yes (64.2%), 67 said no (35.8%), 308 did not reply. In the Prison for short sentences, 11 said yes (47.8%), 12 said no (52.2%), 62 did not reply. When asked: *If YES (prohibition of contact with family), is this measure applied only when a prisoner is sent to solitary confinement?,* 94 convicts said yes (83.2%), 19 said no (16.8%), 7 did not reply. In the Prison for short sentences, 6 said yes (60%), 4 said no (40%), 1 convict did not reply.

141 CPT, Report on the visit to Croatia, 2007, p. 95.

142 CPT, Report on the visit to Latvia, 2007, p. 92.

143 CPT, Report on the visit to Croatia, 2007, p. 95.

144 Art. 55, para 5, Law on Execution of Criminal Sanctions.

145 CPT, Report on 2008 visit to Montenegro, p. 80.

146 Ibid, p. 76.

147 Art. 146 of the Law on the Execution of Prison Sentence of the Republic of Croatia (NN 190/03).

Regarding the imposition of the most rigorous disciplinary measure of solitary confinement, the Rules require the prison doctor to issue a statement on health condition of a prisoner with regard to solitary confinement.[148] This provision is not in accordance with the CPT standards and the European Prison Rules, according to which the prison doctor, who acts as the patient's personal physician, should not issue such a statement. Consequently, in the interests of safeguarding the doctor/patient relationship, he should not be asked to certify that a prisoner is fit to undergo punishment or carry out any body searches or examinations requested by an authority, except in an emergency when no other doctor can be called in.[149] Meanwhile, in AECS Podgorica two more doctors were engaged, so that each covers a part of the prison system. *It is advisable to ensure that the doctor who normally looks after the health of a prisoner against whom the disciplinary proceedings have been initiated does not decide on his ability to undergo the punishment of solitary confinement.*

Monitors have been informed by the Chief of the Institution for Sentenced Prisoners that at times the doctor would evaluate one's aptitude for solitary confinement over the telephone, which is unacceptable. According to a female inmate sent to solitary confinement, doctor gave an opinion on her ability to withstand this type of punishment two days subsequent to the enforcement of her sentence.

In the case of sentencing a person to solitary confinement, ensure his/her direct contact with the doctor prior to solitary confinement.

After examining the registers of decisions on solitary confinement in Spuž and Bijelo Polje from December 2011, it was concluded that the records include the precise time of entering and exiting solitary confinement cell, as well as information that sanctioned persons regularly go out for walks.

When asked in the survey *While in solitary confinement, how many hours per day have you spent "walking"?,* 12.8% or 16 persons serving time in Podgorica Prison said more than an hour, 35.2% or 44 said one hour, 24.8% or 31 respondents said less than an hour, and as many as 27.2% or 34 respondents said they have not been "on a walk" at all, while 14 respondents gave no response. *It is necessary to ensure that all persons sent to solitary confinement have the right to stay in the fresh air for a minimum period of one hour per day, in accordance with the law.*

Official records contain the names of prisoners and number of a solitary confinement cell they have been sent to. In addition to decisions on solitary confinement, other documents relating to the recording of the exact time of entering and exiting solitary confinement cell are properly maintained as well. Signatures in the records suggest that inmates in isolation are visited on a daily basis by a doctor/nurse, educator, or Chief of the Institution for Sentenced Prisoners, in accordance with legal obligations (Art. 57 of the Law on Execution of Criminal Sanctions).

4.3. Introduction to the rights and obligations

According to the European Prison Rules (30.1), at admission, and as often as necessary afterwards, all prisoners shall be informed in writing and orally in a language they understand of the regulations governing prison discipline and of their rights and duties in prison.

148 Art. 56, para 1, Law on Execution of Criminal Sanctions; Art. 146, House Rules for Enforcement of Prison Sentences: "Prior to the execution of disciplinary sanction of solitary confinement, doctor is obliged to provide accurate and reasoned written opinion on whether that person is capable of serving this disciplinary sentence."
149 CPT standards, p. 73

When leaving AECS admissions department, each sentenced person shall sign a statement, in accordance with the law, that they are familiar with the House Rules, which requires everyone to be aware of their rights and obligations upon prison admission.[150]

However, the monitoring team received complaints of prisoners that the House Rules had actually been unavailable to them, and that the signing of the above statement upon leaving the admission department had only been formal. Some inmates complain about having asked AECS officers to provide them with the House Rules, while they either refused to do so, or met their request only after persistent insisting. During several visits to prisons in Spuž and Bijelo Polje, monitors found no copies of the House Rules in the living rooms, or on information boards. In Bijelo Polje the prisons Chief said that prisoners used to have a copy of the Rules in their rooms, but have destroyed the copies themselves.

Anonymous survey conducted among the sentenced persons in the Institution for Sentenced Prisoners in Podgorica[151] showed that a considerable majority of 54.2% of respondents stated that they had not read the House Rules at the admission. Also, an upsetting majority of 66.5% replied that after leaving the admissions department the Rules had not been made available to them.[152]

It is necessary to ensure that all prisoners be timely and continuously aware of their rights and obligations. Ideally, provide House Rules in the form of a brochure that would be delivered to every convicted person at admission. In the meantime, prison authorities should make sure that the prison library has enough copies of the Rules that can be handed out to convicted persons upon request.

For the needs of foreigners, it is necessary to provide a translation of the House Rules in several languages.

4.4. Disciplinary procedure

According to the European Prison Rules (p. 59), prisoners charged with disciplinary offenses shall: a. be informed promptly, in a language which they understand and in detail, of the nature of the accusations against them; b. have adequate time and facilities for the preparation of their defence; c. be allowed to defend themselves in person or through legal assistance when the interests of justice so require; d. be allowed to request the attendance of witnesses and to examine them or to have them examined on their behalf; and e. have the free assistance of an interpreter if they cannot understand or speak the language used at the hearing. In its practice, the CPT amended these guarantees by adding the recommendation that inmates be formally guaranteed the right to be informed in writing of the charges against them, to remain seated during adjudications and have facilities to take notes, and to receive a written copy of the decision on punishment, which shall include an explanation and instruction on remedy.[153]

The regulations in force in Montenegro do not provide all of these guarantees. It has not been prescribed that inmates shall: 1) be notified in writing of the charges against them, 2) have adequate time and facilities to prepare their defence, 3) be allowed to request the attendance of witnesses

150 Art. 32b of the Law on Execution of Criminal Sanctions.

151 The survey conducted through March and April 2012 by the monitoring team of NGOs Human Rights Action, Centre for Anti-discrimination EQUISTA, Centre for Civic Education (CCE) and Women's Safe House.

152 When asked *Do you have access to the House Rules?,* 150 respondents said yes, 298 said no, 47 did not answer.

153 CPT, Report on the visit to Ireland, 1998, p. 81 and Italy, 2004, p. 126.

and to examine them or to have them examined on their behalf, 4) have the right to remain seated during adjudications and have facilities to take notes, 5) have the free assistance of an interpreter if they cannot understand or speak the language used at the hearing. *These guarantees of fairness of the procedure should be provided for in amendments to the Law on Execution of Criminal Sanctions.*

In practice, a convict who committed a disciplinary offense which involves violation of the House Rules first attends the so-called disciplinary report, and then a disciplinary hearing.

In the Institution for Sentenced Prisoners, the Chief showed the monitoring team documentation relating to the conduct of disciplinary procedures.[154] Once an official files charges of an alleged disciplinary offense and prison authorities take statements from all the participants in the event, a prisoner attends the so-called disciplinary report before the Disciplinary Commission composed of the prison Chief, Security Service Chief, a professor from the Treatment Sector and a jurist who takes the minutes.[155] In case of a serious disciplinary violation,[156] convicted person may hire an attorney at his own expense. If the convict fails to provide defence lawyer, he may either defend himself or require that AECS officer authorized to provide legal assistance represent him at the disciplinary proceedings.[157]

After the prisoner provided his statement regarding the charges against him, a hearing is conducted during which the prison Chief takes into account the views of the Security Service Chief and the professor from the Treatment Sector. A jurist is required to ensure that the rights of the convict are not violated in the course of the procedure.

No later than 48 hours after conducting the procedure, the Chief of the Institution for Sentenced Prisoners shall adopt a decision on punishment or release of the convicted person, as well as the severity of the punishment, according to the severity of established disciplinary offense. The decision shall be delivered to the convict and posted on the notice board.[158] Sentenced person has the right to lodge an appeal against the decision on punishment to AECS Director within 3 days. The Director may confirm, cancel or change the decision of the Chief.[159] Convicted person may initiate administrative proceedings against the decision of AECS Director within three days of receipt of the decision.[160]

Prescribed 3-day deadlines for lodging an appeal and initiating an administrative dispute are extremely restrictive and unjustifiably limit the right to judicial protection. Unlike the Law on Execution of Criminal Sanctions, Law on Administrative Procedure provides for a general 30-day deadline for initiating administrative dispute from the date of receipt of the decision against which such dispute may be initiated. *It is advisable to extend the prescribed deadline for initiating an administrative procedure, given that prisoners are in a more difficult position to conduct court proceedings in relation to free persons, who are granted a much longer period (30 days).*

After examining the documentation, it was noted that in most cases the delivery had been confirmed by the prisoner's signature, but there were a few cases that lack the signature, making

154 Visits conducted on 16 and 27 December 2011.
155 Art. 141, House Rules for Enforcement of Prison Sentences.
156 Art. 55a, Law on Execution of Criminal Sanctions.
157 Art. 139, House Rules for Enforcement of Prison Sentences, August 2011.
158 Art. 142, House Rules for Enforcement of Prison Sentences, August 2011.
159 Art. 56, para 3, Law on Execution of Criminal Sanctions.
160 Art. 64d, para 1, Law on Execution of Criminal Sanctions.

it impossible to determine whether that person had received a copy of the decision. In one case a prisoner refused to accept the decision, as noted on the copy of the decision. Authorities in Bijelo Polje Prison, too, provided access to documents relating to disciplinary proceedings. It is commendable that the documentation is in general kept orderly, but there were several cases lacking the signature of the sentenced person, i.e. confirmation of receipt of the decision.

All documentation relating to disciplinary procedure must be kept orderly, while the charges and the decision must be delivered to sentenced persons with a note on legal remedy. It is necessary to provide proof of timely delivery, which is essential for the exercise of the right to a remedy. *The same recommendation was given by the CPT after its visit carried out in 2008.*[161]

In an anonymous survey conducted among persons who stated that they had been in solitary confinement, when asked *Were you sentenced to solitary confinement on the basis of the decision on solitary confinement?,* 71.8% (94 persons) responded affirmatively, 28.2% (37 persons) negatively, while 8 persons did not respond to this question. *Decision on solitary confinement* was delivered to sentenced persons in 91.3% of cases (84 persons), while 8.7% of respondents (8 persons) did not receive it. The decision was delivered to 26.8% of prisoners (19 persons) after several days in solitary confinement, and to 43.7% (31 persons) after 1-2 days. Only 14.1% of respondents (10 people) received the decision prior to being taken to solitary confinement, and 15.5% (11 persons) received the decision while being taken to solitary confinement. There were 13 respondents who did not answer. *Delivering the decision after a person has been sent to solitary confinement, especially after several days, significantly threatens the effectiveness of the right to appeal and for that reason it is necessary to ensure that only exceptionally inmates are sent to solitary confinement prior to receiving a decision about it.*

If a disciplinary offense has elements of a criminal act, the competent police department shall be notified.

The most frequent disciplinary offenses include the attempts to smuggle mobile phones into prison.

In Bijelo Polje Prison the monitoring team visited a person who had been in solitary confinement and had a copy of the decision on disciplinary punishment with him.

Monthly average of the so-called disciplinary reports in the Institution for Sentenced Prisoners is 22-23.[162] There is a practice of imposing most severe disciplinary measure of *solitary confinement* against persons who commit three minor violations of the House Rules. Although this practice is in accordance with the Rules[163], based on interviews with prisoners serving this sentence and those who had served the sentence, the monitoring team concluded that this may be subject to abuse and pressure on prisoners, as it leaves the possibility of arbitrary interpretation of minor violations

161 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. 77: "The CPT recommends that steps be taken to ensure that the documentation and registers concerning disciplinary sanctions are properly maintained, accurately record the times of beginning and ending of the measure, and reflect all other aspects of custody (in particular, the precise location where a prisoner has been held). The Committee also recommends that prisoners upon whom a disciplinary sanction is imposed always be given a copy of the disciplinary decision, informing them about the reasons for the decision and the avenues for lodging an appeal."
162 Interview with Chief of the Institution for Sentenced Prisoners, Podgorica, 16 December 2011.
163 Art. 136 of the House Rules for Enforcement of Prison Sentences, August 2011, serious disciplinary offense, item 9.

of the *House Rules* by the Security Service, which should be taken into consideration by the Chief when deciding on punishment.

During interviews with certain prisoners, monitoring team learned that although they do not have major objections as regards disciplinary procedure itself, some of them do not use the right of appeal in disciplinary action, claiming that the Management is not objective and that doing so would only worsen their situation.[164] In an anonymous survey, 52.8% of respondents who had been in solitary confinement said they had appealed to the decision, while 47.2% had not. Bijelo Polje Prison Chief informed the monitors that the prisoners are often faced with irrefutable evidence of their responsibility in the form of video surveillance footage, rendering their appeal frivolous. Also, after examining available documentation it has been noticed that in some cases the appeals of prisoners lodged with AECS Director had partially been adopted and imposed sentences reduced.

According to the European Prison Rules (56.1), disciplinary procedure should be a mechanism of last resort. Whenever possible, prison authorities should use mechanisms of restoration and mediation to resolve disputes with and among prisoners (56.2).

Good practice has been noticed in Bijelo Polje, where, in case of potential violence among inmates, the prison authorities, including the Chief and Professor, resort to mediation. *It is necessary to encourage the practice of conciliation (mediation) in all AECS units.*

4.5. Isolation and transfer of sentenced persons

CPT recognizes that other procedures often exist alongside the formal disciplinary procedure, under which a prisoner may be involuntarily separated from other inmates for discipline-related/security reasons (e.g. in the interests of "good order" within an establishment). These are the cases of isolation and transfer of prisoners from one prison to another, usually to a geographical distant location. However, these procedures should also be accompanied by effective safeguards in order to protect the rights of prisoners, and against possible abuses. "The prisoner should be informed of the reasons for the measure taken against him, unless security requirements dictate otherwise, be given an opportunity to present his views on the matter, and be able to contest the measure before an appropriate authority."[165]

According to the Law on Execution of Criminal Sanctions, the convict who "persistently interferes with regular activities and life in the organization, poses a serious threat to the safety of other inmates and in relation to whom regular disciplinary punishments have remained ineffective, may be imposed the measure of **isolation** during leisure time by the head of organizations, which may last from one month to one year. The execution of this measure shall cease after a medical specialist determines that the physical and mental health of the convicted person do not allow further isolation or upon the termination of the reasons for isolation."[166]

Also, "a convicted person can be **transferred** from one organizational unit to another when necessary for the implementation of the prescribed treatment for health reasons, safety reasons

164 Interview with the convicts, Podgorica, 2011.

165 CPT standards, Extract from the 2nd General Report *CPT/Inf (92)3*, p. 55.

166 Art. 59, Law on Execution of Criminal Sanctions.

and the maintenance of order and discipline. The decision on transfer shall be issued by the head of the organization."[167]

However, the problem is that none of these two Articles contain explicitly prescribed principle that solitary confinement or transfer shall be for as short a period as possible and reviewed at regular intervals.[168] The right of appeal (complaint) against these decisions has not been provided for either, as opposed to the specifically prescribed right to complaint against the decision rendered in a disciplinary procedure.[169] In the above cases too it must be presumed that this right exists under the general right to appeal (Art. 34) or the right to complaint against the decision of the organizational unit chief limiting certain right of the convicted person (Art. 64b, para 4). In the latter case, narrow definition of the rights whose limitation is the reason for prescribing this general right to complaint may pose a problem, so for the purpose of legal certainty *it should be clearly stipulated that inmates shall have the right to appeal against the decision on isolation and transfer, i.e. to initiate administrative action in the event that the appeal does not lead to change of the decision*. For the purpose of legal certainty, *it is necessary to specify a deadline for adopting a decision,* e.g. immediately or, exceptionally, if security reasons demand so, no later than 24 hours from the start of the isolation or transfer. *Also, stipulate that in cases when a decision is not issued within the prescribed deadline, an administrative procedure may be initiated immediately, or no later than 30 days after the beginning of the measure.*

Ombudsman has established that after an interview with him on 8 February 2012, six inmates had been transferred from the Institution for Sentenced Prisoners in Podgorica to continue serving their prison sentences in Bijelo Polje, received decisions on transfer adopted by the Director, but the decisions lacked any reasoning for the transfer and instruction on legal remedy.[170]

During a monitoring visit to Bijelo Polje, the team examined documentation relating to the transfer of a prisoner from Podgorica Prison to Bijelo Polje Prison. Prison management informed the monitors that this particular person had received a copy of the decision on transfer, but there was no signature of the transferred inmate to ascertain this.

With regard to this problem, in 2008 the CPT determined that persons who had been transferred had no access to documentation regarding the transfer, and gave recommendation to the Montenegrin authorities in accordance with the above-quoted standard, which is still not respected in each case.[171]

Ensure the implementation of the CPT recommendation in relation to the right to appeal with regard to transfer by specifying regulations and in practice. Decisions on transfer must include basis and reasons for the transfer of the convicted person and instruction on legal remedy.

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167 Art. 59a, Law on Execution of Criminal Sanctions.

168 CPT recommended it be reviewed at least every 3 months. CPT, Report on 2008 visit to Montenegro, p. 70.

169 Art. 56, para 3, Law on Execution of Criminal Sanctions.

170 Notice from the session of the Committee for Human Rights and Freedoms of the Parliament of Montenegro held on 2 March 2012, available at: http://www.skupstina.me/index.php?strana=saopstenja&id=4166.

171 CPT, Report on the visit to Montenegro, 2009, p. 78: "A prisoner who is transferred from one establishment to another and placed under conditions of disciplinary confinement is informed in writing of the reasons for that measure (it being understood that the reasons given could exclude information which security requirements reasonably justify withholding from the prisoner); a prisoner in respect of whom such a measure is envisaged is given an opportunity to express his views on the matter".

4.6. Legal aid

There is no independent and free legal assistance in AECS. If prisoners want to complain about the violation of their rights, they mainly address the professor (who is not a legal expert) for help or one of the legal experts who are prison staff members and for that reason cannot be considered impartial.[172] Legal aid provision is not in their job description, however, the monitors have been informed that they are "meeting the needs" of sentenced persons.

Convicted persons may engage an attorney in disciplinary proceedings against them conducted in AECS, regarding serious offense punishable by solitary confinement, but a number of them is in a difficult financial situation and therefore not in a position to pay for attorney's services. On the other hand, the Law on Free Legal Aid does not stipulate that prisoners are entitled to free legal advice regarding disciplinary proceedings in AECS.

Of persons who had complained against the decision on solitary confinement, according to the survey results, the majority responded that in the procedure they had no legal assistance (61.7%), while 38.3% said they had. Of 18 respondents who said they had received legal assistance, 14 received the help from jurists employed at AECS. Of them, 7 were satisfied with the assistance provided, 6 dissatisfied, and one respondent did not answer the question.

In accordance with the European Prison Rules,[173] inmates should be informed about the existing system of legal aid, i.e. about the possibilities available to them under the Law on Free Legal Aid.[174] On the other hand, the law should be amended so that *the persons of lower socioeconomic status serving their sentences have the right to access to free legal assistance with regard to disciplinary action brought against them, which may result in their referral to solitary confinement.*

4.7. Recommendations

• Ensure that persons serving a sentence of solitary confinement have the right to visits from family members and other close persons.

• Ensure that all persons held in solitary confinement have the right to stay in the fresh air for a minimum period of one hour per day, in accordance with the law.

• Ensure that all prisoners be timely and continuously informed of their rights and obligations.

• All inmates must be familiar with the contents of the House Rules and AECS Management must make it available to prisoners. Ideally provide House Rules in the form of a brochure that would be delivered to every convicted person at admission. In the meantime, ensure that the prison library has enough copies of the Rules that can be handed out to convicted persons upon request.

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172 In this regard, see CPT Report on the visit to Ukraine, September 2009, p. 29, where the Committee recalls that particular attention be paid to the issue of impartiality of *ex officio* lawyers and their independence from the law enforcement structures and the prosecuting/investigating authorities.

173 European Prison Rules, p. 23.3.

174 Law on Free Legal Aid, *Sl. list CG*, 20/2011 of 15 April 2011.

• For the needs of foreigners who do not understand the language, provide for translation of the Rules into several languages.

• Amend the Law on Execution of Criminal Sanctions to provide for all guarantees of procedural fairness contained in the European Prison Rules.

• All paperwork relating to disciplinary procedure must be documented orderly, while the charges and the decision must be delivered to prisoners with an instruction on legal remedy. Provide proof of orderly delivery.

• Ensure that the decision on solitary confinement be delivered to all inmates before they are sent there, and that only exceptionally inmates are sent to solitary confinement prior to receiving the decision.

• It is recommended that the deadline of 3 days for initiation of an administrative dispute be extended to at least 7 days, since persons deprived of their liberty are in a more difficult position to conduct trials as compared to free individuals, who are entitled to a considerably longer deadline (30 days).

• When imposing a disciplinary measure of solitary confinement, after a convicted person has committed three minor violations of the House Rules, the prison Chief should be particularly vigilant and not allow this measure to be the subject of abuse and type of pressure on the prisoners, as it leaves the possibility of arbitrary interpretation of minor violations of the House Rules by the Security Service.

• In case of self-injury, examine mental condition of a convicted person and subject the person to a proper medical treatment, if necessary. Accordingly, legal provisions that treat self-injury solely as a disciplinary offense subject to penalties should be amended. Also, the Law on the Enforcement of Criminal Sanctions should specify that in case of self-injury a medical opinion must be obtained prior to initiation of a disciplinary procedure.

• Amend legal provisions and reduce the period of stay of inmates in solitary confinement to a maximum of 21 days.

• Ensure that in each case a person sent to solitary confinement has direct contact with the doctor before being sent to solitary confinement.

• Ensure that the doctor who normally looks after the health of a prisoner against whom the disciplinary proceedings have been initiated does not decide on his/her ability to undergo the punishment of solitary confinement.

• Prescribe the principle that solitary confinement and transfer shall be for the shortest possible time and that decisions on isolation and transfer be reviewed e.g. every month or at least every three months, as recommended by the CPT.

• Ensure the implementation of the CPT recommendation in relation to the right to appeal with regard to transfer by specifying regulations and in practice. Decisions on transfer must include basis and reasons for transfer of the convicted person and instruction on legal remedy.

• Amend the law to specify that convicted persons have the right to a complaint against the decision on isolation and transfer, or the right to an administrative dispute in case the complaint does not result in changing the decision. For the purpose of legal certainty, specify the deadline for the adoption of this decision – immediately or, exceptionally, if the safety reasons require so, no later than 24 hours after the transfer or isolation has started. If the decision is not adopted within the prescribed period, provide for the possibility of immediate initiation of an administrative procedure, or no later than 30 days from the beginning of implementation of a measure.

• Inform prisoners about the conditions for access to free legal aid pursuant to the Law on Free Legal Aid. Amend this law to enable the prisoners of lower socioeconomic status to have access to free and impartial legal assistance in disciplinary procedures against them.

• Encourage peaceful resolution of disputes among inmates in all AECS units.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 16 - 34).

5. ACCOMMODATION CONDITIONS

5.1. General Remarks

On the territory of Montenegro there is one Administration for Execution of Criminal Sanctions (AECS), with facilities in Podgorica (Spuž) and Bijelo Polje (near the town centre). In both Podgorica and Bijelo Polje, within AECS facilities there are remand prisons where detainees are placed (Podgorica Prison and Bijelo Polje Prison). In Podgorica, inmates serve both short sentences (up to 6 months) and long sentences (over 6 months), while in Bijelo Polje prisoners serve only short-term sentences, and only men; women are referred to Podgorica.

The following prison units are located in Podgorica:

- **Podgorica Prison** (Remand Prison)
- **Institution for Sentenced Prisoners** (KPD)
- **Prison for short sentences**.

5.2. Insufficient capacity and overcrowding

With an overall accommodation capacity of 1100 in November 2011, the prisons in Podgorica and Bijelo Polje were at that time accommodating a total of 1369 inmates,[175] with most overcrowded facilities within AECS being the Institution for Sentenced Prisoners in Podgorica and Bijelo Polje Prison.

On 11 June 2012, the ratio of the total number of inmates and AECS capacity was 1189:1100.[176] Remand prisons in Podgorica and Bijelo Polje were not overcrowded and the number of detainees was well below capacity (Podgorica 283:370, Bijelo Polje 32:50). Facilities for sentenced prisoners are overcrowded.

At the end of 2011, a total of 1197 persons were waiting for space in AECS to free up in order to begin serving their sentence,[177] which indicates that Montenegro needs at least one more prison complex of larger capacity than the existing one.

Due to the lack of capacity and overcrowding issues, AECS authorities were forced to send back a number of persons sentenced to imprisonment by the courts. A particular problem that the Ministry of Justice has repeatedly pointed to in 2011 are the high-risk categories of convicted perpetrators of criminal offenses who are at large due to the lack of capacity.[178]

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175 [1] AECS, Z-KD-br 355-11, 15 December 2011, Podgorica.

176 AECS, Z-MS-br. 40-1/12, 13 June 2012, Podgorica.

177 The Government of Montenegro and Ministry of Justice, Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011.

178 In this context, it was concluded that the "it is unacceptable for the Director of the Administration for Execution of Criminal Sanctions to state that the stay of the execution of sentence of imprisonment has been imposed as a measure to overcome the problems of overpopulation and proved to be a very effective and practical tool." Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012, p. 36.

Remand Prison in Podgorica is no longer overcrowded, as opposed to the dramatic situation found there by the CPT delegation during their visit in September 2008.[179] Similarly, in 2009 the Remand Prison was holding as many as 600 people for an official capacity of 320.[180] In the meantime, the capacity was increased to 370 and the number of detainees reduced.[181] On the day of the monitoring visit, on 30 January 2012, Podgorica Remand Prison was accommodating 303 inmates, and on 8 May 2012, four months later, 285 inmates,[182] which indicates the tendency of more rational ordering of detention by the courts.

On the other hand, in November 2011 with a capacity of 50, Bijelo Polje Remand Prison was accommodating 63 inmates, but by the end of the year this figure was reduced to 43.[183]

During the monitoring visits in 2011 and 2012[184] it was observed that both remand and sentenced prisoners had their own bed.

The Rules on the requirements for premises used by inmates stipulate that "sleeping rooms must be spacious, so that every prisoner has at least 8 m^2 or 20 m3 of space."[185] While the prescribed standard is twice as good as the minimum European standard of 4 m^2 [186] for group rooms established by the CPT, the situation in practice is different because the standard of 4 m^2 per prisoner has still not been met in all AECS facilities. The worst situation is in Bijelo Polje Prison and unit A of the Institution for Sentenced Prisoners in Podgorica. In all other buildings there are still overcrowded cells, holding 1-2 inmates over the planned capacity.

In 2008 the CPT was informed about the Government's plans to build new prison facilities in Bijelo Polje (capacity of 200) and Kotor (capacity of 150) and open them by the end of 2009. This, however, did not happen.[187] In the meantime, the Master Plan of the Government from January 2011 provided for the construction of a prison for long sentences and prison hospital in Spuž, as well as prison in Bijelo Polje.[188] Construction of a prison building in Kotor is no longer in plan.[189] During the monitoring visits, through June 2012, construction of facilities envisaged in the Master Plan has not yet been started.

From 2008 to June 2012, new accommodation block for women had been constructed within the Institution for Sentenced Prisoners in Podgorica, transformation of unit F into a high-security prison for maximum sentences had been in progress, rooms and a bathroom in the Prison for short sentences had been renovated, as well as the rooms in Podgorica Remand Prison. In Bijelo Polje Remand Prison rooms had been adapted for dental office and a bathroom, and during monitoring visits in 2012 construction of a watchtower and work on expanding the capacity of the Remand

179 In September 2008, when the CPT visited The Remand Prison in Podgorica, the establishment was holding 512 prisoners for an official capacity of 320 (CPT Report on the visit to Montenegro, March 2009, p. 55)
180 Report on the situation and work in the Administration for Execution of Criminal Sanctions in 2009.
181 Official letter from AECS, Zkd-br 355-11, 15 December 2011, Podgorica.
182 Visits conducted on 30 January 2012 and 9 May 2012.
183 In November 2011 the number of detainees in Bijelo Polje was 63, AECS, Z-KD-br. 355/11, 15 December 2011.
184 Visits conducted in Podgorica in 2011: 3 November, 8 November, 18 November, 29 November, 16 December, 23 December, 27 December, 29 December; in 2012: 20 February, 13 March, 14 March, 9 April, 9 May and 11 May. Visits conducted in Bijelo Polje: 9 December 2011 and 16 January 2012.
185 Rules on the Requirements for Premises Used by Inmates, Section II, Art. 4, Podgorica 2006.
186 CPT, Report on 2008 visit to Montenegro, p. 58: "Significantly reduce the occupancy level in the cells at the Remand Prison in Podgorica, the objective being to comply with the standard of 4m² of living space per prisoner".
187 CPT, Report on 2008 visit to Montenegro, p. 58.
188 Proposal Action Plan for Improvement of the Prison System, Podgorica, August 2011.
189 Interview with AECS Management during the monitoring visits in 2011 and 2012.

Prison were in progress. Outside exercise area in Bijelo Polje Remand Prison was in the process of renovation, as well as the visiting rooms, an office for the escort service, cafeteria for the staff, workshop room, entrances - to adapt them for wheelchair users, renovation of watchtowers was to start soon. The work on adaptation and expansion of office space in all AECS organizational units is in progress.[190] A new administration building in AECS Podgorica has been constructed, as well as official premises in Bijelo Polje Prison.[191]

However, the two facilities the CPT pointed to four years ago as particularly urgent - unit A in Institution for Sentenced Prisoners Podgorica and Bijelo Polje Prison, have not yet been renovated or constructed.[192]

5.3. Accommodation and conditions of imprisonment for persons with disabilities

Accommodation conditions and treatment of persons with disabilities serving a sentence are not specifically prescribed by the Law on Execution of Criminal Sanctions or bylaws. In AECS there are only two rooms adapted for people with disabilities, measuring about 15 m^2, within the Prison for short sentences and the new accommodation unit for women.[193] However, the room in the Prison for short sentences has not been entirely adapted to a wheelchair user because the bathroom area is not large enough.[194]

In the Institution for Sentenced Prisoners no rooms have been adapted for persons with disabilities, which may lead to a violation of the Anti-Discrimination Law in case of such person being sent to serve a sentence in this part of the prison.[195] Prison conditions that violate human rights cannot be justified by lack of resources.[196]

Institution for Sentenced Prisoners is not accessible to wheelchair users, with the exception of the entrance to the Disciplinary unit. In an informal interview with AECS officers, the monitors were informed that the cases of imprisonment of persons with disabilities are rare and that, if such a case occurs, wheelchair user would be physically carried to the room.

Bijelo Polje Prison Management informed us that in the course of 2012 steps will be taken to adapt rooms for disabled persons; during a monitoring visit, it was noticed that the entrance was being adapted for wheelchair users.

In the Remand Prison in Podgorica, on the ground floor there is a room adapted for wheelchair users, but still not to the extent necessary, as the toilets and bathrooms have not been adapted and the entry door is too narrow.

In Bijelo Polje Remand Prison there are no specially adapted rooms for detainees who are wheelchair users.

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190 Official letter from AECS, ZKD-br 355-11, of 15 December 2011, p. 7, paragraph 8.
191 Monitoring team visits conducted on 3 November 2011 in Podgorica and on 9 December 2012 and 16 January 2012 in Bijelo Polje.
192 CPT, Report on 2008 visit to Montenegro, p. 54 and 59.
193 Monitoring team visits conducted on 29 December 2011 and 11 May 2012.
194 Monitoring team visits conducted on 29 December 2011 and 9 April 2012 in Podgorica.
195 "Failure to take specific measures to eliminate restrictions, i.e. unequal position of persons with disabilities constitutes discrimination against persons with disabilities", Art. 18 of the Anti-Discrimination Law, *Sl. list CG*, 39-2011.
196 European Prison Rules, Part I – basic principles, 4.

Unlike other AECS visitors, wheelchair users are searched outdoors because no rooms have been adapted for searching persons with disabilities. Also, it is impossible for a wheelchair user to pass through the scanner at the door. During the visit on 30 December 2011, the monitors noticed that there is no shelter from inclement weather for searches carried out outdoors.

5.4. Accommodation of minors

Where children are detained in a prison they shall be kept in a part of the prison that is separate from that used by adults unless it is considered that this is against the best interests of the child.[197] Where exceptionally children under the age of 18 years are detained in a prison for adults the authorities shall ensure that, in addition to the services available to all prisoners, prisoners who are children have access to the social, psychological and educational services, religious care and recreational programmes or equivalents to them that are available to children in the community.[198]

Number of juveniles detained in AECS:[199]

in 2009 – 10;
in 2010 – 8;
in 2011 – 7.

At the time of the visit two juveniles were accommodated in the Remand Prison. The monitoring team did not get the impression that juveniles in detention are provided all the programs in accordance with the European Prison Rules. As regards juvenile remand prisoners, the CPT recommends *that their contacts with the outside world be actively promoted, as many of them may have behavioural problems related to emotional deprivation or lack of social skills*.[200]

In the CPT's view, if, exceptionally, juveniles are held in an institution for adults, they must always be accommodated separately from adults, in a distinct unit specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young. The Committee believes that the risks inherent in juvenile prisoners sharing accommodation with adult prisoners are such that this should not occur.[201] According to the House Rules (Art. 153) juvenile detainees are placed separately from other inmates.[202] Juveniles serving a prison sentence in AECS are placed in unit F. However, given the ongoing reconstruction of this unit, it is uncertain where the juvenile inmates will be accommodated in future. In the period from 2009 through June 2012, no juveniles were sentenced to imprisonment in AECS.[203] According to Chief of the Institution for Sentenced Prisoners, there is no need for construction of the Prison for juveniles, because only a small number of minors are imposed a prison sentence.

As reported by the Director of the Institution for Sentenced Prisoners, in the case of there being only one juvenile prisoner of the respective sex, to avoid isolation, he/she is placed with an adult prisoner, taking into account the psychological and physical characteristics of the adult inmates.

197 European Prison Rules, p. 35.4.
198 European Prison Rules, p. 35.1.
199 Written reply from AECS of 28 February 2012.
200 CPT, Report on 2008 visit to Montenegro, p. 71.
201 CPT, Report on 2008 visit to Montenegro, p. 44.
202 Art. 153, House Rules for Enforcement of Prison Sentences in AECS, Podgorica, August 2011.
203 Written reply from AECS of 28 February 2012.

For the purpose of avoiding isolation of juvenile prisoners, the CPT recommends that they be offered opportunities to participate in out-of-cell activities with adults, under appropriate supervision by staff.[204] Ombudsman pointed out that there are no appropriate conditions for working with juvenile offenders, due to the lack of institutional framework for adequate provision of care for juveniles and the process of their resocialization and reintegration.[205] *It is necessary to provide the conditions for consistent application of Art. 153 of the House Rules, and prevent isolation of minors by allowing their participation in various types of activities under Art. 154[206] and 155[207] of the said Rules.*

In accordance with the European Prison Rules,[208] additional assistance should be provided to children who are released from prison.

5.5. Webpage

AECS has a website that is not updated regularly (on 10 June 2012, last published news dated from 24 February) and does not contain updated information on the prison population or other current events related to this Institution, such as the taken or planned activities for expanding facilities to accommodate inmates, etc.[209] In the first half of 2012, laws and certain bylaws governing the work in AECS were published on the website, but not all. *It is advisable that AECS publish on its website all bylaws governing its operations, as well as updated information on the prison population figures, development projects and current events.*

5.6. Availability of prison bedding and laundry room

Every prisoner shall be provided with a separate bed and separate and appropriate bedding, which shall be kept in good order and changed often enough to ensure its cleanliness.[210] During its 2008 visit, the CPT recommended that the Montenegrin authorities take steps to ensure that *every prisoner has a bed and appropriate bedding*.[211]

According to the House Rules for Enforcement of Prison Sentences, "every prisoner shall be provided with a separate bed and bedding. Bedding consists of: mattress, pillow, pillow case, two sheets and a blanket. Number of blankets shall be determined depending on weather conditions, climate and a season (three in the winter, two in the summer)''.[212] "Bedding should be changed at least once a fortnight."[213]

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204 CPT, Report on 2008 visit to Montenegro, p. 44.
205 "Special Report on Juveniles in Conflict with the Law", Podgorica, December 2006.
206 Working treatment of juveniles is conducted in the workshops together with other persons deprived of liberty, provided that, if possible, minors be assigned to separate working units, in order to be more separated from other prisoners.
207 Juveniles deprived of liberty may participate together with other prisoners in sports, arts, cultural and recreational activities with the approval of the Chief of the organizational unit, under the supervision of a special educator and a member of the Security Service.
208 European Prison Rules, p. 35.3.
209 www.ziks.me.
210 European Prison Rules, p. 21.
211 CPT, Report on 2008 visit to Montenegro, p. 58.
212 House Rules for Enforcement of Prison Sentences, Art. 36, para 1 and 2, August 2011, Podgorica.
213 House Rules for Enforcement of Prison Sentences, Art 39, para 2, August 2011, Podgorica.

Based on a survey conducted in the Institution for Sentenced Prisoners and Prison for short sentences in Podgorica, 86.1% of respondents said that they had not been provided with prison bedding. Also, most prisoners within the Institution for Sentenced Prisoners interviewed orally noted that they were not aware of their rights to use laundry service or prison bedding. These findings were confirmed by the results of the survey, according to which half of respondents (50.5%) stated that they had not been able to regularly wash their bedding in the laundry room.

While visiting AECS on 11 May 2012, monitoring team visited the laundry room, where three female convicts were employed. The room had no air conditioning and was very stuffy, due to evaporation of the washing machines, creating an unhealthy atmosphere. Also, the capacity of the laundry room (two large washing machines and a roller ironing press) does not correspond to the number of prisoners in AECS Podgorica, which is around 1200,[214] so it *should be increased*, especially after all inmates are informed about the right to use the laundry service.

5.7. Premises for conjugal visits

There are altogether three rooms for conjugal visits in the Institution for Sentenced Prisoners and the Prison for short sentences. These premises are in poor condition, poorly ventilated, and the walls are not painted. The rooms have double beds.

It is advisable to increase the number of premises for conjugal visits and refurbish them.

5.8. Premises for religious practise

AECS does not have a specially designed room for religious practices. If necessary, living rooms or hallways are adapted for this purpose. *It is advisable to adapt a room for religious practice, as previously announced.*

5.9. Use of home appliances

Although not specified by the House Rules, prisoners are allowed to use electrical appliances for cooking, heating and cooling in living rooms and sometimes in their cells. This should be regulated by the Rules for user safety and fire protection.

5.10. Smoking

During the visits to the Remand Prison and all units within the Institution for Sentenced Prisoners and Prison for short sentences, it has been noticed that inmates smoke in their rooms and livings rooms. According to the survey, nearly half of respondents (43.5%) said that they were bothered by smoking in the rooms. Also, under the Law on Restriction of the Use of Tobacco Products (*Sl. list RCG,* 52/04 of 2 August 2004, *Sl. list CG*, 32/11 of 1 July 2011), smoking in public places is prohibited, including facilities for accommodation of persons serving prison sentences (Art. 4, para 2, item 7).

214 In November 2011 the prison population totalled 1193. Official letter Z-KD-br 355-11 of 15 December 2011.

5.11. Recommendations - general part

Take measures to address the problem of overcrowding and achieve compliance with European standards. Prescribe a minimum standard of 4 m² of free space per convict, in accordance with the international standard and comply with this standard in practice.

It is necessary to:

• Urgently renovate and extend unit A within the Institution for Sentenced Prisoners (e.g. add new floor).

• Bring down inadequate shacks within the so-called "Economy" (unit E within the Institution for Sentenced Prisoners) and build new facilities to accommodate inmates.

• Expand farms and build a greenhouse for growing vegetables and flowers.

• Construct a new building for Podgorica Remand Prison.

• Provide more premises for conjugal visits and refurbish them.

• Provide a special prison unit for juvenile inmates.

• Adapt all facilities for persons with disabilities.

• Set up multiple shelters from inclement weather in all the yards.

• Adapt certain premises for practicing of religion.

• Adapt special rooms for solitary confinement in Podgorica Remand Prison.

• In accordance with the plan, construct a new building for Bijelo Polje Prison.

• In accordance with the plan, construct a new prison for long sentences in Podgorica.

• In accordance with the plan, construct the Special Hospital.

• Regularly update AECS website, publish all by-laws governing the operation of this institution, as well as updated information on the prison population figures, development projects and current events.

• Encourage the use of alternative sanctions, particularly work in common interest, in order to reduce the number of convicted persons serving their sentence in the prison.

• Adopt a Rulebook on the treatment of persons with disabilities in AECS.

• Adapt a special room for searching persons with disabilities, in order to appropriately carry out the procedural authority to search a person. Ensure that all entrances, doorways and rooms for accommodation of prisoners and detainees with disabilities be adapted for wheelchair users.

• Provide appropriate accommodation for prisoners and detainees who are wheelchair users.

• As a rule, provide separate accommodation for minors in detention and juvenile prison from that of adults, either by constructing special facilities or adapting premises in the existing facilities. Provide special treatment for minors and actively promote their contact with the outside world.

• Develop brochures on the placement of juveniles in AECS. Make transparent all information relating to the regime that will in future be carried out in relation to juvenile prisoners or detainees.

• Install air conditioning in the laundry room and ensure that its capacity is sufficient for the entire AECS.

• Inform all detained and imprisoned persons of their right to prison bedding, as well as the right to have their personal or prison bedding regularly washed in the laundry room.

• Considering that inmates are allowed to use various household appliances including electronic devices, devices for heating, cooking, gas bottles, etc., their use should be regulated by the House Rules, for the purpose of safe use and fire safety.

• Prohibit smoking, except in designated areas.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 34, 36, 37, 38, 46, 61, 65, 66, 70, 71, 72, 74, 75, 77, 78, 79, 80, 81, 83, 84, 86, 87, 152).

5.12. Institution for Sentenced Prisoners Podgorica (KPD)

The Institution for Sentenced Prisoners (hereinafter: KPD) in Podgorica accommodates persons deprived of liberty serving a sentence for criminal offenses punishable by incarceration for more than 6 months, the so-called long sentences.[215]

KPD encompasses units A, B, C, D and the Disciplinary unit within the so-called "Circle" inside the walls, and the Semi-open unit, which includes the building of the Semi-open unit, shacks, so-called "Economy" or unit E, barns and unit F, which is currently being reconstructed into the unit for prisoners serving sentences over 10 years. All unit buildings have been renovated, except for units A and E.

Although the total capacity of KPD is 470, at the end of 2011 it accommodated a total of 730 prisoners,[216] while in March 2012 this number was reduced to 690.[217] Total number of rooms is 143.

215 Handbook for prisoners, section-where prison sentences are served, from the website www.ziks.me.
216 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012, p. 73.
217 Research "Respect for human rights in the Administration for Execution of Criminal Sanctions – views of inmates" conducted by the monitoring team, March/April 2012, Podgorica.

AECS Management failed to provide an answer to the question raised by the CPT in its 2008 Report on Montenegro concerning the purpose of the two units which had been under construction at that time.[218]

All the windows in the units within the "Circle" have plexiglass panels, which, in the view of the CPT, allow a sufficient supply of fresh air and natural light. During the monitoring visits in 2012, staff has explained that plexiglass panels had been installed for security reasons, so that the prisoners would not be shouting to each other and to supervise other prisoners in the yard. Only the windows in unit A have metal bars.

The open-door (room) regime is implemented in all KPD units, except in unit C and Disciplinary unit, which has been assessed by the CPT as good practice.[219]

Within KPD there are workshops that are somewhat refurbished and equipped with tools, but have not been expanded to allow engaging of up to 80% of inmates in work activities, as the CPT was informed in 2008.[220] There is a greenhouse, of smaller capacity. There is also an outdoor gym. However, *a greenhouse for growing vegetables has not yet been built*, although the CPT delegation was informed of plans to build a greenhouse for growing vegetables, set up a computer room and construct a new gym.[221] Computer room was in the meantime set up in the Semi-open unit building. During the visit, 4 computers were found, one of which was broken. However, *none of the units within the so-called "Circle" of KPD has a computer room, so the monitoring team recommends that it be set up*, especially bearing in mind particular interest of inmates showed in the survey.[222]

Set up the computer room in units within the "Circle" of KPD.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of this recommendation by the end of the project in March 2013 (recommendation 85).

5.13. KPD Disciplinary unit

Disciplinary unit is a separate newly built section with the capacity of 8 solitary confinement cells.[223] Monitors have been informed by the Chief KPD that this number is insufficient compared to the number of prisoners, which creates problems in practice.[224] Taking into consideration the fact that at times persons in solitary confinement are referred back to their rooms so that other punished inmates could serve their sentences, it is necessary to increase the number of disciplinary cells in KPD.

Three disciplinary cells are under video surveillance. These cells measure about 9 m^2 and have separate toilets. They have no built-in call bells, even though in March 2009 the CPT recommended

218 AECS Management did not know what the facilities in question are.
219 CPT, Report on 2008 visit to Montenegro, p. 52: "As regards activities, a positive point is that sentenced prisoners benefited from an open-door regime during the day."
220 CPT, Report on 2008 visit to Montenegro, p. 52.
221 Ibid.
222 For more detail see section Treatment.
223 Official letter Z-br.335-11, 15 December 2011, table from the section Prisoners, KPD.
224 Interview with the Chief of the Institution for Sentenced Prisoners, Podgorica, 27 December 2011.

that call bells be installed in the disciplinary cells.[225] The cells are painted and equipped with a bed and a floor-fixed table and chair. Staff room is separated from disciplinary cells by the length of the hallway. Prisoners are taken from isolation to take a shower to a partitioned sanitary annexe. Prison bedding found in solitary confinement cells included only a mattress and a blanket, but no inmates were held in the cells at the time of the visit.[226] The monitoring team has not visited a cell while a prisoner was in it.

Exercise yards within the Disciplinary unit are not equipped with a shelter against inclement weather, which was recorded as a problem during the CPT's visit to Montenegro in 2008.[227] Instead of a shelter, wires have been set. In an interview with AECS officers, on 13 March 2012, the monitors were informed that the wire mesh prevents possible escape, for example with a helicopter, which still does not explain why there is no shelter along with the wire mesh. According to a survey conducted in March and April 2012, 87% of prisoners thought that more shelters from inclement weather should be set up in the yards in KPD and the Prison for short sentences.[228]

Install call bells in all disciplinary cells.

Install video surveillance in all other cells and in yards intended for walks.

Set up benches, sports equipment and shelter from inclement weather in the yards intended for walks.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 88, 89 and 90).

5.14. Yard

Yard in KPD is spacious and surrounded by concrete walls. Part of the yard is equipped with gym devices, partially financed by inmates. The sports equipment is covered by a shelter. However, there is no possibility of cover from adverse weather conditions here or in the rest of the yard, as pointed out by the CPT in the 2009 report.[229] There is also a sports court for basketball and mini football.

With the yard there are units A, B, C, D and Disciplinary unit. In front of the units A, B and D there are no benches, and behind these units 11 benches have been set up.

The conditions for sports and recreation could be much better, with fewer financial investments (e.g. purchase table tennis equipment, set up shelter from inclement weather, mark jogging tracks etc).

225 CPT, Report on 2008 visit to Montenegro, p. 79.
226 Monitoring visit conducted on 19 November 2011, Podgorica.
227 CPT, Report on 2008 visit to Montenegro, p. 52: "However, the yards were not equipped with a shelter against inclement weather."
228 HRA research conducted in AECS, March/April 2012, Podgorica.
229 CPT standards, 15-37-2: "outdoor exercise facilities should be reasonably spacious and whenever possible offer shelter from inclement weather."

Plant more greenery in the yard.

Set up benches in the yard area, in front of the units A, B and D.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 91 and 92).

5.15. Kitchen and dining room

Kitchen in KPD has enough utensils and equipment for preparing food, while as regards cutlery only the spoons are used. The dining room has tables and benches. Both rooms are clean and tidy. Trash bins have been set for inmates to dispose of leftovers. Given that the monitors had a chance to have lunch with inmates, according to their estimate, that day the quality of food was satisfactory (beans).[230] It is also true that the visit had been announced, so it is possible, as suggested by the prisoners, that on this day especially good food had been prepared. Monitoring of the food quality should hereafter be carried out by representatives of the Ministry of Justice or the Office of the Protector of Human Rights and Freedoms, who can pay unannounced visits to AECS.

Menus are prepared differently. During the visit and oral interview with prisoners, monitors were told that in general the kitchen staff respects religious lents and practices of prisoners. Also, according to the survey conducted in March and April 2012, 68% of prisoners said that the religious customs related to food are taken into account. According to AECS officials, no complaints regarding the quality of food have been filed in practice. However, two thirds of respondents (69.6%) believe that there is no possibility of pointing out an objection as regards the food, while 82.7% of them believe that such objections are not taken into account. In the open form, inmates stated that complaints had no purpose. According to a survey conducted in KPD and the Prison for short sentences, more than ¾ of the respondents (78.1%) were not satisfied with the quality of food in AECS kitchen.

Rules on nutrition tables prescribe nutritional value of food and the method of verifying the quality of food on a daily basis by a doctor in AECS.[231]

There is also a dining room for inmates at the Prison for short sentences, and the food is delivered from the kitchen in KPD. The cafeteria can accommodate around 80 people, it is equipped with new furniture and cooling display cases. It is covered by video surveillance. Natural and artificial light is adequate. Prisoners are provided at least 3 meals a day, and if a prisoner is employed, he is entitled to an additional fourth meal.[232]

Groceries can be purchased at the prison store, at the expense of convicts. At the meeting in February 2012, AECS Director informed the monitors that items at the store are sold at wholesale

230 Visit conducted on 19 November 2011, Podgorica.
231 Rules on nutrition tables of convicts and a minimum nutrition value of one meal and methods of verifying the quality of food, 2006.
232 Rules on nutrition tables of convicts and a minimum nutrition value of one meal and methods of verifying the quality of food, 2006, Art. 6.

prices and are therefore very affordable. Bearing in mind the remarks of convicts who argued that prices are higher than in stores outside AECS, we have compared the price list in AECS with price lists of large supermarkets in Podgorica and concluded that most items (92%) were cheaper than in the markets (of total of 116 items, 107 were 0.01 to 2.50 euros cheaper in AECS, 6 items were slightly more expensive – 0.01 to 0.36 euros, while 3 items had the same price).

Make additional efforts to inform each prisoner about the possibility of filing a complaint regarding the quality or variety of food.

Examine the quality of food, given the results of a survey among prisoners.

Consider the possibility of opening a bakery, where inmates would be able to train and work.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 93, 94 and 95).

5.16. Unit A

Unit A is an old building, which has not yet been renovated, although the CPT specifically recommend its renovation after the visit to Montenegro in 2008.[233]

A total of 108 persons served a sentence in the unit A, designed for a capacity of 80 people, which means that 28 prisoners were over capacity.[234] Unit A has 11 rooms; it has ground floor and first floor, with two wings on each floor. Each wing has its rooms and living rooms. Open-door regime is implemented in unit A. This unit accommodates inmates who are not in mutual conflict and do not show violent behaviour, as assessed by the staff. During the visit, monitoring team noticed that the sanitary facilities were dilapidated (broken tiles, flooded floors, dirty walls, broken taps, lack of shower heads), and sanitary conditions were not satisfactory.[235] All premises had mould, which presents a potential risk to the health of inmates.[236] Unit A provides heating by using mobile radiators. Only one room has an air conditioner with a heating and cooling system, and the officials have pointed out that this is an exception because of the health condition of an inmate who resides there.[237] Next to each bed there are night stands for personal items.[238] As for the living room on the top floor - it is a room of about 20 m^2, with only one small table, four chairs, a TV and appliances for cooking, as opposed to the living room on the ground floor which is well furnished.

According to a survey conducted among prisoners in March and April 2012 in KPD and the Prison for short sentences, only half of respondents (50.2%) said they always have hot water and heating. Those who responded to this question negatively are located mainly in the unit A, but also in units B, D, F and Semi-open unit.

233 CPT, Report on 2008 visit to Montenegro, p. 54.
234 Official letter from AECS, Dopis Z-br335-11, 15 December 2011.
235 According to the European Prison Rules "all parts of every prison shall be properly maintained and kept clean at all times" (p. 19). The same has been prescribed by the House Rules for Enforcement of Prison Sentences.
236 Handbook for prisoners, Section Maintenance of common hygiene premises, p. 50.
237 Monitoring visit conducted on 26 December 2011.
238 Monitoring visit to AECS conducted on 9 December 2011.

For example, a room with bunk beds accommodating 28 prisoners has no more than 50 m^2, which is half the minimum standard of 4 m^2 per prisoner.[239] The furniture is worn. Unit A has no video surveillance. There is no separate room for smokers,[240] prisoners smoke in their rooms.[241] The plan is to renovate the unit A, but the start date of renovation is unknown, because, according to the Management, the problem is the capacity for accommodating the prisoners presently residing in this unit.[242] On the unit A top floor there is an office for professors and educators, measuring some 15 m^2, clean, equipped with new office furniture and without video surveillance. Several prisoners have pointed to this office as a place for unsupervised use of force.

The so-called "quarantine" in the unit A right wing, on the top floor, is an admissions office for sentenced persons where the so-called psychosocial diagnosis is carried out.[243] Quarantine is divided into a living room and two bedrooms, which are in very poor condition. One has 11 bunk beds (22 sleeping places), with 25 m^2 room area. The second bedroom, at the time of the visit on 9 December 2011, accommodated 6 persons who complained of the lack of pillows, which has also been observed by the monitors, since not one bed had a pillow. Prisoners complained of the cold and poor lighting. Mobile radiators have been provided for heating, but were not enough to warm up the room. The room had old and worn military beds and dirty walls. Natural light is weak, because the windows are smaller; artificial lighting is satisfactory. There is no separate room for smokers, inmates smoke in all rooms. Bathrooms and compartmentalized toilets are in extremely poor condition. The walls and floors were flooded and dirty, tiles broken and all sanitary equipment dirty and dilapidated.

Provide the required bedding, including pillows and pillow cases, which should be available to every convict. Information on the possibilities of using prison bedding must be made available to all convicts and detainees.

If the prisoners choose to clean their clothes or bedding themselves, provide for the possibility of drying the clothes in a separate room, so that it is not done in the rooms they sleep in.

It is necessary to reconstruct the unit A (e.g. add new floor) to address the issue of overcrowding. Meanwhile, paint the walls and provide new furniture.

Provide adequate heating and cooling.

Pay more attention to the hygiene of sanitary facilities and provide new sanitary equipment.
Install video surveillance in the office for educators.

Designate a separate room for smokers and set smoking ban sings in all the hallways and bedrooms.

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239 According to the European Prison Rules, rule no. 18 "the accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation".

240 See Croatian Rules on standards of accommodation and nutrition of prisoners, NN 092-2002, Art., para 5 and 6 of 10 August 2002, http://cadial. hidra. hr/searchdoc.

241 European Prison Rules, Part II - Conditions of imprisonment, p. 18.1, p. 19.1 and 19.3.

242 European Prison Rules, p. 4: "Prison conditions that infringe prisoners' human rights are not justified by lack of resources".

243 Law on Execution of Criminal Sanctions, *Sl. list RCG,* 25-94, Art. 32

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 39-46).

5.17. Unit B

The capacity of this unit is 92, and the population in December 2011 was 132 persons. Number of rooms is 24.[244] The rooms are neat and equipped with 6 beds (prisoners keep them in order), warm, but also stuffy, contrary to Art. 34, para 1 of the House Rules: "Premises where the convicted persons reside or work shall be ventilated and heated." Almost all rooms have TVs, radio transistors, DVD players, heaters, mini-stoves, mini-ovens and drawers for clothes. The bathrooms had hot water. Both living rooms have furniture (tables, benches and one refrigerator). Artificial and natural light is sufficient. All rooms are approximately 20 m^2 in size and accommodate 4-6 persons, which meets the minimum spatial standard, except in the case of 6 bedded rooms. Inmates successfully take care of the hygiene themselves.[245] In an informal interview, the convicts emphasized the need for more dishes, sinks and refrigerators. There is no separate room designated for smokers. The room for staff in this unit did not have central heating installed.

Install central heating in staff premises.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of this recommendation by the end of the project in March 2013 (recommendation 47).

5.18. Unit C

Unit C accommodates persons who committed multiple disciplinary offenses. On 29 November 2011 this unit held 21 prisoners, and the planned accommodation capacity is 24. This unit has 9 bedrooms and a living room. The monitors could not determine whether the area size of group rooms adheres to standards, because they were not allowed to measure the rooms. There are 5 double rooms to the left side of the corridor and 4 group rooms to the right side of the corridor, with 5 or 6 beds. Double room has an area of about 15 m^2, and includes a bunk bed, refrigerator, stove, table and chairs. Hygiene maintenance is at very high level. Doubles rooms clearly meet the standard of 4 m^2. However, 6 bedded rooms of approximately 20 m^2 have bunk beds. This room also has a table and chairs, but seems overcrowded, since it is too small for 6 inmates. The standard of 4 m^2 per prisoner has not been met.

Each room has windows covered with opaque plexiglass panels, to block prisoners' view of the yard, which, according to the CPT, allowed adequate access to fresh air and natural light.[246] However, in certain rooms inmates burned holes in the panels with cigarettes to have a view of the yard. According to prison officials, such behaviour is tolerated, i.e. not sanctioned, though not in accordance with the rules. This practice questions the existence of such panels, which, in our

244 Official letter from AECS Management, 9 November 2011, Podgorica.
245 Monitoring visits to AECS, 2011 and 2012.
246 CPT, Report on 2008 visit to Montenegro, p. 51.

view, block the view and limit natural light.[247] Smokers smoke in their rooms, the living room and outdoors. Closed-door regime is implemented in this unit. Heating system is central. Living room, measuring some 20 m^2, is equipped with tables and benches. Staff room is equipped with office furniture and video surveillance. Video surveillance covers the hallway. There is a phone booth in the hallway. The yard for walking is located behind unit C and separated by a fence from the yard used by inmates from other units. This part of the yard has no protection from adverse weather conditions or sports equipment.

The bathroom is warm, it has hot water but no shower heads,[248] which is justified by frequent rude behaviour of convicts. According to an official letter, "the lack of shower heads is common due to prisoners' rough handling of its part that regulates the flow of water."[249] The CPT has recommended that urgent steps be taken to "improve toilet and shower arrangements for sentenced prisoners."[250] Inmates have access to showers and bathrooms. As the Rules on the Performance of Security Service in Art. 12 stipulate that "security officer shall … prevent damage to facilities, installations, machinery, tools and other assets", *it is necessary to reduce the destruction of prison equipment, by informing inmates about the responsibilities for such behaviour laid down in the House Rules.*

Set up a shelter from inclement weather in the unit C yard and purchase sports equipment.

Provide new shower heads and prevent their destruction.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 48 and 49).

5.19. Unit D

Planned capacity of this unit is 100, but it accommodated 141 convicts.[251] It has 36 rooms. Almost all the rooms visited by monitors were 4 or 5 bedded, but there are also 6 bedded rooms in this unit.[252] Most rooms do not comply with the minimum international standard of 4 m^2 (5 people in 20 m^2). All smokers smoke in their rooms, and there are rooms that accommodate non-smokers.[253] The rooms are warm, but poorly ventilated. Artificial lighting is satisfactory. This unit has central heating. The bathrooms have hot water. Living rooms are equipped with furniture, home appliances. Orally interviewed inmates were mostly complaining about the lack of prison bedding, i.e. pillows and the inability to use the laundry room.

247 See CPT standard "Access to natural light and fresh air", p. 30: "The CPT frequently encounters devices, such as metal shutters, slats, or plates fitted to cell windows… Imposition of measures of this kind should be the exception rather than the rule…".
248 European Prison Rules, p. 19.3: "Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy", and p. 19.6: "The prison authorities shall provide them with the means for doing so including toiletries and general cleaning implements and materials".
249 Official letter from AECS, ZKD br. 63/12, of 19 March 2012, Podgorica.
250 CPT, Report on 2008 visit to Montenegro, p. 59.
251 Official letter from AECS of 15 December 2011.
252 Monitoring visit conducted on 29 November 2011, Podgorica.
253 Six rooms accommodated smokers, two accommodated non-smokers.

Enable the use of prison bedding.

Make available information on the use of the laundry room.

Address the problem of overcrowded rooms.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 51, 52 and 53).

5.20. Semi-open unit

Semi-open unit is a prison section with reduced supervision from security officers, accommodating sentenced persons employed at the prison or external work sites.[254] Semi-open unit comprises the Semi-open unit building, shacks, the so-called ''economy" and farms (unit E). The total capacity of the Semi-open unit is 470, accommodating 644 prisoners.[255]

The Semi-open unit building is new. Rooms are mainly 4-bedded. However, there are also 8-bedded and 6-bedded rooms. The open-door regime is implemented in this unit. Prisoners have the possibility to use sports courts behind the building, while there is also a yard for walking in front of the building. Prison yard has a wire fence, not concrete one, behind which lie private properties, so it is difficult to monitor the transfer of prohibited items over the fence, especially in bad weather conditions.[256] Although officers regularly visit and monitor yards, every so often they find prohibited items thrown over the fence. Usually these are mobile phones, mobile phone cards, etc.[257]

In the Semi-open unit building all seemed to be in accordance with the regulations and standards in terms of the size of cells, living rooms, toilets, natural and artificial lighting, furniture, heating and ventilation. However, most rooms do not comply with space standard of 4 m^2. Monitoring team members noticed that bathrooms lacked shower heads, but were informed that this issue has been addressed in the meantime.[258] This unit also has a library, including older classic and religious books.

Semi-open sector, the so-called "Economy" includes farms and dilapidated wooden shacks which are in very poor condition and at risk of mould and fire. In such accommodation prisoners smoke, use heaters and mini stoves, which increases the risk of fire. There are 8 shacks, which accommodated 40 prisoners on the day of the monitoring visit.[259]

In December 2011 there were 3 cows, about 100 pigs and 1,500 chickens on the farm. Earlier, there used to be up to 12,000 chickens on the farm, but now there are fewer animals because AECS Management estimated that larger scale animal farming is not profitable.[260] Also, there is only one dilapidated greenhouse, although meadows within AECS allow for building of greenhouses of

254 House Rules for Enforcement of Prison Sentences, Art. 18.
255 Official letter Zkd-br 355-11, 15 December 2011.
256 AECS Management, 23 December 2011, Podgorica.
257 Interview with security officials, 23 December 2011.
258 Letter from AECS Director, Milan Radović, of 19 March 2012, ZKD br. 63/12, Podgorica.
259 Visit conducted on 29 November 2011, Podgorica.
260 Visit conducted on 29 December 2011, Podgorica.

much greater capacity. See section Treatment for more detail on the proposal to expand farms and greenhouses and develop a business plan for expansion of production, to provide for employment of all interested prisoners.

Provide laser equipment for video surveillance.

Bring down dilapidated shacks and build new ones, in accordance with the standards, which would have more beds and better living conditions.

Expand the greenhouse and farms.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 54, 55 and 56).

5.21. Unit F – Prison for juveniles, women and foreign prisoners

Accommodation of juveniles, see above, p. 64
Accommodation of women

At the time of monitoring visits, from November 2011 through June 2012, female prisoners were temporarily residing in the unit F left wing, on the first floor, separated from men, expecting renovation of a separate women's prison building. On 14 May 2011, 28 female prisoners resided in the female section. Rooms visited by the monitoring team were tidy, with private photographs of female inmates.

However, the size of the rooms of maximum 20 m^2 was not enough to accommodate 5 female convicts residing there at the time of the visit (equipped with six beds). Women too complained of overcrowded rooms. The living room was worm, but also stuffy (cigarette smoke and stale air). Inmates smoke in their rooms. There was no specially adapted room for visitors in this part of the prison; visits took place in a small office, equipped with a table and two chairs. Construction of a new prison unit for women is nearing end.

In December 2011 the monitors were told that female convicts will be relocated to a new facility in a month, but that deadline was not met, not even until 11 May 2012, when AECS Management informed us that the relocation is to be completed in 7 days. Monitors revisited AECS on the date of planned relocation and noted that the work was coming to an end. The new single-storey building has 8 cells and 2 solitary confinement cells. Also, there is a separate room for visits, measuring about 20 m^2. Solitary confinement cells are under video surveillance. All rooms and both solitary confinement cells have their own bathroom. Rooms were not yet furnished because of ongoing works, but monitors were informed that each room, with a surface area of 20 m^2, was designed for 4 persons. Each room has central heating and windows. There is a yard for walks with set up benches.

There is no special unit for women serving short sentences, so they serve their sentence together with other women. It is particularly alarming that Bijelo Polje Prison, intended for prisoners serving short sentences, does not accommodate women, so women who serve short sentences or

live in the northern part of Montenegro serve their sentence in Podgorica, which causes difficulties to their visitors.[261]

Yard within unit F has no shelter from adverse weather conditions, which has been justified by the lack of financial resources.[262]

Foreign and other prisoners

Foreigners are placed together with other inmates in the unit F.

Rooms accommodating male and foreign prisoners have four to six beds, and most do not comply with the standard of 4 m^2 per prisoner. During the monitoring visits, there was no specially adapted room for visitors - official premises were used for that purpose. Bathrooms had hot water, but the water pressure was very low.

5.22. Prison for short sentences

Prison for short sentences is a separate prison unit, divided into the semi-open and closed unit. Prison for short sentences accommodates persons convicted to a prison sentence of up to 6 months, prisoners who have maximum 6 months left on their sentences after deducting detention time from a sentence of imprisonment, as well as persons sentenced in misdemeanour proceedings.[263] Reconstruction of the semi-open unit is in progress. Its capacity is 150. On 12 April 2012 this prison unit accommodated 150 people. Cells have five to ten beds, with the exception of a room for foreign prisoners equipped with 7 triple-deck bunk beds (21 sleeping places). Most cells have an area of about 28 m^2, but there are also smaller cells. Cells are equipped with a sufficient number of lockers for personal items, beds, as well as personal belongings, household appliances, including TVs. Bathrooms with showers cabins[264] were poorly maintained by convicts.[265] Walls were dirty, sinks flooded, shower curtains worn. During the monitoring period, a new bathroom with shower cabins was built. Also, according to AECS officials, old bathroom is being transformed into another cell for inmates. There are a total of 10 renovated rooms, each measuring about 27 m^2, intended to accommodate 5 to 6 prisoners; their renovation is nearing completion. There are 10 official premises. There are 24 cells now, as accommodation has been extended. There are 4 telephone booths. There is no separate room for drying laundry or room for smokers. Personal hygiene items are provided on a weekly basis. This facility also has 3 disciplinary cells equipped with a bed, table and floor-fixed chair. Disciplinary cells have compartmentalized toilet. Orally interviewed[266] prisoners did not complain about the lack of prison bedding, although they mostly used their own bedding and clothing. In the Prison for short sentences 94.7% of prisoners replied negatively when asked if they had access to prison bedding, while 97.3% said that prison laundry

261 European Prison Rules, p. 17. 1: "Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation".

262 Information obtained in direct interview with Management official.

263 Art. 165, House Rules for Enforcement of Prison Sentences, 12 August 2011, no. 272/11.

264 European Prison Rules, appendix to the recommendation, Rec 2006-2, Part II, 19.1: "All parts of every prison shall be properly maintained and kept clean at all times". House Rules for Enforcement of Prison Sentences, Art. 85: "A convicted person is required to maintain general and personal hygiene on a daily basis".

265 http://www.bicent.com/novosti/drustvo/u-zatvoru-za-kratke-kazne-120-osudenika-strajkuje-gladu.

266 During the visit a prison official introduced the monitors to inmates in each room, giving them an opportunity to complain about the accommodation, conditions, etc., and speak with monitors in private. However, of all the prisoners, only 2 have complained about the conditions and accommodation, stating the toilets as the biggest problem.

service had not been made available to them.[267] They wash and dry their bedding and clothes themselves in their cells or their families clean them.

Room for foreign prisoners is located on the ground floor, in the closed prison unit, measuring some 20 m^2.[268] During the monitoring visit **there were 10 prisoners in the cell, and the cell has 21 beds**. Despite the expansion of cells and bathroom reconstruction, we believe that this will not be enough to unburden the Prison for short sentences to a necessary extent.

Exercise yard has wire fencing. Within the yard prisoners can use sports equipment, play football or practice some other form of recreation. However, the yard does not have a shelter from inclement weather. Total of 82.6% of respondents from the Prison for short sentences considered it necessary to set up more shelters from inclement weather.[269]

Constructing additional premises of about 50 m² next to the existing facilities would considerably help in avoiding overcrowding and thus complying with international standards regarding the placement and conditions of stay of sentenced persons.

Provide a library.

Take out excess beds from the room for foreign inmates in order to make more space.

Set up a shelter from inclement weather in the yard.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 58, 59 and 60).

5.23. Remand Prison (Podgorica Prison)

Accommodation conditions in the Remand Prison appear to be extremely poor and of significantly lower quality than in most other AECS units, given that the cells were last painted long ago, the standard of 4 m^2 per inmate is not always adhered to and detainees spend 23 hours a day in their rooms.[270] After the CPT's visit in 2008, partial reconstruction of the Remand Prison building has been conducted and its capacity expanded to accommodate 50 more people, which is currently at 370.[271] Section the women has been completely reconstructed. It has been ensured that each prisoner has his own bed and several cells have been renovated. Positive tendencies in Montenegrin jurisprudence have reduced the number of detainees by half, so the Remand Prison population is around 300.[272] However, other recommendations contained in the CPT report on its 2008 visit (p. 58) have not been met. **Not all rooms adhere to the 4 m² standard,**

267 Research "Respect for human rights in the Administration for Execution of Criminal Sanctions – views of inmates", March/April 2012, Podgorica.
268 Monitors were not allowed to measure the area of rooms and this is their approximate impression.
269 Research "Respect for human rights in the Administration for Execution of Criminal Sanctions – views of inmates", March/April 2012, Podgorica.
270 Monitoring visits on 3 November 2011, 30 January 2012, 20 February 2012 in Podgorica.
271 Official letter AECS, Zkd-br 355-11, 15 December 2011, Podgorica.
272 Total number of detainees on 15 December 2011 was 338, 303 in January 2012, and 285 on 9 May 2012.

most of them have not yet been renovated, and the regime for persons under investigation has not been revised. Yard is not equipped with a shelter from inclement weather, benches are broken and there is no sports equipment. The purpose of all rooms intended for disciplinary punishment is unclear.

Under the permission of the President of the High Court in Podgorica, the monitoring team was allowed to visit all the cells of choice. Using this opportunity, on 20 February 2011, based on a review of daily schedule, monitors visited rooms on the first and second floor, which housed highest number of detainees, from 7 to 9, previously accommodating up to 21 inmates.[273] After being allowed to measure the cells, monitors found that there are rooms that do not comply with the standard of 4 m^2 per prisoner, although prison capacity was not fully used at the time. The smallest cell measures 2.5 x 3 m^2 and it accommodated one detainee, which corresponds to the minimum standard of 6 m^2 per person, but not the desirable standard of 9 m^2.[274] Most detainees were placed on the ground floor in the room measuring 28 m^2, with 9 beds. Total number of rooms in this building is 66 or 67.[275] Natural light is weak, because the windows in the rooms are small, set rather high and have bars. Rooms generally look dilapidated and untidy, mostly because the walls have not been painted in a while, because they are equipped with military beds and the common space is limited by bars in the form of a cage, to prevent access to the window. These bars are used to dry washed clothes.

Rooms for detained persons on all floors mostly measure 28 m^2 and generally accommodate 6, 7, 8 or 9 detainees. There are also single and double rooms. Monitors were informed that some rooms have been renovated, painted and that it is in plan to paint all of them. Mould is present in all premises (in hallways, cells, even in the staff room). All rooms have bunk beds, with the possibility of setting up a third bunk. Insects have been spotted in the rooms, although, according to officials, pest control and disinfection of the premises is conducted on a regular basis. Smokers smoke in their rooms. There is no specifically designated room for smokers.

In 2012 the Remand Prison accommodated 2 minors, which were placed together with an adult detainee. On each floor there is a staff room. The ground floor has a central room and room for surveillance.

Rooms on the first floor accommodate 4 to 7 detainees.[276] In the hallway there is a mailbox for letters to the Ombudsman. Each room has a TV that detainees brought from their homes. With the permission of the investigative judge, detainees can also bring home appliances, so the monitoring team noticed that the rooms had mini stoves, TVs, etc. Some of the toilets were not fully built.

As for the disciplinary cells, there are supposedly no rooms specially designed for this purpose. However, each floor has 2 to 3 cells that serve this purpose, but, according to officials, they are used to accommodate other detainees due to the lack of accommodation facilities. If necessary, detainees placed in these rooms who have not been disciplined are transferred to other rooms, to allow the stay of a detainee punished by solitary confinement. However, it is not clear why this is necessary, since at the time of the visit the prison was nowhere near its maximum capacity use.

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273 CPT, Report on 2008 visit to Montenegro, p. 55.

274 Visit conducted on 20 February 2012. The Chief noted these dimensions. For CPT standard of 6 m^2 for single bedded room see CPT, Report on the visit to Albania 1997, p. 127, and for desirable standard of 9 m^2 see CPT, Report on the visit to Slovakia, 2000, p. 62.

275 Interview with the prison Chief during the visit, 30 January 2012, Podgorica.

276 Information provided by prison officials, 3 November 2011.

Room on the first floor in the left wing, which served the purpose of disciplinary punishment, was in an extremely poor condition. The wall was broken off in certain places; there was a bed with an old worn out mattress, a table and chair; the toilet was in very poor condition. Artificial lighting comes from a light bulb connected to electricity cables, which pose considerable risk of electric shock for a detainee. Also, these cables can be abused. This room, according to officials,[277] is no longer used. It was noticed that the room has not been renovated.[278]

Yard is surrounded by high concrete wall. There was no sports equipment, and wooden benches were broken. Also, the yard has no shelter from inclement weather.

Visiting room is still a booth-type facility, which was criticized by the CPT in 2008, and there is a separate room for lawyers' visits. There is no separate room for practising religion or for any other activity. Except for walks, all inmates spend their time locked in their cells.

Capacity of the **female part** of the Remand Prison is 40, and at the time of the visit 13 women were accommodated in 3 rooms. This part has been renovated. The first room that monitors visited had no beds. According to prison officials, the room was in the process of adaptation to accommodate female detainees. Some of the rooms were furnished, but empty and cold.[279] Monitors noticed 3 detainees who were obviously freezing, although in warm jackets. After addressing remarks with regard to this issue in November 2011, satisfactory heating has been provided, as noticed during the visit to the Remand Prison in January 2012. Solitary confinement cell was empty, the space was large enough and bright. Bathroom was clean. There was hot water. The bathroom was equipped with a washing machine. Shower stalls had no doors or curtains.

Female part of the Remand Prison has a separate part of the yard for walking, including several benches.

5.24. Recommendations

Construct a new building of the Remand Prison, which would have rooms with fewer beds, complying with the standard of 4 m², and provide a living area with computers and other options for activities outside the cell.

Until the new prison building is constructed, renovate the existing accommodation capacities and paint all the rooms.

Also, renovate rooms that are not currently used.

Provide non-transparent shower curtains in bathrooms in the female part of the Remand Prison to ensure privacy of female detainees.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 61, 62, 63 and 64).

277 Monitoring visit to the Remand Prison conducted on 3 November 2011.
278 Monitoring visits conducted on 3 November 2011, 30 January 2012 and 20 February 2012.
279 Monitoring visits conducted on 3 November 2011, 30 January 2012 and 20 February 2012.

5.25. Bijelo Polje Prison

Bijelo Polje Prison building was built in 1949 and is located in the urban area of the town, close to the centre. The prison is divided into a part for sentenced prisoners and Remand Prison (Bijelo Polje Prison). Total capacity of the entire prison is 110, of which 50 in detention (or 45), and 60 in the prison.[280] At the end of 2011 there were a total of 164 inmates in Bijelo Polje, so 54 inmates were over capacity.[281]

During the visit on 12 September 2011, it was observed that all prisoners are placed in two existing dormitories. One dormitory measures about 40 m^2 and the other about 30 m^2 (measuring the rooms was not allowed). The rooms are equipped with old military bunk beds. During the visit, a total of 80 sentenced persons were accommodated in these two rooms. Minimal standard of 4 m^2 per person was obviously not met. Rooms have central heating. Natural light is less intense, because the windows in rooms are small and positioned rather high. Accommodation does not meet the standards. Two existing toilets are poorly maintained and therefore in bad condition. There was hot water. However, there was mould in the walls, floors were flooded, hygiene level was very low and air felt stale because there was no ventilation. Toilets have only artificial lighting.

Persons accommodated in this building are "convicted persons sentenced to imprisonment for up to 6 months or prisoners who have maximum 6 months left on their sentences after deducting detention time from a sentence of imprisonment, as well as persons sentenced in misdemeanour proceedings".[282] There are exceptions of persons serving longer sentences, who are either transferred from Podgorica Prison for security reasons or persons of extremely low socioeconomic status who live in the northern part of Montenegro, transferred closer to their home town at their personal request; there are also other cases considered individually.[283]

Visiting rooms have been renovated, as well as rooms for children's visits and offices, which have also been equipped with new furniture, doctor's office, dental office, etc. As regards the construction – expansion of the prison, its management is currently negotiating with the Municipality of Bijelo Polje to support the construction.[284] Works have not started and there is no reliable information when they might be completed, although the CPT delegation had been informed that the new prison will be constructed until the end of 2009. **Meanwhile, the CPT recommendations regarding heating, bedding and hygiene items have been met, and the recommendation regarding the condition of toilets and bathrooms only partially. These premises in the part for sentenced prisoners still do not comply with the standards.**

In comparison to 2008, significant progress has been achieved. Work on the adaption of entrances for people who are wheelchair users is in progress. Activities undertaken in the

280 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011 contains contradictory data on the capacity in the Remand Prison, on p. 72 it is noted that the capacity is 50, and on p. 102 - 45.

281 The same Report, p. 72.

282 Art. 165, House Rules for Enforcement of Prison Sentences, 12 August 2011, Podgorica.

283 Bijelo Polje Prison Chief stated these reasons in the visit conducted on 16 January 2012, Bijelo Polje.

284 Daily *Pobjeda*, 19 October 2011, "Conditions for serving prison sentences will be better - Representative of the European Union and AECS Management visited the prison in Bijelo Polje", available at: http://www.pobjeda.me/arhiva/?datum=2011-10-19&id=221514. Visiting this unit, Bertolini stated that the EU supports the reform of the system for execution of criminal sanctions in Montenegro and helps the promotion of alternative sanctions, as well as the improvement of accommodation conditions. Preparation of construction documents for the construction of new buildings within AECS complex also has the support of the EU Delegation.

reconstruction of Bijelo Polje Prison, including the Remand Prison, are completed or nearing the end, as noticed during the monitoring visit.[285] Conditions in bathrooms have been improved – bathroom with 7 shower stalls in the Remand Prison has been renovated and, in our opinion, meets all the standards. The prison has adequate heating, including dormitories in the Remand Prison. Phone booths have been set. Personal hygiene items and blankets are available to prisoners and detainees, as noticed during the visit. Personal hygiene items are delivered every Monday and there is always enough stock. If hygiene maintenance requires more items in relation to the planned consumption, they are provided. However, there is still no living room for prisoners. There are six disciplinary cells. The cells have windows, central heating and compartmentalized toilet. Mostly only one disciplined person is held in solitary confinement cell, however, sometimes up to two persons stay in the cell, since the lack of space is an obvious problem. Also, these cells are located in the Remand Prison.

Yard for convicts practically does not exist, there is only a very small outdoor space (maximum 20 m^2), which is unacceptable. According to the prison Chief, the plan is to arrange outdoor area around the prison for inmates to be able to take walks, exercise and do sports.

The prison has a library with around 150 books. On the ground floor of the Remand Prison there is a kitchen and a special room with freezers for storing beef, pork and other meat, to ensure the respect for religious customs and habits of all prisoners and detainees (freezers are labelled with respect to different meat). There is also a store in the prison, with a wide variety of products. According to the Management,[286] items are sold at the same prices as in Podgorica Prison (Spuž).[287]

The atmosphere in both parts of the prison in Bijelo Polje leaves particularly positive impression, because all the inmates greet prison officers with a smile and talk to them in a friendly manner. The atmosphere is much better than in prisons in Podgorica. Prison in Bijelo Polje applies the CPT standard which encourages positive relations with prisoners, without excessive formality and rigidity in behaviour.[288]

5.26. Remand Prison in Bijelo Polje

Part of the prison in Bijelo Polje accommodating remand inmates is separated from the part accommodating sentenced persons and located in the right wing of the prison building. Detention capacity is 45-50.[289] At the end of 2011, 43 people were in detention, but only a month earlier, on 3 November 2011, there were 63 detained persons - 13 over the planned capacity.[290]

The Remand Prison (Bijelo Polje Prison) has 8 rooms on the ground floor and 11 rooms on the first floor. Rooms have 4 to 12 beds. Area size is adequate, the rooms are fairly large and unburdened in terms of the number of beds compared to the Remand Prison in Podgorica. Monitors were not allowed to measure the rooms. The rooms are equipped with tables and

285 Visit conducted on 16 January 2012, Bijelo Polje.
286 Visit conducted on 16 January 2012, Bijelo Polje.
287 For comparing the prices in AECS with prices in markets.
288 CPT Standards, p. 26: Staff-prisoner relations.
289 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011 contains contradictory data on the capacity in the Remand Prison, on p. 72 it is noted that the capacity is 50, and on p. 102 - 45.
290 Official letter from AECS, ZKPD br. 355-11, 15 December 2011.

chairs. Detainees are allowed to bring TVs. Rooms have specially enclosed toilets that are in decent condition.[291] Heating is central, and the rooms that monitors have visited were warm, as well as solitary confinement cells.

Unlike the CPT remark from 2008 relating to the poor condition of disciplinary cells,[292] the cells are now in satisfactory condition, have adequate heating, as well as windows, table and chairs, as observed during the visit[293]. Also, these cells have toilets, and inmates take showers in the new bathroom.[294] The plan is to install call bells in disciplinary cells. However, the monitoring team observed that disciplinary cells within the Remand Prison are used for both detainees and prisoners, and that the existing number of cells is insufficient.

Visiting room meets the needs of visitors – it has been renovated and equipped with new furniture. However, this room is used by both detainees and prisoners. Physical contact between prisoners and visitors has been prevented by setting up transparent panels. Also, there are 5 telephones. Visiting room has benches and separate entrances for visitors and prisoners. The room has two cameras for separate monitoring of inmates and visitors during the visits. The room for children's visits is equipped with new furniture, toys, children posters and has appropriate heating. There is also a part for walks.

Until a new prison building in Bijelo Polje is constructed, it is of priority to build additional premises - living room and disciplinary cells for convicted persons.

Renovate bathrooms and toilets in the prison for convicted persons and maintain hygiene.

Provide adequate space for prisoners to take walks, with a shelter from inclement weather, especially bearing in mind that prisoners do not have a living room.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 67, 68 and 69).

291

292 CPT, Report on 2008 visit to Montenegro, p. 79, item 3.

293 Monitoring visit conducted on 16 January 2012, Bijelo Polje.

294 CPT Standards 15(37)-1, p. 50.

6. HEALTHCARE SERVICE

The obligation of the state to care for ill inmates consists of three parts:

1) the state must first determine whether the convicted person is able to serve a prison sentence;
2) the state must provide necessary Healthcare for all persons deprived of their liberty;
3) the state must tailor general prison conditions to specific needs of inmates who are ill.[295]

The provision of Healthcare to detained and sentenced persons at the Remand Prison and the Institution for Sentenced Prisoners in Podgorica is ensured by the Healthcare Service.

The Report of the European Committee for the Prevention of Torture (CPT), after its visit to Montenegro in September 2008, at paragraph 61 states that the provision of Healthcare to prisoners at the Remand Prison and the Institution for Sentenced Prisoners in Podgorica was ensured by the *Special Prison Hospital* located on the top floor of the building occupied by the *Remand Prison*, which opened in January 2006.[296]

Special Prison Hospital, as one of the institutions within the prison system of Montenegro, is no longer operating.[297] In April 2012 it was announced that the Special Hospital within AECS Podgorica is to be "rebuilt". Chief of the Institution for Sentenced Prisoners informed the monitors that the Master Plan envisaging opening of the Hospital in 2014 has been adopted.

Medical staff with the Healthcare Service includes:

• 3 doctors working eight-hour shifts: Head of the Healthcare Service is a specialist in internal medicine and two newly recruited physicians are also specialists - internal medicine and general practice. Doctors work from 7 am - 3 pm, and after completing a shift one of them is on standby,

• 8 medical technicians (qualified nurses) working from 7 am - 7 pm during day shifts and 7 pm - 7 am during night shifts, of whom one is a woman,

• head medical technician (7 am - 3 pm),

• pharmaceutical technician (7 am - 3 pm),

• physiotherapist (7 am - 3 pm),

• lab technician (7 am - 3 pm),

• dentist and dental nurse (7 am - 3 pm).

295 European Court of Human Rights, *Xiros v. Greece*, 2010, p. 73.
296 CPT, Report on 2008 visit to Montenegro.
297 "The penitentiary system of Montenegro, which is run by the State Administration for the Execution of Penal Sanctions, comprises four establishments, all of which were visited by the CPT's delegation during the 2008 visit. Three of them - the Institution for sentenced prisoners, the Remand Prison and the Special Prison Hospital - are located on the outskirts of Podgorica, in Spuž, and were previously visited by the CPT in 2004. The fourth, Bijelo Polje Prison, was visited for the first time by a CPT delegation in 2008." CPT, Report on the visit to Montenegro in 2008, p. 41.

Most employees in the Healthcare Service work under a fixed-term contract extended on a monthly basis. Head of the Healthcare Service has been retired and works under a contract. Two new doctors have been employed for a limited time period. The dentist and dental nurse also work on a fixed-term contract. Of nine medical technicians, only three have been employed under unlimited contract, while five works under a fixed-term contract and one has been retired and works under the contract. Other medical staff is also working on temporary basis. For commentary on recruitment of prison staff under a fixed-term contract, see section Prison staff.

Prison is visited by a psychiatrist twice a week, a specialist in physical medicine once a week, radiologists twice a week and X-ray technician three times a week.

Nursing staff is present 24 hours a day.

In a survey[298] conducted in the Institution for Sentenced Prisoners in March and April 2012, to question no. 56: *Do you regularly receive the treatment your doctor has prescribed to you?* 66.4% of the convicts responded affirmatively, and 33.6% negatively.

To question no. 57: *Does the doctor respond in time to your call?* 64.3% of prisoners responded negatively, and 35.7% affirmatively. In the Prison for short sentences 87.5% responded negatively and only 12.5% affirmatively. In an open form, prisoners were offered to state how long they had waited in cases when a doctor had not responded in time. The shortest period was 2-3 hours, the longest half a year.

To question no. 58: *Has the situation improved after new doctors were hired?* 61.7% of the prison population gave a positive response, while 38.3% responded with no.

Hiring of two new doctors in February 2012 significantly increased the possibilities for providing adequate Healthcare for inmates.

The situation that existed until recently, when the Healthcare Service had only one doctor for a population of over 1100, was unacceptable. It is necessary to make en effort to maintain the existing number of doctors, and preferably increase it. Sufficient staffing levels in the Healthcare Service is a prerequisite for enabling that ***any request*** *of a person deprived of liberty to consult a doctor be met without undue delay.*[299]

Number of medical technicians is still below the optimal level and needs to be *doubled*. This would, among other things, allow inmates to receive their treatment prescribed by a doctor in a timely manner.

In order to stimulate health professionals to work in prison conditions, it is necessary to offer them a contract of indefinite duration and other benefits (higher salary coefficient for work in difficult conditions, longer vacations, etc).

None of the psychologists employed in AECS within the Treatment Sector is engaged in the Healthcare Service. Given the capacity of the prison, the fact that a psychiatrist visits the institution twice a week for a limited duration and large number of people in need of psychological support, *it*

298 Research "Respect for human rights in the Administration for Execution of Criminal Sanctions – views of inmates", March/April 2012, Podgorica.

299 "The Healthcare service should be so organised as to enable requests to consult a doctor to be met without undue delay." CPT, 3rd General Report, 1992, p. 34.

is advisable to hire another psychologist who would be a part of the Healthcare Service and whose primary task would imply psychotherapeutic work with detainees and prisoners.

The work is performed in seven examination rooms located in different AECS units (Remand Prison, Institution for Sentenced Prisoners - 2 examination rooms in units A and D, Prison for short sentences, Semi-open unit, Women's prison, examination room for units F and E), of which three are equipped with ECG machine. Healthcare Service is not equipped with a defibrillator, which should be obligatory in prison as a means of first aid.[300]

It is advisable to provide at least two more ECG machines, one defibrillator and equip a mini laboratory.

Healthcare Service has a modernly equipped ambulance vehicle. It is used to transfer the so-called "recumbent patients" (patients whose medical condition requires transport in such vehicle). Monitors have been informed that a medical technician always accompanies a patient on the way to the hospital, which is extremely important.

Medical examinations of newly arrived prisoners are usually held on the day of admission to prison or the following day (24 hour deadline is respected in practice), which is in line with the CPT recommendations.[301]

Medical record is opened for each newly admitted person, containing medical history and description of the health condition of that person at admission. The results of all subsequent medical consultations are entered in the record. Confidentiality of medical records is respected, the records are kept in doctors' offices and made unavailable to non-medical personnel. However, convicted and detained persons are not allowed access to their medical records. Monitors have been informed that only the court is granted access.

Such practice should be changed and relevant regulations amended so as to explicitly stipulate the right of inmates to access their medical record.

Personal health record is not prison's property. Access can be denied only in extremely rare situations, when contraindicated for therapeutic reasons. Also, every person deprived of liberty should be allowed to inform family members or a lawyer on their health condition.[302]

On the other hand, monitors have received complaints from detained/sentenced persons regarding the presence of a member of the Security Service during medical examination.

• Existing practice should be changed immediately.

• The presence of security officers during a medical examination undermines the relationship of trust between patient and doctor. Undoubtedly, there will always be information that a person deprived of liberty will not want to share with his doctor if a member of the security service is present during the examination. This practice is usually unnecessary from a security point of view.

300 Defibrillator is electromedical instrument, i.e. equipment for defibrillation of heart which uses electric shock to normalize heart rate. It is used as a means of first aid in heart attacks and other heart rhythm disorders.
301 "The CPT reiterates its recommendation that all newly arrived prisoners be examined by a qualified person within 24 hours of admission." CPT, Report on the visit to Moldova, 2011, p. 81.
302 "The prisoner should be allowed to consult his medical file, unless this is contraindicated for therapeutic reasons, and to ask for the information contained therein to be communicated to his family or lawyer. In the event of a transfer, the file should be forwarded to the doctors of the receiving establishment." CPT, Report on the visit to Georgia, 2009, p. 35

• As an alternative, we suggest installing security alarms in doctors' offices, which would enable health professionals to call for help if the patient becomes violent or tries to escape.[303]

• Medical examination should always be carried out so that the security officer can not hear the conversation between patient and doctor. It is desirable that the examination be performed out of the sight of a prison guard. In exceptional situations a doctor should be allowed to require that a member of the security service be present in the room where the examination is performed. If necessary, relevant legislation should be amended.[304]

Doctor is required to examine all persons sent to solitary confinement for disciplinary offenses and decide whether a person is "capable" of isolation, under Art. 56 of the Law on Execution of Criminal Sanctions.[305] Indeed, in line with the earlier version of the European Prison Rules, there was an obligation of a doctor to examine all persons **before** being sent to solitary confinement. Please note that this rule is **deleted** from the European Prison Rules currently in force.

The relationship of trust between doctor and patient is an important element for the detection of abuse and involvement of doctors in disciplinary action violates this trust. After the medical examination carried out prior to solitary confinement, inmates/patients often get the impression that the doctor contributed to implementation of this disciplinary measure. This is the main reason why the current, revised version of the European Prison Rules does not impose an obligation for a doctor to state whether a person is "capable" of referral to a disciplinary cell.

In order to establish and maintain the trust relationship between prison doctor and a person deprived of liberty, it is very important that the medical service in a penal institution be perceived by inmates as "independent". This **cannot** be achieved if a prison doctor is asked to provide his opinion on "capacity" of a person to undergo disciplinary punishment of solitary confinement. On the other hand, persons in solitary confinement or isolation require special attention of the health service and the prison doctor would **have to immediately notify the director of the institution to which extent the stay in solitary confinement / isolation endangers their health**.[306] Art. 57 of the Law on Execution of Criminal Sanctions obliges a doctor to pay daily visits to persons placed in isolation.[307]

303 "There can be no justification for custodial staff being systematically present during such examinations; their presence is detrimental to the establishment of a proper doctor-patient relationship and usually unnecessary from a security point of view. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of a call system, whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination." CPT, Report on the visit to Armenia, 2006, p. 91.

304 "The Committee recommends that steps be taken to ensure that medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff. If necessary, the relevant legal provisions should be amended." CPT, Report on the visit to Hungary, 2007, p. 22.

305 Art. 56, Law on Execution of Criminal Sanctions: "Before imposing disciplinary sanction, it is mandatory to hear a prisoner, verify his defense, obtain a report on his work and behaviour and, if needed, obtain a medical opinion".

306 "Prison doctors continued to be obliged to certify that inmates are fit for punishment prior to a decision on solitary confinement being taken. On this issue, the CPT wishes to stress that ensuring there is a positive relationship between medical practitioners working in prisons and prisoners is a major factor in safeguarding the health and well-being of the latter. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. This point was recognised in the Committee of Ministers' Recommendation Rec (2006)2 on the revised European Prison Rules; indeed, the rule in the previous version of the Rules, stipulating that prison doctors must certify that a prisoner is fit to sustain the punishment of disciplinary confinement, has now been deleted. On the other hand, prison doctors should be very attentive to the situation of prisoners placed in disciplinary isolation/segregation cells, and should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in disciplinary isolation/segregation. The CPT calls upon the Serbian authorities to review the relevant regulations in line with the recommendation made by the CPT in paragraph 132 of the report on its 2004 visit. As regards the role of prison doctors in relation to disciplinary matters, regard should be had to the revised European Prison Rules (in particular, Rule 43) and the comments made by the CPT in its 15th General Report (see paragraph 53 of CPT/Inf (2005) 17)." CPT, Report on the visit to Serbia, 2007, p. 104.

307 Art. 57, Law on Execution of Criminal Sanctions: "While serving this disciplinary sanction, a doctor and educator

The role of a prison doctor in relation to disciplinary matters should be consistent with Rule 43.3 of the European Prison Rules.[308]

All injuries to **persons admitted to AECS** are thoroughly described and recorded in their medical records. Prison doctor keeps detailed records of objective medical evidence of a prisoner, including a brief reference to the allegations of that person, in most cases.[309] However, there is no conclusion as to whether the observed injuries are consistent with the allegations (i.e. whether they have occurred in the manner described by the injured person).

In its Report on the 2008 visit to Montenegro, the CPT stressed that "*the procedure as regards the recording of injuries is still not satisfactory. Prison doctors recorded the objective medical findings, in a more or less detailed manner, in the personal medical record of the prisoner concerned, and sometimes included a brief reference to allegations made by the person (e.g. "beaten by police officers in Podgorica"). However, there was no conclusion as to whether the injuries observed were consistent with the person's allegations (i.e. whether they could have been caused in the manner described). It is also noteworthy that the absence of specific registers of traumatic injuries observed on prisoners made it difficult to gain an overview of the situation. Moreover, notwithstanding the legal obligation to report criminal offenses pursuant to Sections 227 and 228 of the CCP, it appeared from conversations with prison doctors that they did not have a formal role in notifying a prosecutor of injuries observed on persons arriving from a police establishment.*

In the same paragraph, the CPT reiterated its recommendation from 2004: *"The CPT reiterates its recommendation that the record drawn up following the medical examination of newly-arrived prisoners contain:*

(i) a full account of statements made by the person concerned which are relevant to the examination (including his description of his state of health and any allegations of ill-treatment),

(ii) a full account of objective medical findings based on a thorough examination, and

(iii) the doctor's conclusions in the light of (i) and (ii), indicating the degree of consistency between any allegations made and the objective medical findings.

Whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record should be systematically brought to the attention of the relevant prosecutor. Further, the results of the examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the detained person and his lawyer at their request.

It is also important that no barriers should be placed between persons who allege ill-treatment and doctors who can provide forensic reports recognised by the prosecutorial and judicial authorities. It would appear from the information received during the visit that, at present, only courts may ask for a forensic medical examination. The CPT recommends that persons who are or have been

shall visit convicted person at least once per day."

308 "The medical practitioner shall report to the director whenever it is considered that a prisoner's physical or mental health is being put seriously at risk by continued imprisonment or by any condition of imprisonment, including conditions of solitary confinement." European Prison Rules, 43.3.

309 After visiting Montenegro in September 2008, in its Report the CPT described a case of abuse, where the injuries were recorded, but not the inmate's statement about the cause of the injuries: "Prison medical record contained a detailed description of the injuries observed by the prison doctor who had examined the inmate on 5 September 2008; however, there was no reference to the prisoner's allegations concerning the cause of the injuries." (p. 46).

detained be formally entitled to directly request a medical examination/certificate from a doctor who has received recognised training in forensic medicine.

We appeal that **all** recommendations outlined in the CPT Report after its visit to Montenegro in September 2008 be fully met. After the recording of injuries, medical record should include **all** the above information. Such report should be submitted to a competent prosecutor systematically. Also, the injured person should be able to seek medical examination from a doctor who has received recognised training in forensic medicine. This can make a positive impact on the overall quality of life in the establishment.[310]

Recommendations relate to the newly admitted persons and persons examined after the incident in prison.[311]

In the research conducted among inmates, monitors received **unsatisfactory** answers regarding the issues related to the engagement of the Healthcare Service after incidents in prison (injuries sustained by force).

To question no. 9: *If injured by the use of force, were you examined by a doctor?,* 70.6% of prisoners responded with no, and only 29.4% with yes. The respondents who replied to this questions said they had been harmed by the use of force by an officer and/or another prisoner (questions no. 2 and 6).

To question no. 10: *Were you satisfied with the provided medical help?,* of 37 respondents, 43.2% expressed satisfaction, while 56.8% affirmed dissatisfaction with the provided medical help.

Respondents not satisfied with the medical help have been offered an opportunity to explain their reasons for dissatisfaction.

Comments made in open form can be divided into:

Very negative comments on the professional work of doctors,

Very negative comments on the relation of doctors and other medical staff towards the inmates, Inefficiency and inexpediency of this Service.

To question no. 11: *If harmed by the use of force in AECS, did you or your family seek medical opinion from another doctor outside of AECS?,* of 114 respondents, 82.5% answered negatively and only 17.5% affirmatively.

Responses the monitors received to question no. 12: *Were you provided an opportunity to see another doctor?*, showed that the required medical examination had been provided only in 15.8% of cases, and rejected in 84.2% of cases.

Prison Healthcare service has a substantially large impact on the prevention of abuse through systematic recording of injuries to the newly admitted persons and to inmates during their stay

310 "Healthcare service in a given establishment can potentially play an important role in combatting the infliction of ill-treatment, both in that establishment and elsewhere (in particular in police establishments). Moreover, it is well placed to make a positive impact on the overall quality of life in the establishment within which it operates." CPT, 3rd General Report, 1992, p. 30.

311 CPT, Report on the visit to Latvia, 1999, p. 141.

in prison, in cases of violence among prisoners or injuries sustained by the use of force. This information should be systematically submitted to competent investigating authorities. The injured person should be allowed a second medical examination if requested. By building a relationship of trust with the persons deprived of liberty, they should be encouraged to without fear turn for help to a prison doctor whenever any kind of force has been applied against them.

It has been noticed that there is no separate register for recording traumatic injuries *observed on prisoners (upon arrival and/or during their stay in prison)*; *it is advisable to set up such register.*

Also, please note that in recent months the press media published articles about the complaints of sentenced persons (or their families) of inadequate medical care. Some of these cases, unfortunately, we could not evaluate ourselves. In some cases, there was an impression that the problem does not lie with the Administration (AECS), but the public health institutions that delay the receipt of persons in need of treatment/intervention, due to the lack of capacities and the like. Such situation is unacceptable. It is the duty of the state to provide the persons deprived of liberty as a minimum the same level of Healthcare as to free persons. All deviations from this principle can be considered inhumane and degrading treatment.[312]

6.1. Psychiatric care

A psychiatrist visits the prison twice a week, examining on average ten people per every visit.

According to official information obtained from AECS, convicted person who, while serving a sentence, becomes mentally ill or starts showing signs of severe mental disability or a person admitted to prison in such condition, while the establishment has no medical facilities, shall be placed in the appropriate medical institution for treatment and care. Decision on placement of the convicted person under paragraph 1 of this Article shall be made by the head of the establishment at the proposal of medical commission appointed by the Minister of Health. Medical expenses until the end of the sentence of the convicted person shall be borne by the establishment. Convicted person whose sentence ends during the course of treatment in the medical institution shall be recorded as discharged, and the competent social welfare institutions shall be informed of the place of his residence or stay, for further action in order to continue treatment or admission.

If the psychiatrist believes that a person needs consultative psychiatric examination (usually for a decision on possible transfer to civil psychiatric facility), that person is referred for examination to the above-mentioned commission appointed by the Ministry of Health, consisting of two psychiatrists and the prison doctor.

On 27 January 2012, after examination of nine persons, a decision was reached totransfer one of them from the prison to Special Psychiatric Hospital *Dobrota* in Kotor for hospitalization, because it was estimated that the mental state of that person required hospital treatment. Chief of the Healthcare Service informed the monitors that the person had been transferred from AECS to Special Psychiatric Hospital in Kotor the following day, 28 January.

312 "The CPT recalls that obliging prisoners to stay in an establishment where they cannot receive appropriate treatment due to a lack of suitable facilities or because such facilities refuse to admit them, is an unacceptable state of affairs which could amount to inhuman and degrading treatment." CPT, Visit to Ukraine, 2005, p. 115.

Capacity of the Judicial Department in the Special Psychiatric Hospital *Dobrota* in Kotor is limited. In addition, the protocol on the work of this department still does not exist.[313] AECS Healthcare Service staff informed us that it happens in practice that patients who require hospitalization are placed on a waiting list.

All persons deprived of their liberty who have serious psychiatric problems must be placed in appropriate institutions, whether civil psychiatric facilities or special psychiatric departments within the prison system. Whichever course is chosen, it should provide an emergency transfer, without waiting lists.[314]

We support the announced construction of the Special Hospital in AECS and consider it the matter of the highest priority. However, since its opening is expected in 2014, it is necessary to find an interim solution. One possibility could imply temporary use of the accommodation capacity of the former Special Hospital on the top floor of the Remand Prison building for accommodating inmates with mental health problems. Of course, the Administration should hire an adequate number of trained medical staff, because it is necessary that such persons are placed in the "medical" environment. In this way, optimum security conditions would also be met.

The Prison, i.e. the solitary confinement cell in the Remand Prison, currently accommodates M.Z., who was ordered by the court in late 2007 the measure of mandatory psychiatric treatment and care in a medical institution (Art. 69 of the Criminal Code of Montenegro. This is a person mentioned by the CPT in its Report after the 2008 visit to Montenegro in paragraph 68[315]: "...the delegation came across a mentally ill prisoner at the Remand Prison in Podgorica who had been sentenced to compulsory treatment but who nevertheless remained at the prison, reportedly because of the lack of a secure forensic psychiatric unit to which he could be transferred.

This person had been held in conditions of solitary confinement since January 2006; during the first 3 months, he had allegedly been handcuffed to his bed with both hands, and for the following 8 months, with one hand. After complaining to the Management, the prisoner had eventually been allowed to go out into the yard for some 15-20 minutes on certain days.

It is axiomatic that prisoners in need of hospital treatment should be promptly transferred to appropriate medical facilities. To keep a mentally ill person in a prison setting, in conditions of solitary confinement and without appropriate human contact and nursing support, may aggravate his illness and could easily constitute inhuman and degrading treatment. Moreover, handcuffing a prisoner to his bed or other immovable objects for such a prolonged period of time is totally unacceptable."

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313 Report on respect for human rights in psychiatric institutions in Montenegro, November 2011, available at: http://www.hraction.org/wp-content/uploads/Postovanje_ljudskih_prava_u_psihijatrijskim_ustanovama_nov2011.pdf.

314 CPT, 3rd General Report, 1992, p. 43: "A mentally ill prisoner should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. That facility could be a civil mental hospital or a specially equipped psychiatric facility within the prison system. On the one hand, it is often advanced that, from an ethical standpoint, it is appropriate for mentally ill prisoners to be hospitalized outside the prison system, in institutions for which the public health service is responsible. On the other hand, it can be argued that the provision of psychiatric facilities within the prison system enables care to be administered in optimum conditions of security, and the activities of medical and social services intensified within that system. Whichever course is chosen, the accommodation capacity of the psychiatric facility in question should be adequate; too often there is a prolonged waiting period before a necessary transfer is effected. The transfer of the person concerned to a psychiatric facility should be treated as a matter of the highest priority."

315 CPT, Report on 2008 visit to Montenegro.

Although the CPT strongly urged that the Montenegrin authorities take immediate steps to resolve the situation of M.Z. in terms of accommodation in a special psychiatric hospital, because the conditions in Podgorica Prison are not adequate for mentally ill inmates, this person is **still** in the solitary confinement cell in the Remand Prison.

More than four years have passed since the court ordered a measure of mandatory treatment of the convicted person M.Z. The fact that all that time M.Z. has been residing in prison conditions, without **constant** supervision of a psychiatrist[316], represents a form of torture or inhuman or degrading treatment prohibited by the Constitution of Montenegro and international agreements binding Montenegro.

In an official letter no. 04-7777/11 of 11 November 2011, the Ministry of Justice informed the Human Rights Action that this Ministry had submitted an appeal for transfer to Serbia of convicted M.Z. to the Ministry of Justice of the Republic of Serbia, taking into account the request of the above person to be transferred to Serbia for treatment. However, until the conclusion of this Report, on 8 June 2012, M.Z. was still held in AECS in the same conditions.

It is necessary to intensify efforts to urgently transfer this person to an appropriate institution for treatment and care. His further stay in AECS is absolutely unacceptable.

In the monitoring Report on respect for human rights in psychiatric institutions,[317] paragraph 6.1 describes a case of a mentally ill person F.S., who spent 18 bedridden days after being admitted to the Remand Prison, without a psychiatric examination. The Report recommends the Police Directorate, Ministry of Justice and courts to ensure that in every case of suspected mental condition of an offender, that person be examined by a psychiatrist and/or referred to an appropriate expertise in a psychiatric institution, while also noting that the practice of continuous fixation to bed is unacceptable.

However, despite this recommendation, on 23 February 2012 daily newspaper *Dnevne novine* issued the information that detainee A.Ž. stated before the investigating judge that he had been „fixated there" during the first two months of his stay in the Remand Prison. Expert witness gave an opinion that A.Ž. had a chronic mental illness - schizophrenia, and that at the time of the murder he had been unable to comprehend the importance of his act (daily *Vijesti*, 19 April 2012).

The monitoring team expresses its concern that the practice of prolonged mechanical restriction of freedom of movement of mentally ill persons in AECS is repeating. Decision criterion remains unknown, since the Prison does not have a register for recording the circumstances that led to the implementation of this measure. Are these the severity and type of the committed crime? Or person's behaviour on admission to prison, which indicates that a person is mentally ill? Whatever the background, this practice constitutes a violation of international human rights standards.

Prolonged fixation (18 days in the first case and even two months in the second case) is unacceptable. Duration of fixation should be as short as possible and that time should be measured in minutes, rather than hours.[318]

316 Please note that a psychiatrist, who comes to prison twice a week, occasionally visits this person. Commission established by the Ministry of Health does not visit this person during their visits to AECS.

317 Report on respect for human rights in psychiatric institutions in Montenegro, November 2011, available at: http://www.hraction.org/wp-content/uploads/Postovanje_ljudskih_prava_u_psihijatrijskim_ustanovama_nov2011.pdf.

318 The duration of fixation should be for the shortest possible time (usually minutes rather than hours). The ex-

*It is necessary to prevent the recurrence of the prolonged fixation of mentally ill persons in AECS, as this represents an example of **ill-treatment**.*

Agitated patients should be treated in a different environment, preferably hospital, and their freedom of movement in prison conditions should not be hindered.[319]

Furthermore, a special register should be introduced for accurately recording all cases of resorting to measures of physical (mechanical) restricting of freedom of movement.[320]

6.2. Prison hunger strike

The last "mass" hunger strike in AECS took place in February 2012. According to the Healthcare Service staff, it lasted a couple of days. Total of 136 people from the Remand Prison and 119 from the Institution for Sentenced Prisoners reported to the Healthcare Service staff they were on a hunger strike.

Reportedly, those days the Healthcare service was in a state of "readiness." All inmates who wanted so were examined at the beginning of the strike, and their body weight recorded. Most of the prisoners reportedly refused medical examination. Infusion therapy was given to all those who asked. There was no need for emergency interventions and "no one's health was jeopardized". No guidelines on action in the case of hunger strike has been provided by the Ministry (there is no protocol), nor have the employees considered that there was a need for such document, since they were familiar with the Malta Declaration[321] and the position the Healthcare service needed to take during the hunger strike.

As for "**sporadic**" hunger strikes, 67.7% of prisoners confirmed the hunger strike during the past month, while 32.3% of the surveyed population denied this (question no. 60). It may be concluded that prisoners go on hunger strike voluntarily. Of 239 people who responded to this question, only 1.2% joined the strike involuntarily (question no. 61: *Did you voluntarily agree to the hunger strike?)*

Answers to question no. 62: *Were you examined by a doctor during the hunger strike?* provided a different picture than that presented by the staff in the Healthcare Service. Only 8.8% of inmates who responded to this question (239) confirmed that they had been examined by a doctor, while a many as 91.2% of respondents denied contact with the Healthcare Service. Six convicts did not answer this question.

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ceptional prolongation of restraint should warrant a further review by a doctor. Restraint for periods of days at a time cannot have any justification and would amount to ill-treatment. CPT, Visit to Denmark, 2008, p. 71.

319 Regarding its appropriate use, immobilisation should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail satisfactorily to contain those risks; it should never be used as a punishment or to compensate for shortages of trained staff; it should not be used in a non-medical setting when hospitalisation would be a more appropriate intervention. CPT, Visit to Denmark, 2008, p. 71.

320 A special register should be kept to record all cases in which recourse is had to means of restraint; the entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by the person or staff. CPT, Visit to Liechtenstein, 2007, p. 47.

321 Declaration of Malta on Hunger Strikers was adopted in November 1991 by the 43rd World Medical Assembly in Malta and editorially revised at the 44th World Medical Assembly, Marbella, Spain, in September 1992, and revised again in October 2006 at the General Assembly of the World Medical Association held in South Africa.

Malta Declaration requires the performance of a detailed physical examination at the beginning of a hunger strike, but also further daily contact with the strikers. Full respect needs to be paid to all aspects of the Malta Declaration.

Law on Execution of Criminal Sanctions of Montenegro does not contain an explicit regulation providing for an adoption of a protocol that specifies actions of the Healthcare service in the event of a hunger strike, as well as of other AECS services, to ensure respect for human rights in this situation.

In order to adopt more precise regulation on a hunger strike of prisoners/detainees, it is necessary to amend the Law and introduce a provision that contains an explicit authority of the competent ministry to adopt a protocol which closely regulates the actions of the Healthcare service in the event of a hunger strike of prisoners/detainees. The protocol should apply to prisoners and detainees, who have a different position and rights under the criminal law, but are in a similar position during a hunger strike. ***It is particularly important to define the scope of doctor's examination to estimate somatic functions****. Precisely defined provision would ensure a detailed examination and uniform treatment in each individual case of a hunger striker in a penal institution. The protocol should emphasize the importance of keeping medical records, especially from the forensic point of view, in case of an unfavourable outcome (death of a striker).*

6.3. Hepatitis C

According to information received from employees in AECS Healthcare Service, a large percentage of convicted/detained persons is addicted to psychoactive substances. Some of these persons reported that they had been diagnosed with hepatitis C upon the admission to the prison. During their stay in prison these persons have not been referred to further diagnostic evaluation, or consequently the treatment that they needed. Also, a number of persons reasonably suspected to be the carriers of hepatitis C virus have not been tested. Reportedly, the reason for such situation was of financial nature. However, it has not been clearly established who would bear the costs of diagnostic evaluation and possible treatment.

Taking into account all financial difficulties Montenegro is facing, it is still the country's duty to provide the necessary care which calls for effective methods of prevention, screening, and treatment to all persons deprived of liberty.[322]

Such unacceptable situation began to change for the better in March 2012 when the Institute of Public Health conducted a study on the presence of HIV and viral hepatitis B and C among inmates.

The study involved 309 volunteer prisoners.

„The main goal was to test a representative sample of the prison population to obtain data on the prevalence of HIV, viral hepatitis B and viral hepatitis C, as well as socio-demographic

322 The CPT is aware that in periods of economic difficulties - such as those encountered today in many countries visited by the CPT - sacrifices have to be made, including in penitentiary establishments. However, regardless of the difficulties faced at any given time, the act of depriving a person of his liberty always entails a duty of care which calls for effective methods of prevention, screening, and treatment. Compliance with this duty by public authorities is all the more important when it is a question of care required to treat life-threatening diseases. CPT, 11th General Report, 2001, p. 31.

and behavioural characteristics, as a basis to develop targeted and data-based programs for the prevention and control of these infections among inmates. This was an anonymous behavioural-biological study which has so far been conducted in many countries in epidemiological studies of HIV in the inmate population", stated the representative of the Institute of Public Health.[323]

Monitors have been informed that the Ministry of Health and AECS established an agreement that all the prisoners that report positive test results to the prison doctor shall be subjected to appropriate treatment.

Also, we have been informed that one prisoner is soon to start treatment for hepatitis C at the Clinic for Infectious Diseases of the Clinical Centre of Montenegro, after a biopsy of the liver.
Treatment costs will be borne by the Health Insurance Fund of Montenegro.

We commend the efforts of the relevant institutions in overcoming the recent unacceptable situation and appeal that all persons suffering from Hepatitis C are provided the necessary treatment.

6.4. Treatment of psychoactive substance abusers

The presence of a large and growing number of prisoners with addiction brings more difficulties for the prison Management, from the health, but also the security standpoint.[324] Availability of drugs in prisons undermines the overall quality of life in prison, and may adversely affect the work motivation of individual guards. The problem can not be solved solely by applying security measures that reduce the supply of drugs into prison. Efforts must be directed towards reducing the demand for drugs, which can be achieved only by offering different treatment options.

In is not easy to provide a simple single answer to a question of how to adequately help prisoners with addiction. Admission to prison is a good opportunity to begin addressing this issue, thus adequate medical care must be available. Offered treatments should include detoxification programs, as well as substitute programs for those in need. They must be accompanied by intensive psycho-social and educational programs. Of course, the staff should be trained on topics regarding psychoactive substance abuse.

With therapeutic programs, prisoners should be offered an opportunity to acquire skills that would help them lead socially adapted life after their release from prison.

It is very important that the prison management make efforts to enable the persons who do not have a problem with drugs, as well as those who have established abstinence from drugs, the stay in the environment "clean" of drugs.[325] This reduces the risk with the first category to develop addiction while serving a sentence and helps prisoners from the second category to maintain the

323 Daily *Vijesti*, 23 May 2012.
324 See the Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012, p. 150, for information that every year the number of drug addicts in AECS increases.
325 "It is important that the prison authorities make efforts to provide an environment in which prisoners without drug problems do not develop them and those who have such problems are helped to overcome them." CPT, Report on the visit to Ireland 1998, p. 82. "The setting up of a drug-free wing in prisons for certain categories of prisoners, inter alia those having completed treatment programmes prior to or during imprisonment, might also be considered." CPT, Report on the visit to Greece 2009, p.139.

established drug abstinence. Stay in drug free units is regulated by special agreements specifying the obligations of both parties (consent to testing for psychoactive substances and, on the other hand, certain privileges as long as the convict respects the prescribed rules).

Inmates who enter prison with the problem of drug addiction are offered only the symptomatic treatment (medications for pain, diarrhea, insomnia). Prisoners who had already been on the methadone program in one of the three methadone centres in Montenegro are enabled to continue the treatment, which is commendable[326] and this practice should continue, with the need to consider the possibility of introducing substitution therapy in the very prison.

As of February 2010, NGO 4Life has been implementing the program of rehabilitation and social reintegration of substance abusers. Group therapy is conducted twice a week and led by former addicts, a psychologist and a social worker. For more than a year, this program takes place on a voluntary basis.

We recommend:

• Provide continued education of prison staff on topics related to drugs, as a precondition for constructive and supportive relations with the addicted population.

• Maintain the continuity of education and counselling programs for prison population.

• Establish a Drug-free unit.

• Expand therapeutic offer for those who enter the prison with the dependence.

• Provide state financial support to NGO projects related to education, rehabilitation and re-socialization of psychoactive substance abusers.

6.5. Bijelo Polje Prison

Medical staff consists of 2 medical technicians who work full-time in day and night shifts. There is also a doctor, available for urgent cases. Medical examination of newly admitted persons is performed on the day of admission to prison.

Office where examinations are performed does not have an ECG machine.

We suggest that the medical office be equipped with ECG machine.

Dental office started operating and equipment is satisfactory.

Specialist examinations are conducted in the local Healthcare centre.

Medical record is opened upon admission. Confidentiality of medical records is respected.

In case of recording injuries at admission to the prison, these are entered in the personal health record. Register for recording traumatic injuries has not been established.

326 "The CPT considers that the practice of stopping methadone maintenance from one day to another is neither humane nor best medical practice." CPT, Report on the visit to Bosnia and Herzegovina 2009, p. 31.

We propose the introduction of a special register for recording traumatic injuries, both on admission to prison and during the stay in prison.

The physician is required to declare whether a person is "capable" of undergoing the enforcement of a disciplinary measure of solitary confinement. *We recommend that this practice be changed in accordance with the revised European Prison Rules, as specified.*

Monitors have not received complaints of detainees about the medical service treatment.

We recommend:

• Number of medical technicians is still below the optimal level and needs to be doubled.

• In order to stimulate health professionals to work in prison conditions, it is necessary to offer them a contract of indefinite duration and other benefits (higher salary coefficient for work in difficult conditions, longer vacations, etc).

• Hire a psychologist who would be a part of the Healthcare Service and whose primary task would imply psychotherapeutic work with detainees and prisoners.

• Increase the number of psychiatrist's working hours, since the existing engagement twice a week for several hours is insufficient.

• Provide at least two additional ECG machine, a device for defibrillation and equip a mini laboratory.

• Expressly prescribe the right of prisoners to access their medical records, which may be restricted only in exceptional cases, when contraindicated for therapeutic reasons.

• The existing practice where a guard attends medical examination of prisoners should be changed immediately. It would be advisable to install security alarms in examination rooms, which would enable health professionals to call for help if a patient becomes violent or tries to escape.

• Medical findings after recording injuries should contain all necessary information, as recommended by the CPT. Such records should systematically be brought to the attention of the competent prosecutor. Also, the injured person should be entitled to request a medical examination from a doctor who has received recognized training in forensic medicine.

• Establish a separate register for recording traumatic injuries observed on prisoners (upon the admission and/or during their stay in prison).

• Prevent recurrence of cases of prolonged fixation of the mentally ill in AECS, as this represents an example of abuse.

• Urgently refer M.Z. to treatment and care in an appropriate institution in the country or abroad.

• Consistently comply with all aspects of the Malta Declaration. Amend the law and specifically authorize the competent ministry to adopt the protocol on a manner of conduct of the Healthcare

Service in case of a hunger strike of inmates (both detained and convicted persons). It is particularly important to define the scope of doctor's examination in assessing somatic functions.

• It is advisable to equip the medical office in Bijelo Polje Prison with ECG machine.

• It is advisable to introduce a special register to record traumatic injuries, both on admission to prison and during the stay in prison.

• Make sure that the doctor in charge of the prisoner does not declare whether that person is capable of serving the disciplinary measure of solitary confinement.

• Without further delay, enable the treatment in the hospital for infectious diseases to all persons suffering from Hepatitis C, in accordance with doctor's recommendations.

• Provide the training for prison staff on topics related to drugs.

• Maintain the continuity of educational and counselling programs for prison population on the problem of substance abuse.

• Establish a Drug-free unit.

• Expand therapeutic offer for those who enter the prison with the dependence.

• Provide state financial support to NGO projects related to education, rehabilitation and resocialization of substance abusers.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 96, 99, 100, 101, 102, 104, 105 and 107-116).

7. TREATMENT

7.1. Treatment of detained persons

According to the CPT standard, one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature.[327] "Prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells, and this regardless of how good material conditions might be within the cells."[328]

In remand prisons in Podgorica and Bijelo Polje treatment of detainees is extremely poor, in addition to bad material conditions in the cells.[329] Detainees are subjected to far less favourable regime compared to sentenced persons, they are not offered employment or educational trainings, there are no organized activities outside the closed cells in which they reside. The only activity practiced outside their cells is a stay in the fresh air twice a day for 30 minutes, which is in accordance with minimum international standard.[330] However, the Criminal Procedure Code guarantees *at least two hours a day in the fresh air, within the prison* (Art. 182, para. 2), but this provision is not applied in practice. ***It is necessary to provide the conditions for the consistent application of this right of detained persons guaranteed by law in the shortest time possible.***

The said activity is not carried out on Fridays, because, according to the staff, "it is physically impossible to organize and incorporate both the visits and walks of detainees."[331] It should be noted that the visits are always organized in a closed room. In case of bad weather conditions, a large number of detainees do not use this right, because the paths for this purpose are not covered. The same situation was found during the 2008 visit of the CPT.[332] On this occasion, the CPT noted that, if necessary, the legislation should be amended in order to review the regime of remand prisoners and ensure that all remand prisoners are offered the possibility to spend a significant portion of time out of their cells engaged in purposeful activities of different types (work, education, sport, recreation/socializing, etc).[333]

Remand prisons in Podgorica and Bijelo Polje do not have common areas; detainees are forced to spend their days in the cells which are not spacious enough. Unfortunately, detainees spend most of their free time doing nothing, watching TV or playing card or board games (monopoly). For comparison, in detention at the prison Koper in Slovenia 12 detainees were employed and all detainees had the opportunity to spend 4 hours every day outside of their cells, in the gym or yard, practicing team sports.[334] There is no in gym in the Remand Prison in Podgorica; detained

327 The CPT standards, p. 47.
328 Ibid.
329 More on accommodation conditions in detention in the section Accommodation conditions.
330 According to the CPT standards, p. 48 and European Prison Rules, p. 27.1.
331 Monitoring visit to the Remand Prison conducted in January 2012, Podgorica.
332 "The only out-of-cell activity available to them was outdoor exercise taken in two 30-minute periods (however, exercise was apparently not available on Fridays)." CPT, Report on 2008 visit to Montenegro, p. 57.
333 CPT, Report on 2008 visit to Montenegro, p. 58.
334 "As regards remand prisoners, 12 of them had a job. The remainder could spend up to four hours a day outside their cells (from 8 to noon), using the fitness rooms, taking outside exercise or associating with other remand prisoners. The CPT welcomes this approach and hopes that efforts will continue to be made to develop the regime of activities for remand prisoners at Koper Prison." CPT, Report on the visit to Slovenia, 2006, p. 65.

persons have fitness equipment in their rooms (dumbbells and bars brought from home), where they exercise.

Work engagement of detainees is not common in practice, although envisaged in the European Prison Rules and national legislation.[335] At the time of the monitoring visit to Podgorica Remand Prison, only two persons have been engaged as assistant cooks, delivering meals to detainees. ***It is necessary to revise the overall treatment of detainees, provide them with the possibility of work engagement and spending a portion of their free time in purposeful activities, in accordance with international standards.***

7.2. Treatment of sentenced persons

European Prison Rules emphasize that imprisonment is a punishment in itself by the deprivation of liberty and therefore the regime for sentenced prisoners must not aggravate the suffering inherent in imprisonment.[336]

The regime for sentenced prisoners includes: work, education, other activities and preparation for release.[337] In addition, the national Law on Execution of Criminal Sanctions stipulates that the purpose of imprisonment is to "deter the offender from future crimes, strengthen morale and influence the development of social responsibility, i.e. teach persons to live in freedom in accordance with the law and generally accepted rules".[338] During the monitoring, the team gained the impression that in AECS insufficient attention is paid to the achievement of the above purpose of serving a prison sentence, as explained below in more detail.

One of the major issues regarding the implementation of quality treatment of sentenced persons in AECS is the lack of sufficient number of qualified staff in the Treatment Sector. Educational groups are extremely numerous. Section for the treatment implementation[339] employs eight educators, the Prison for short sentences two educators[340], of the following professional backgrounds: special education teachers (defectologists), social workers, psychologists and pedagogues. According to the Head of the Treatment Sector, the optimal number of sentenced persons in one educational group that one educator is responsible for should be 35-40. However, educational groups in Podgorica Prison have 60 to 100 prisoners. In Bijelo Polje Prison situation is even worse - educational group has about 150 prisoners. This definitely has a negative impact on the quality of their treatment; it is directly reflected in the number and duration of individual interviews, as well as the organization of group work with prisoners. According to the Head of the Treatment Sector, due to that very fact, the work of educators mostly entails helping sentenced persons solve a variety of everyday issues

335 "Untried prisoners shall be offered the opportunity to work but shall not be required to work." European Prison Rules, p. 100.1. According to Art. 182, para 5 of the Law on Execution of Criminal Sanctions: "Detained person may be required to perform the work necessary to maintain the cleanliness of the room in which he resides. If so required by a detainee, the investigating judge or the presiding judge, in agreement with the prison Management, may allow him to work within the prison on jobs appropriate to his mental and physical characteristics, provided that it is not detrimental to the proceedings. For such work a detained person is entitled to compensation as determined by the person managing the prison."

336 European Prison Rules, p. 102. 2.

337 European Prison Rules, p. 103. 4.

338 Law on Execution of Criminal Sanctions, Art. 14.

339 Section for the treatment implementation and Section for personality examination operate within the Department for Treatment (Institution for Sentenced Prisoners).

340 In AECS educators are commonly referred to as "professors".

and problems. ***It is necessary to employ a minimum of five more educators in the Section for the treatment implementation in Podgorica Prison and three educators in Bijelo Polje Prison.*** Former sentenced persons, as well as those currently in prison, informed the monitors that the role of an educator usually implies helping prisoners in the writing of appeals and requests: "The professors are just postmen, it all comes down to submission of appeals…".[341]

In the survey[342] conducted among the sentenced persons in Podgorica, to question no. 45: *When you ask to speak with the professor, do you wait a long time?*, 39.3% of respondents answered affirmatively and 60.7% negatively. Opinions of the former interviewed convicts on this issue are also divided – 5 of them said they had waited for a long time to have a conversation with the professor, while 6 answered negatively. In an open form, prisoners express very different experiences regarding their contact with the professor.

Most sentenced persons interviewed by monitors in the presence of AECS staff stated that their relationship with educators is good, that they are able to discuss various issues with them, that educators support them and help them within their mandate. Results of research conducted among sentenced persons in the Podgorica Prison show that more than one quarter (26.3%) of respondents assessed their relationship with educators as poor, half (51%) as good and 22.7% as excellent. In the Prison for short sentences, only 8.3% rated their relationship with educators as excellent, 51.4% rated the relationship as good, and as many as 40.3% as poor. In an open form, inmates provided different answers - some were very satisfied and expressed their compliments while others were rather unhappy and critical. Of 11 former convicts the monitors interviewed, five of them believe that their relationship with educators was bad, four that it was good, while only two assessed the relationship as excellent. Answers to this question are obviously based on a subjective judgment, but in interviews with current and former sentenced persons it has been noticed that certain educators enjoy exceptional respect, unlike others who are much less favoured.

Complaint of a prisoner from the Prison for short sentences in Podgorica, with whom the monitors spoke, refers to the fact that "some professors do not submit letters to the Director". The prisoner claims that he does not receive responses from those that he addresses his appeals, complaints or requests to. However, these claims may not be accurate, because of the possible tardiness of persons the requests have been addressed to. The practice of educators submitting letters of sentenced persons to the prison authorities should be abolished, as it can lead to distortion of the trust relationship which must exist between the professor and convicted persons. ***It is advisable to set up mailboxes in each prison unit or establish a service where prisoners could submit their letters, appeals and requests for the Management and receive a confirmation with the filing number.***

We believe that a major problem in the functioning of the Section for the treatment implementation is the lack of clear division of work in accordance with the occupational profile of each educator. Work of an educator is performed by special education teachers, psychologists, pedagogues and social workers, while each educator has their own educational group. There is no initial training and educators rely solely on the knowledge gained during their studies. Based on interviews with persons serving a prison sentence and former prisoners, as well as the results of

341 Interview with the former convicts Ž.Š., S.M. and B.B. in March 2012.

342 Research "Respect for human rights in the Administration for Execution of Criminal Sanctions – views of inmates", March/April 2012, Podgorica. Statistical analysis of the data was carried out by Dr. Olivera Komar and Radmila Bogojević from the Faculty of Political Science.

anonymous survey, it has been concluded that prison educators also provide legal advice. One of the comments on the work of educators was: "He was poorly informed about law and could not answer anything with certainty". Providing legal advice should in no case be educators' job. In the German prison system each expert carries out a portion of work he/she is specialized for, while there is also team work of all those involved in the treatment of prisoners. "Pedagogues-teachers lead trainings and manage prison library, conduct courses and seminars, coordinate and plan leisure time. Pedagogues also participate in additional education of prison staff. Psychologists have an important role in the treatment of prisoners through applying specific therapeutic methods (discursive therapy, behavioural therapy, counselling, etc.). Essentially, psychologists perform individual and group therapy treatment, psycho-diagnostic and prognostic activities and the like. Social workers and social pedagogues are the most numerous professions in the social service, they provide social aid to inmates while in the institution, as well as after their release from prison."[343] It is necessary to develop a similar treatment implementation system in AECS, ***with integrated and functional treatment of prisoners and clearly defined scope of work for all employees, where everyone would perform duties they are qualified for.*** Also, it is necessary to organize ***continuous training for employees in the Section for the treatment implementation on new methods of work, because the personality profile of prisoners is changing, as well as training for early detection of mental disorders and suicide risk in inmates. During an interview with the educators, monitors concluded and wish to herein emphasize that they are very willing and open to all kinds of training and study visits that would contribute to their professional development.***

A particular problem is the treatment, and, in general, the position of foreign prisoners who serve their sentences in AECS. Because of the language barrier and the fact that AECS does not provide an interpreter, or even translation of the House Rules, people who speak foreign languages are not included in the otherwise poor activities, making the position and imprisonment of these individuals extremely difficult. An especially difficult circumstance is their inability to communicate with the group, causing these persons to become lonely, isolated and left to themselves. These facts have been established during an interview with a Romanian citizen serving her time in prison Podgorica. ***It is necessary to offer foreign prisoners the same activities and work engagement as to other prisoners by engaging an interpreter. It is necessary to provide additional support to overcome isolation and improve difficult position of these persons which are the result of language and cultural barriers. Provide for translation of the House Rules in several languages.***

During an interview with staff of the Treatment Sector, monitors learned that due to the scope, complexity and difficulty of their work, they are exposed to professional stress on a daily basis. At the same time, not one professional supervision program has been implemented so far,[344] nor the program for preventing burn-out syndrome, which occurs as a result of professional stress. There is no evaluation of the treatment of sentenced persons, necessary to determine the appropriateness of planned activities and their impact on social rehabilitation of sentenced person and reduction of recidivism. ***Organization of such professional programs would raise the level of professionalism and improve the treatment of persons deprived of their liberty.***

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343 Basic Characteristics of the Penitentiary System in Germany, Zoran Stevanović, p. 175, udk: 343. 291 (430), Institute for Criminological and Sociological researches, Belgrade, 2008.

344 Supervision is a professional intervention necessary in the professional development of those who work directly with people and one of the key methods for ensuring development and providing quality service in the field of helping professions ("helpers"- experts in humanities who work directly with people).

7.2.1. Admission of sentenced persons

According to the European Prison Rules, as soon as possible after the admission, reports shall be drawn up for sentenced prisoners about their personal situations, the proposed sentence plans for each of them and the strategy for preparation for their release.[345]

Persons sentenced to imprisonment for more than six months are referred to the Section for personality examination, which is a part of the Treatment Sector, and consists of: Section Head, psychologist, social worker and criminologist. According to the Law on Execution of Criminal Sanctions, personality examination of sentenced persons may last up to 30 days.[346] Persons serving a sentence of less than six months are immediately referred to the Prison for short sentences in Podgorica or Bijelo Polje Prison, where the process of personality examination involves only a special education teacher who is the only person employed in the Treatment Sector in this Prison.

In the Section for personality examination, the above experts conduct criminological, psychological, pedagogical and sociological examination of personality. According to the Head of the Treatment Sector, this part of the treatment is conducted "professionally and adequately", despite the fact that during the past year the expert team composition changed even three times due to the difficulty of work and low wages.[347]

In an interview with a female prisoner, the monitors learned that the experts involved in examining personality visited the said prisoner only on 28th and 29th day of her stay in the admission department and that interviews with each of the experts lasted from 30 minutes to one hour. Similar responses on the duration and number of interviews in the admissions department were received from other interviewed convicts and former convicts.[348] One of the former prisoners specifically stated: "The sessions are never individual, but always in a group of five to six people. Afterwards we are referred to one of the three units (A, B, D)."[349] Individual reports developed in the process of psychosocial diagnostics of sentenced persons[350] are forwarded to the Section for the treatment implementation. The report that monitors had access to satisfied the intended form, but it is questionable whether such a complicated process as personality examination can be carried out successfully based on one or two interviews with each expert, especially given the psychological state of persons who have just arrived at prison. Unduly long stay at the admissions department and small number of interviews is justified by the Treatment Sector with insufficient number of employees in the Section for personality examination, who, due to the large inflow of convicts, cannot physically achieve a higher level of work efficiency. ***To achieve higher quality and efficiency of the personality examination process, it is necessary to employ three more persons of appropriate professional profile in the Section for personality examination.***

345 European Prison Rules, p. 103.2.
346 Law on Execution of Criminal Sanctions, Art. 32.
347 Interview with the Head of the Treatment Department, November 2011.
348 Mentioned information was confirmed by a number of convicts and 11 former convicts of Podgorica Prison.
349 "One in four prisoners in Spuž are recidivists", Aida Sadiković, *Vijesti,* 15 April 2012.
350 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012, p. 71.

7.2.1.1. Classification groups

House Rules for Enforcement of Prison Sentences stipulate that convicted persons shall be classified into one of the five classification groups (Art. 16-22). However, there are only four classification groups in the Institution for Sentenced Prisoners:

- I classification group – the Semi-open unit,

- II and III classification group – persons from these two groups are placed in the closed part of the Institution for Sentenced Prisoners, the so-called "circle". However, both the prisoners and staff in the Treatment Sector confirmed that there is no difference in treatment between these two groups, except that "the second group is a step closer to the Semi-open unit", and

- IV classification group – persons repeatedly punished for disciplinary offenses.

Open unit does not exist in AECS practice, although the House Rules provide that convicted persons in I classification group are placed in this unit.[351] The lack of open unit, where the prisoners would be prepared for their release from prison, contributes to their more difficult position in society after leaving AECS.[352]

Convicted persons are referred to one of the four classification groups based on the results of personality examination, length of sentence, type of offense, prior convictions, personal characteristics and manner of arrival to prison.

Transition from one classification group to another depends on the Treatment Sector decision, which is based on the behaviour and conduct of a convicted person, commitment to work, achieved degree of treatment implementation and length of time served, with the prior opinion of the Security Sector and the Sector for employment of prisoners.[353] Several convicts complained about educators' objectivity when making decisions on re-categorization or delay in making a decision. In mid-April 2012, a prisoner went on hunger strike because he had not been referred to a more favourable classification group.[354] However, an inmate has the right to file an appeal or complaint to the Chief of the organizational unit if he finds that his rights have been violated, or because of irregularities committed against him;[355] he also has the right to address an authorized official of the Ministry of Justice, who supervises the legality of the enforcement of a prison sentence.[356] The Report of the Government states that the complaints of inmates referred to "unequal position of certain convicts with regard to non-compliance with the criteria for classification and reclassification of inmates into one of the four classification groups, as well as to changes to the treatment of inmates from the closed to semi-open unit of the Institution for Sentenced Prisoners".[357] Convicted person may institute an administrative dispute before the Administrative Court against the decision

351 Art. 17, House Rules for Enforcement of Prison Sentences in AECS, Podgorica, August 2011.
352 See Postpenal treatment below.
353 Art. 22, House Rules for Enforcement of Prison Sentences in AECS, Podgorica, August 2011.
354 Daily *Vijesti*, 17 April 2012, p. 15.
355 Art. 26, House Rules for Enforcement of Prison Sentences in AECS, Podgorica, August 2011.
356 Art. 31, House Rules for Enforcement of Prison Sentences in AECS, Podgorica, August 2011.
357 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012, p. 34.

of the Ministry of Justice. To our knowledge, as of early 2010 there was only one case of a prisoner addressing the Administrative Court.

In Serbia, this problem has been addresses following the example of the practice in European prisons, by preparing questionnaires with clearly established criteria, each one of which is scored. Transfer from one to another classification group depends on the number of points "won". The questionnaire is public and available to all prisoners, so that they can calculate how many points they have earned, i.e. which classification group they should be referred to.[358] ***We believe that the introduction of such a system of objectification of the criteria would be motivating for prisoners.***

7.2.2. Work engagement

European Prison Rules emphasize that prison authorities should strive to provide sufficient work of a useful nature.[359]

During the stay in the admissions department, convicted persons declare whether they wish to be employed. Convict can change this decision during the stay in prison. According to information received from AECS Management and staff, inmates who want employment wait no longer than a month or two upon the admission for vacant position. However, this information has not been confirmed by convicts.

During one of the visits to units B and D, monitors had a chance to visit most of the rooms, which accommodated a large number of unemployed prisoners. One inmate stated that he had been "there only about 6 months," knowing that he would have to wait longer for a job vacancy. Information obtained from other prisoners also suggests that they usually wait long time for employment. On average, one to two inmates per room are employed (rooms in these units accommodate four to six prisoners) and they were not in their rooms during the visit. When asked whether they want to work, about 2/3 of the total number of prisoners who were in the rooms provided affirmative answer, stating that they have no options, while 1/3 was not interested in employment.

The results of an anonymous survey among sentenced persons in Podgorica show that 88.9% of respondents want to be employed, while 11.1% do not. Respondents who answered affirmatively were asked whether they had been provided an opportunity to work, and 61.6% of them responded yes, while 38.4% respondents said no. In the Prison for short sentences in Podgorica, 78.4% of prisoners said that they had been provided an opportunity to work and 21.4% not, even though they had been interested in work. All eleven former prisoners interviewed by monitors said that they wanted employment, but that only five of them had been engaged. One of them said: "Getting a job in AECS is the same as on the outside: if you know someone, you work...".

According to the Head of the Treatment Sector, 300-320 convicts are employed and the percentage of employed convicts is constantly around 50%.[360] Convicted persons are engaged in one of the workshops (tinsmith, locksmith, carving, carpentry, hairdressing),[361] as construction workers on the reconstruction of Podgorica Prison, in prison units and administrative building as

358 Interview with Žarko Marković, Belgrade Centre for Human Rights monitoring team coordinator, April 2012.
359 European Prison Rules, p. 26.2.
360 This information was confirmed by AECS Management in the letter of 25 May 2012.
361 See section Accommodation conditions, workshops description.

watchpersons, gardeners, assistants in the kitchen and on farms within "economy".[362] The issue of insufficient capacity for work engagement of sentenced persons has also been confirmed by employees of the Treatment Sector.

Based on interviews with prisoners and staff in Podgorica Prison, it has been concluded that many inmates in fact work on improvised and temporary jobs. For comparison, an international study has shown that in Croatia as many as 83.7% of prisoners are employed, in England 68.6%, in Denmark 68.5%.[363]

In an interview, AECS Director informed the monitors about the plan to modernize and expand workshops within the Institution for Sentenced Prisoners. However, AECS Management made the same promise to the CPT delegation in September 2008: "The delegation was informed of plans to refurbish more workshops (the aim being to engage up to 80% of inmates in work activities), extend the farm within the establishment's perimeter and build a greenhouse for growing vegetables, set up a computer room and construct a new gym."[364] It has been three years since the promise, and the farm within the institution's perimeter has not been expanded, but, on the contrary, significantly reduced. During the visit to "economy"[365] monitors were told that at present there are 1500 laying hens, and that this number varies from 1500 to 1700. Earlier, there used to be between 10 000 and 12 000 laying hens on the farm, and town markets had separate stalls for the sale of eggs from this farm. According to the Chief of the Institution for Sentenced Prisoners, the farm was not economically viable. AECS has a greenhouse, but small one, although there is plenty of unused outdoor space for this purpose, as well as for the expansion of farms. The Government should order the development of a ***business plan for the expansion of production in AECS***, if AECS itself cannot set aside funds for this purpose. A team of professors and students from the faculties of economics could be engaged for this purpose. ***Expansion of existing farms would have multiple benefits – it would contribute to better treatment of inmates through the possibility of employment of all interested inmates, and the products could be used to supply AECS and other public institutions, for example Public Institution "Komanski most" etc.***

In prison in Bijelo Polje, where prisoners serve sentences of up to 6 months, the number of employed sentenced persons ranges from 20 to 30, and this possibility has only been provided to persons placed in the Semi-open unit, about 50 of them. Overall number of convicts in this prison is around 80, indicating that the percentage of employed persons is even lower than in Podgorica. According to educators, during the implementation of the treatment of sentenced persons, the aim is to employ as many sentenced persons as possible, even if only periodically. Prisoners are employed at the following positions: watchperson, gardener, assistant in the kitchen and the cafeteria, locksmith, plumber and painter. There is a high demand for construction material in the northern part of Montenegro, especially for concrete elements, ***so it would be advisable to buy a machine for the production of concrete blocks to increase the possibility of engaging prisoners through profitable activity***, as suggested by employees. ***Also, it is necessary, in accordance with law, to enter into an agreement with a company that would buy derived products.*** This idea existed in the past, but was abandoned because of the pending Prison reconstruction plans.

362 See section Accommodation conditions, farms description.

363 "Long-term Imprisonment and Human Rights – Findings of an International Study", p. 16, Author: *Kirstin Drenkhahn,* Project Leaders: *Frieder Dünkel, Kirstin Drenkhahn* and *Manuela Dudeck (University of Greifswald, DE),* with financial support by the AGIS Program European Commission – Directorate General Justice, Freedom and Security, 2006.

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

365 Monitoring visit conducted in December 2011.

Prisoners have the right to compensation for their work, which, according to the Law on Execution of Criminal Sanctions, amounts to at least 50% of the guaranteed earnings in the state.[366] However, the House Rules for Enforcement of Prison Sentences in AECS provide for an illicit and less favourable solution, under which the compensation must amount to at least 30% of the minimum wage.[367] In a written response from AECS it has been explained that the level of compensation for employed prisoners is 50% of the minimum wage if the conditions are met, as well as the standards and number of hours spent at work. However, such a definition regarding the compensation for work does not exist in the House Rules. ***Bylaw can not diminish the rights guaranteed by the law, so it is necessary to amend the House Rules for Enforcement of Prison Sentences in line with the Law on Execution of Criminal Sanctions.***

According to a written reply of AECS Management, salaries of employed sentenced persons range from 30% to 70% of the minimum wage.[368] Monitors have received complaints from former sentenced persons that the amount of compensation for their work in Podgorica Prison had not been in accordance with the law. Former female convict noted: "My salary was so small, maybe about 20 euros a month, I do not know. I never knew when the payday was. My mother would give me money to spend in the canteen."[369] Another former prisoner said: "Employees in the cafeteria, who work almost 12 hours a day, receive the highest salary, between 50 and 70 euros a month. Others earn about 20 euros a month, and electricians and other craftsmen around 50 euros."[370] According to AECS Director, convicted persons who are occasionally engaged as watchpersons earn 36.5 euros per month, while those working in construction, such as carpenters, locksmiths, receive compensation of up to 100 euros per month.[371] It is necessary to ensure that the engaged prisoners are paid for their work in accordance with the Law on Execution of Criminal Sanctions.

House Rules for Enforcement of Prison Sentences provide for employment of convicted persons outside the Institution, if they are placed in an open unit.[372] Since there is no such unit in AECS,[373] no prisoner is employed outside AECS, although such practice had previously existed, according to the Head of the Treatment Sector. For example, in the Institution for Sentenced Prisoners in Mostar, Bosnia and Herzegovina, in this way, 18 prisoners were engaged outside the prison. After an approval from the relevant institutions, a convicted person enters into a contract with a company outside the Institution, with the possibility of extending the contract after the execution of the sentence.[374] ***It is necessary to re-introduce this practice in AECS, establish cooperation with some companies, in order to employ convicted persons outside the prison as well. Employment outside the prison would have multiple benefits, both during incarceration and after release.***

7.2.2.1. Work engagement of female prisoners

CPT Standards (p. 25) state that "women deprived of their liberty should enjoy access to meaningful activities (work, training, education, sport etc.) on an equal footing with their male counterparts. It is also pointed out that CPT delegations all too often encounter women

366 Art. 38, Law on Execution of Criminal Sanctions.
367 Art. 64, House Rules for Enforcement of Prison Sentences in AECS, August 2011.
368 Official letter from AECS of 25 May 2012.
369 Interview with former female convict, April 2012.
370 "One in four prisoners in Spuž are recidivists", Aida Sadiković, *Vijesti,* 15 April 2012.
371 Monitoring team visit, February 2012.
372 Art. 57, House Rules for Enforcement of Prison Sentences in AECS, August 2011.
373 See section 5.2.1.1., Classification groups.
374 Special Report on the state of human rights in institutions for execution of criminal sanctions in Bosnia and Herzegovina, Institution of Ombudsman for Human Rights in Bosnia and Herzegovina, September 2009, p. 33.

inmates being offered activities which have been deemed "appropriate" for them (such as sewing or handicrafts), whilst male prisoners are offered training of a far more vocational nature. In the view of the CPT, such a discriminatory approach can only serve to reinforce outmoded stereotypes of the social role of women. Moreover, depending upon the circumstances, denying women equal access to regime activities could be qualified as degrading treatment.[375]

Complaints of female inmates in Podgorica Prison mostly relate to the lack of opportunities for employment. In its report on the 2008 visit, the CPT concluded that work opportunities for female prisoners remained the same as described in the report on the visit in 2004, and included workshops for sorting eggs and a sewing machine.[376] Unfortunately, three years after the CPT visit the situation in this area worsened, so instead of being extended, there are no more workshops for sorting eggs or sewing. Female convicts have far less employment opportunities than men. On this occasion, AECS Management explained that the number of women in prison is much smaller than the number of men (around 30), so it is difficult to provide conditions for diverse employment opportunities for women. According to AECS staff, all women in I classification group are engaged. During the monitoring visits, seven women were engaged outside the unit: in the laundry room, storage room or cafeteria, making coffee, while three others maintained hygiene in the unit accommodating women. Only 10 out of 32 female prisoners work. In addition, the choice of work engagement is extremely limited. ***It is necessary to provide more diverse work activities for women, at least as many as for men***, because the current situation can be characterized as a gender discrimination, and not just due to the fact that women perform only traditional female activities, but also due to the small number of employed women. AECS Director[377] made a promise to monitors that all women who wish to be employed will be provided the opportunity to work at the ongoing reconstruction and relocation of the kitchen, since the plan was to employ female prisoners there. This action is commendable, but ***the Management should also consider opening other vacancies for women so that they can have the same choice of engagement as men with the same status.***

7.2.3. Education and training

According to the European Prison Rules, each prison shall seek to enable all prisoners access to educational programs that are as comprehensive as possible and meet their individual needs, while taking into account their aspirations. It is emphasized that a systematic programme of education, including skills training, with the objective of improving prisoners' overall level of education as well as their prospects of leading a responsible and crime-free life, should be a key part of regimes for sentenced prisoners.[378]

Law on Execution of Criminal Sanctions stipulates that prisoners, especially juveniles and young adults who have not completed primary school, shall be provided primary education classes, with the possibility to organize vocational education classes as well. Convicted person may be allowed to take exams outside the premises of the organization.[379] The Rules narrow the statutory right of all sentenced persons to primary education, guaranteeing this right to minors only.[380] Also,

375 CPT standards, p. 25.
376 CPT, Report on the visit to Montenegro, 2008, p. 53.
377 The then Director was Milan Radović.
378 European Prison Rules, p. 106.1.
379 Art. 17, Law on Execution of Criminal Sanctions.
380 Art. 69, House Rules for Enforcement of Prison Sentences in AECS, August 2011.

the Rules prescribe that a convicted person may be allowed to take exams outside the premises of the Institution, if determined in the treatment program as useful for achieving the purpose of imprisonment,[381] characterizing thus the right to study as exceptional. Every prisoner should be entitled to the right to vocational education, whose restriction must require objective reasoning. ***It is necessary to amend the House Rules for Enforcement of Prison Sentences to ensure primary education classes for all prisoners who have not completed primary school, as well as to specify the right to take exams. It is necessary to define whether examination outside the premises of the Administration refers to part-time primary, secondary or high education. The current definition could create confusion and arbitrary interpretation of the applicable regulations.***

For example, in Bosnia and Herzegovina, in the Institution for Sentenced Prisoners in Kula, there is the possibility to complete one's education and to this end this Institution has concluded agreements with primary and secondary schools.[382] Institution for Sentenced Prisoners in Zenica has a contract with vocational schools[383] and in Foča, for example, one of the prisoners at the time of the visit completed seventh grade of the primary school, another prisoner went to law school, and all school-related expenses were borne by the Institution.[384] In Serbia, all sentenced persons in institutions for execution of criminal sanctions who are students are allowed to leave the institution in order to take exams.[385]

At the end of 2011 there were 26 illiterate convicts (2.6%) in AECS.[386] Most of these persons are in Bijelo Polje Prison and come from rural areas. Organization of a literacy course for them would not require major investment. On the other hand, one person employed in the Sector for treatment cannot meet to all the expectations that imply quality treatment of prisoners. ***It is necessary to organize a literacy course for illiterate prisoners, which could also include literate inmates who could have the role of educators or assistants, which would certainly contribute to their sense of usefulness.***

A total of 68 (6.8%) inmates have not completed primary school.[387] According to staff in the Institution for Sentenced Prisoners in Podgorica, sentenced persons are rarely allowed to start or continue their education due to the limited number of people at the escort service. AECS Management informed monitors that in the period from 2009 to 2011 neither convicts nor detainees submitted requests for attending primary or vocational education classes.[388] Anonymous survey showed that 19.3% of sentenced persons sought permission to continue education. One convict from the Institution for Sentenced Prisoners commented: "I did not ask, because nothing had been offered in any kind of education program". Of the total number of those who asked to be allowed to continue their education, even 85.5% stated that their request had not been met. Of the total of 11 former inmates, three said that they had asked to be allowed access to the exercise

381 Art. 70, para 1, House Rules for Enforcement of Prison Sentences in AECS, August 2011.
382 Special Report on the state of human rights in institutions for execution of criminal sanctions in Bosnia and Herzegovina, Institution of Ombudsman for Human Rights in Bosnia and Herzegovina, September 2009, p. 65.
383 Special Report on the state of human rights in institutions for execution of criminal sanctions in Bosnia and Herzegovina, Institution of Ombudsman for Human Rights in Bosnia and Herzegovina, September 2009, p. 50.
384 Special Report on the state of human rights in institutions for execution of criminal sanctions in Bosnia and Herzegovina, Institution of Ombudsman for Human Rights in Bosnia and Herzegovina, September 2009, p. 63.
385 "Treatment of persons deprived of their liberty", Report of the Belgrade Centre for Human Rights, Belgrade, 2010, p. 49.
386 Prison population structure according to education level on 31 December 2011, Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012, p. 80.
387 Ibid.
388 Official reply from AECS, 25 May 2012.

of the right to education, while others had no such requirements. However, neither one of them had been allowed to continue education.[389]

There is an impression that insufficient attention is paid to the educational segment of the treatment of prisoners in AECS. Moreover, apart from training through work in one of the workshops, there is no specific theoretical knowledge training. According to the Head of the Treatment Sector, a number of sentenced persons opened their own workshops after release from prison thanks to the practical training in AECS. The practice of transferring practical knowledge through prison workshops should be continued, as it provides good results. However, bearing in mind the limited capacity of workshops and the fact that not all prisoners are interested in acquiring such skills, ***it is necessary to provide other types of training.*** For comparison, in English prisons as many as 75.2% of inmates completed some sort of training program, 65.5% in France, 38.2% in Croatia.[390] According to the same research in Lithuania, 24.6% of the respondents attended vocational training.

The CPT recommendation to Montenegro relating to the provision of educational programs and vocational training courses has not been met.[391] According to the Head of the Treatment Sector, all attempts to organize trainings and courses for prisoners have ultimately failed, either due to the lack of financial resources for their implementation or lack of interest of inmates.

In the Semi-open unit there is a small computer room with four computers, one of which was not operating during the monitoring visit. In this way, the promise given to the CPT delegation in 2008 has been fulfilled.[392] During the visit no one was in this room. AECS employees informed us that the prisoners were not interested in training to work on computers and that it is therefore unnecessary to increase the number of computers in the room. However, the results of an anonymous survey oppose this claim. To question no. 40: *Would you like to obtain some sort of training, for example computer skills training?*, more than three-quarters (77.9%) of respondents said yes, while only 22.1% said they were not interested. ***We believe that it is necessary to equip all the units with computer rooms and provide computer training to all prisoners, following recommendation 106.2. under the European Prison Rules that all prisoners should be encouraged to participate in educational programs.***[393]

Two prisoners complained about being denied the opportunity to continue their professional development. Convicted person N.B., with whom the monitors spoke, required AECS Management to enable him to take exams via the Internet and use a laptop. According to the staff, this was due to security reasons. On 26 January 2012, at the meeting between the monitoring team and Mrs. Anka Cerović, senior advisors in the Administration for Execution of Criminal Sanctions, monitors were told that AECS official will discuss this issue with the said inmate and examine the conditions in order to allow the inmate to take an exam using the computer in AECS management building. In a written response from AECS of 19 March 2012, we were told that the sentenced person submitted another appeal and that upon the confirmation from IT Academy in Belgrade "AECS shall take all steps necessary to facilitate Internet access for the purpose of taking an exam."[394] At the time of

389 Interview with former convicts Ž. Š., V.K. and M.P. in March 2012.

390 "Long-term Imprisonment and Human Rights – Findings of an International Study", p. 16, Author: *Kirstin Drenkhahn,* Project Leaders: *Frieder Dünkel, Kirstin Drenkhahn* and *Manuela Dudeck (University of Greifswald, DE),* with financial support by the AGIS Program European Commission – Directorate General Justice, Freedom and Security, 2006.

391 CPT, Report on 2008 visit to Montenegro, p. 54.

392 CPT, Report on 2008 visit to Montenegro, p. 31.

393 European Prison Rules, p. 106.2.

394 Response of AECS to an official letter of 15 March 2012, Z-KD-br.63/12, Podgorica, 19 March 2012.

the monitoring visit conducted on 11 May 2012 the situation remained unchanged. In the second case, the prisoner asked for the permission to use portable computer (*laptop*) to write fiction. According to the prisoner, after submitting a request he was allowed to use the laptop, but after a certain period it was taken away, on the grounds that the use of a laptop is not in accordance with the House Rules. We believe that the absolute prohibition is not an appropriate measure and that the risk of Internet abuse can be significantly reduced if a computer passed appropriate control. ***It is necessary to clearly define the right to use a laptop in the Administration for Execution of Criminal Sanctions in the House Rules for Enforcement of Prison Sentences.***

Educational workshops for prisoners, as well as for AECS staff, are organized in cooperation with NGO Juventas as part of the project "Open with prisoners" and include information on HIV/AIDS, sexually transmitted diseases, proper use of condoms, risks of transmission of hepatitis A, B and C, as well as on proper drug injection and overdose risk.[395] Employees in Podgorica Prison, as well as a number of sentenced persons, informed us that they were not interested in this kind of training. Employees explained that convicted persons who wish to attend these workshops have a fear of labelling by other prisoners. ***It is necessary to run such educational workshops as part of the treatment of all persons deprived of their liberty.***

It is necessary to ***develop training programs and vocational trainings for sentenced persons*** as soon as possible***. These programs should be designed in collaboration with AECS educators, who would be engaged as expert consultants in preparation phase for individual training plans, not only in their implementation, as they know the strengths and interests of sentenced persons.***

7.2.4. Leisure activities

Stay in prison should not stop prisoners from living. They need to have access to organized activities aimed at their development and progress, in order to prevent criminal behaviour. Prison regime must provide for a balanced program of activities for all prisoners.[396] Recreational opportunities, which include sport, games, cultural activities, hobbies and other leisure pursuits, should be provided and, as far as possible, prisoners should be allowed to organise them.[397] According to the *House Rules for Enforcement of Prison Sentences*, prisoners can edit and publish their own newspaper at the expense of the Institution[398] and prepare and perform drama, music and other performances.[399]

However, based on the visits and interviews with prisoners and AECS employees, the monitoring team came to a conclusion that most of the above activities provided for in the Rules are not being implemented. For example, in Norway convicted persons have regular access to the gym, music room, library.[400] During its visit to Norway, CPT delegation was particularly impressed by a regime offered to vulnerable categories of prisoners with psychological needs (in groups of seven persons at a time) who were offered a wide range of occupational activities (e.g. handicrafts, painting) and had access to a separate fitness room and a billiard room. There was also a special unit accommodating drug-addicted

395 Retrieved from NGO Juventas website, available at: http://www. juventas.co.me/index.php?option=com_content&view=article&id=174&Itemid=188&lang=sr
396 European Prison Rules, p. 25.1.
397 European Prison Rules, p. 27.6.
398 Art. 74, para 3, House Rules for Enforcement of Prison Sentences in AECS, August 2011.
399 Art 74, para 2, House Rules for Enforcement of Prison Sentences in AECS, August 2011.
400 CPT, Report on the visit to Norway, 2011, p. 49.

prisoners who benefited from a wide range of activities, including outside the prison. ***Activities like these can be implemented in AECS as well. It is necessary to provide the conditions for consistent application of Articles 73 and 74 of the House Rules for Enforcement of Prison Sentences (cultural and artistic activities, lectures, workshops).*** Cultural events and performances are organized rarely. A positive example is the New Year's event, traditionally organized by Dragan Koprivica. Organization of such events should not depend on the interests of individuals; events of this type should be organized by AECS staff in cooperation with prisoners. It is understandable that the organization of certain events depends on material resources, but it is certain that some activities do not require great financial investments and can be organized, for example, in collaboration with civil societies. However, due to a large number of sentenced persons in educational groups and lack of incentive for employees, no activities have been organized.

Activity practiced by prisoners at the Administration for Execution of Criminal Sanctions is stay in the fresh air for a period of 2 hours per day. Convicted persons informed monitors that the right to walks is generally respected. Most respondents (84.7%) stated that they spend 2 hours outside every day, and others, i.e. 15.3% provided negative answer to this question. Majority of former prisoners confirmed that this right is respected. Complaint of one prisoner, located in unit F, referred to the fact that "he spends only 1 hour or 1 hour and 30 minutes a day in the fresh air, never 2 hours." Security Service employee informed monitors that this is due to the current reconstruction of the facility. ***We believe that sentenced persons must be allowed to use this right, despite the reconstruction within the unit, especially given the lack of other organized activities.*** In Bijelo Polje Prison, prisoners' stay in the fresh air is not limited, compensating, according to educators, for the lack of a living room.

The gym, whose equipping has been funded by prisoners as well, is available for use to men during the time for walk. It has a shelter, so that prisoners can also use it in the case of inclement weather. On the other hand, this type of recreation is not available to women, since there is no gym or a fitness room in their unit, although they had repeatedly expressed a wish to have access to these activities in the same manner as men. This is also an example of gender discrimination, and ***it is necessary to provide women the same conditions for recreation that are available to men as soon as possible.***

Nevertheless, physical activity should not be the only activity the prisoners engage in.

During the visits, monitors noticed that prisoners spend most of their time in living rooms, talking, preparing food and watching TV. Situation was similar in 2008, when the CPT delegation visited AECS.[401] The lack of organized activities or general idleness is present in all the units and contributes to the formation of informal groups, interpersonal conflicts and incidents. In this sense, one female convict complained about the problem of being unable to fit into an informal group formed prior to her admission to prison. The survey showed that the majority of sentenced persons (78.2%) wanted to be engaged in different creative activities during leisure time, while 21.8% did not. In the Prison for short sentences, 80.3% of prisoners responded to this question affirmatively, and 19.7% responded negatively. Of 11 former prisoners who participated in the survey, all 10 of them stated that they would like to have practiced in creative activities during their stay in AECS. ***Organizing meaningful activities would have multiple benefits, both in terms of social reintegration of sentenced persons as well as the prevention of the creation of subcultures within AECS.***

401 CPT, Report on 2008 visit to Montenegro, p. 57.

In an interview with educators, monitors were informed that they maintain individual notes about every sentenced person, which help them in their work. ***It is necessary to develop individual plans for treatment of sentenced persons in AECS which will include a multi-dimensional approach and different work methods in the process of their resocialization, and establish standards for the assessment of progress.***

These programs require significant time investment in observing and talking to convicted persons, consultation with experts from other fields as well as time for developing the plans. Given the ratio of the number of educators and convicted persons, the quality and appropriateness of the existing individual plans must be called into question. ***It is also necessary to review individual plans in order to evaluate their success and provide recommendations for their improvement.***

In terms of the treatment of sentenced persons, illustrative is the example of Norway, where the CPT noted that the majority of prisoners (including remand prisoners) had a job, opportunity for education and other activities such as vocational training in workshops, on the basis of structured individual plans.[402] No leisure activities have been organized in the high security unit, apart from the mandatory stay in fresh air for 2 hours per day in a small enclosed courtyard. Not even the gym is available. Such treatment of persons placed in unit C is contrary to the CPT standard, according to which the existence of a satisfactory program of activities is just as important - if not more so - in a high security unit than on normal location, since it can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners.[403] ***It is necessary to develop leisure activities for prisoners located in the unit C as soon as possible, as well as for those in other units.***

Better situation as regards the way in which prisoners spend their free time, was observed in the Semi-open unit. Almost all the convicts work and have greater opportunities for recreation and exercising team sports.

7.2.5. Post-penal treatment

Release on parole is a powerful instrument of motivation of sentenced persons for positive behavioural change during the process of imprisonment. The act of trust, expressed by granting of a parole, also expresses a belief that the convicted person has changed significantly and expectation that he would not commit new crimes, which is the purpose of imposing and executing a prison sentence.

According to staff from the Treatment Sector, behaviour of a convicted person during incarceration, carrying out of duties with regard to his/her work capacity, as well as other circumstances indicating that the purpose of imprisonment has been achieved are taken into account when deciding on one's parole. The same source informed us that there is no special

402 CPT, Report on the visit to Norway, 2011, p. 49.
403 CPT Standards, p. 32.

treatment for those preparing for the release from prison, and that the stay in the Semi-open unit, with its regime, is actually considered the preparation for the release. Convicted persons were asked whether their relation with the educator-professor helps them prepare for the release from prison and 41.3% of respondents said yes, while 58.7% responded with no. More than 2/3 of sentenced persons from the Prison for short sentences (71.2%) said that their relationship with the professor is not helpful in the preparation for the release from prison, while 28.8% think the opposite. One of the comments of a convicted person placed in the Institution for Sentenced Prisoners was: "Professors do not have time. I thought that this was what they were here for, but now I am convinced of the opposite." When asked the same question, 2 former convicts responded that their relationship with the educator helped them prepare for the release from prison, while 8 of them had a different opinion. **Given the uncertainty of convicts regarding the anticipation of the future after the release, they need to be provided assistance which includes support, encouragement and counselling.**

House Rules for Enforcement of Prison Sentences in AECS in Article 182 state that "if a convicted person needs help after the release from the Institution, the Social Work Centre located in the place of residence of that person shall be notified prior to the release".[404] Educator in Bijelo Polje Prison stated that he regularly informs competent social work centres on the social status of prisoners upon their release, but the centres do not provide adequate support to prisoners upon their release from AECS. "In the German prison system post-penal treatment is very developed and for that reason more than 1200 social workers and social pedagogues are employed in this system."[405] Post-penal treatment in Montenegro is practically non-existent. According to a social worker employed in the Social Work Centre in Podgorica, there is no organized post-penal treatment for adults released from AECS. These persons are treated sporadically, only when necessary to instruct a welfare beneficiary, because of the social and/or health condition, about exercising one of the rights in the area of social welfare. In interviews with several persons recently released from prison, monitors learned that they felt lost: "I do not know what to do with myself, in prison at least I had some sort of a regime, you understand? This is hell". In an interview for daily newspaper *Vijesti*, one of the former prisoners said: "I am tempted in so many ways. Neither the family nor society believes me. I doubt I will ever find a job. Montenegro is very small, everyone knows everything about everyone. What do I have left, what can I do except smuggling, dealing, stealing - said M.J."[406] It is unrealistic to expect former convicts to be able to deal with all the negative influences of the environment that originally motivated them to commit crimes without the help of society through probation institutions. ***Competent authorities should work on developing the post-penal treatment system, which would include various social institutions, humanitarian organizations, associations and individuals who can help prisoners integrate into society.*** Law on Execution of Criminal Sanctions stipulates that the enforcement of conditional release, supervision and support to a sentenced person also include "providing of social and other help which encourages adaptation of a conditionally discharged prisoner to the community."[407] In an interview with prisoners recently released on a parole, monitors have been informed that this provision of the Law is not respected in practice. The fact that no one in Montenegro systematically deals with persons who finished serving their sentences in AECS results in an alarming number of returnees:[408]

404 Art. 182, House Rules for Enforcement of Prison Sentences in AECS, August 2011.

405 Basic Characteristics of the Penitentiary System in Germany, Zoran Stevanović, p. 175, udk: 343. 291 (430), Institute for Criminological and Sociological researches, Belgrade, 2008.

406 "Convicts return to crime: After AECS they can be thrown away", Aida Sadiković, *Vijesti*, 16 April 2012.

407 Law on Execution of Criminal Sanctions, Art. 66 v, para 3.

408 Official letter from AECS Management, 28 February 2012, Podgorica.

23.72% in 2009,
26.16% in 2010,
16.80% in 2011.

Part of the responsibility for this situation lies with AECS, because in spite of the efforts of staff in the Treatment Sector, resocialization programs are not implemented to the necessary extent and society itself is reluctant to accept former convicts. ***In order to diminish the problem of recidivism, it is necessary to introduce probation services in AECS, which would cooperate with all other state and social institutions to ensure more successful reintegration of prisoners.***

In order to achieve the purpose of imprisonment, it is necessary to introduce a full and meaningful treatment of convicted persons during their stay in prison, as well as post-penal reception after the imprisonment. Otherwise, at the end of serving their sentence, prisoners will be less able to cope in the community and even more dependent on the criminal subculture.

7.3. Deciding on parole release

The right to decide on conditional release of sentenced persons has been granted to the Parole Commission of the Ministry of Justice, and this discretionary authority under certain legal requirements also belongs to the Director of the Administration for Execution of Criminal Sanctions.[409] If the Parole Commission or AECS Director refuse an application for parole, the convicted person has the right to initiate an administrative dispute before the Administrative Court of Montenegro.

Law on Execution of Criminal Sanctions stipulates that the Parole Commission is established by the Minister of Justice[410] (Art. 65, para 1), that it consists of a chairman and six members, the Minister of Justice, the head of the organization (AECS) and four members of the Supreme Court of Montenegro, State Prosecutor's Office, Ministry of the Interior and Ministry of Health.[411]

According to prisoners interviewed by the monitoring team and the Conclusion on the situation in AECS of the Committee on Human Rights and Freedoms of the Parliament of Montenegro, *"a prisoner must decide which institution to address, as he does not have the right to seek parole from prison Management if he has already appealed to the Parole Commission."*[412] Such solution is not envisaged under the Law on Execution of Criminal Sanctions, which regulates the area of parole, causing concern that prisoners have been denied the right to address both bodies, even though this right is guaranteed by the law.

A convicted person who has served two-third and exceptionally half of the prison sentence or half of the forty-year prison sentence may be released on parole "if in the course of serving the prison sentence s/he has improved so that it is reasonable to expect that s/he will behave well while at liberty and, particularly that s/he will refrain from committing criminal offenses until the

409 Law on Execution of Criminal Sanctions (*Sl. list RCG*, 25/94, 29/94, 69/2003 and 65/2004 and *Sl. list CG*, 32/2011), Art. 65, 66a, 66b, 66v, 66g, 66d, 66đ, 67, 67a and 68.

410 Art. 65, para 1, Law on Execution of Criminal Sanctions.

411 Art. 65, para 2, Law on Execution of Criminal Sanctions.

412 Conclusion of the Committee on Human Rights and Freedoms of the Parliament of Montenegro of 21 March 2012, available at: http://www.skupstina.me/cms/site_data/SKUPSTINA_CRNE_GORE/OSTALO/ZAKLJUCAK%20O%20INFORMACIJI%20O%20STANJU%20U%20AECS-u.pdf.

end of the imposed prison sentence." In assessing whether to release a convicted person on parole, the following shall be taken into consideration: his/her conduct during the period of serving the sentence, performance of work tasks appropriated to his/her working abilities, *as well as other circumstances indicating that the purpose of punishment has been achieved.*[413] Such wording leaves a wide margin of appreciation in deciding on probation.

Convicts have been dissatisfied with the work of the Parole Commission and, according to data of the Ministry of Justice and AECS, submitted a hundred times as many parole appeals to AECS Director as to the Parole Commission. In 2011 AECS Director released as many as 1116 people on a parole, while in the same period the Commission approved parole for only 10 persons, acting on only 35 submitted appeals. In 2012 there was an increase in the number of submitted appeals, of which the Parole Commission adopted more than half: until 17 May 2012 the Ministry received 219 applications for parole and the Commission decided to conditionally release 124 prisoners.[414]

In addressing international organizations, the media, and in contact with members of the monitoring team, prisoners pointed out that the Parole Commission applies the criteria selectively or applies the criteria which, as such, are not standardized in the Law. They also complained that the process of deciding on parole is not sufficiently transparent and fair and that in some cases convicts are granted release even though they do not even nearly meet all the criteria, while for others the right to parole is made difficult to achieve.[415]

Dissatisfaction of prisoner culminated in a massive hunger strike in February 2012. The Minister of Justice then criticized the actions of the Commission, but also the fact that "in most cases, the opinions of AECS submitted to the Parole Commission have been negative" and concluded that "these opinions cannot be the key factor influencing the decision of the Parole Commission; behaviour of sentenced persons during their imprisonment should also be taken into account, establishing thus a new approach and a new standard in the work of the Commission".[416] It is a fact that from 2011 through February 2012 the Technical service in AECS processed and forwarded a total of 146 appeals and opinions on parole to the Parole Commission, of which AECS provided only 22 positive suggestions, and 124 negative.[417] On the other hand, the very Director of AECS approved manyfold more applications for parole in this period than the Commission, which relied on the negative opinions provided by AECS. Such actions indicate a policy of directing the prisoners to address the Director, rather than the Commission.

Bearing in mind the described national experience, as well as comparative experiences of European countries, where ***the court decides on the release on parole*** (France, Germany, Croatia, Serbia), ***or any other body independent of the prison management and ministry of justice*** (Latvia,[418] Slovenia[419] and the UK[420]), we propose the following:

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413 Art. 37, para 1, Criminal Code (*Sl. list RCG,* 70/04, 13/04 and *Sl. list CG*, 40/2008, 25/2010 and 32/2011).

414 "Prisoners in AECS: those who claim to be innocent are discriminate against," *Vijesti*, 30 May 2012.

415 Information obtained in interviews with prisoners conducted over several visits to the prison in Spuž.

416 Minister of Justice and Human Rights, Duško Marković, at the 64 session of the Committee for Human Rights and Freedoms of the Parliament of Montenegro, 1 March 2012.

417 Notice from the session of the Committee of Human Rights and Freedoms of the Parliament of Montenegro, 2 March 2012, http://www.skupstina.me/index.php?strana=saopstenja&id=4166, AECS statement addressed to the Ombudsman.

418 Sentence Enforcement Code, ("LV", 117 (4515)), Section 50.

419 Enforcement of Penal Sentences Act (EPSA - Official Journal of RS No. 102/2000, 127/06, 112/07), Section 103.

420 More information on the Parole Commission available at: http://www.justice.gov.uk/about/parole-board.

• *abolish the right of the Director of AECS to decide on parole;*

• *profile the membership of the Parole Commission so that it consists of various experts (judges or other legal experts, psychologists, doctors, social scientists), who are not civil servants or employees of the Government or ministries;*

• *in perspective, consider the possibility of a court deciding on parole.*

As regards the Commission's decision-making criteria, the Ministry of Justice has partially met the demands of sentenced persons, so that in future: a) the Parole Commission shall not take as an aggravating circumstance the fact that a new criminal procedure was initiated against a convict, but has not yet ended in a final court decision - in order to respect the presumption of innocence; b) the decision will depend on behaviour during imprisonment only, not on the opinion of the police,[421] type of criminal offense and length of the sentence.

With the purpose of achieving legal certainty and avoiding misunderstandings in the future, it would be useful to further specify by the law or a by-law the criteria upon which the Parole Commission shall decide whether the purpose of punishment has been achieved.

7.4. Recommendations

• Provide conditions for respecting the rights of detainees to spend minimum 2 hours a day outdoors.

• Urgently improve the regime in the Remand Prison, in order to allow detainees to spend more hours outside their cells and engage in meaningful activities of various natures (work, education, group games, sports).

• Employ more persons of appropriate professional profile in the Treatment Sector - three persons in the Section for personality examination, five educators in the Section for treatment implementation in Podgorica Prison and three educators in Bijelo Polje Prison.

• Develop a system for treatment implementation, which will clearly define the scope of work for all employees.

• Provide ongoing training for staff in the Treatment Sector on new methods of work, as well as training for the early detection of mental disorders and suicide risk in inmates.

• Set up mailboxes in each prison unit or establish a service where prisoners could submit their letters, appeals and requests for the Management and receive a confirmation with the filing number.

• Offer foreign prisoners the same activities and work engagement as to other prisoners by engaging an interpreter when needed. It is necessary to provide additional support to overcome

421 In interpreting "other circumstances", the Parole Commission took into account the security assessment of the police Directorate, the court, the Social Work Centre, in cases where the injured family joined the criminal prosecution of the convicted person and set legal property requirement, as the Minister explained at the 64 session of the Committee for Human Rights and Freedoms of the Parliament of Montenegro, 1 March 2012.

isolation and improve difficult position of these persons which are the result of language and cultural barriers. Provide a translation of the House Rules in several languages.

• Introduce a program of evaluation of the treatment of prisoners, and for the employees of the Treatment Sector provide professional supervision programs and programs to prevent the burnout syndrome.

• Introduce a system of objectification of the criteria for transfer from one classification group to another by developing questionnaires with precisely defined criteria that are scored.

• Ensure the development of a business plan for expanding the production in AECS.

• In Bijelo Polje Prison, buy a machine for the production of concrete elements and organize a workshop for employment of prisoners.

• Align the House Rules for Enforcement of Prison Sentences with Art. 57 of the Law on Execution of Criminal Sanctions in the part concerning the wages for employed prisoners and ensure that employed prisoners be paid for their work in accordance with the Law.

• It is necessary to establish cooperation with certain companies in order to employ convicted persons outside the prison as well. Employment outside the prison would have multiple benefits, both during incarceration and after the release.

• Provide employment for 80% of female inmates and broaden the choice of work activities, including the "economy", so that they could have the same choice of engagement as men with the same status.

• Adopt amendments to the House Rules for the Enforcement of Prison Sentences (Art. 69 and Art. 70) stipulating that primary education shall be organized for all prisoners who have not completed primary school. Regulate the right to take exams more precisely, so as to ensure the part-time completion of primary, secondary or high education.

• Organize literacy courses for illiterate prisoners (particularly in Bijelo Polje Prison).

• Equip all AECS units with computer rooms and organize training for the work on computers for all persons deprived of liberty.

• Clearly define the right to use portable computers (laptops) in AECS in the House Rules for the Enforcement of Prison Sentences and define objective conditions for the exceptional limitation of this right.

• Include educational workshops on substance abuse, HIV/AIDS, sexually transmitted diseases, risk of transmission of hepatitis A, B and C, in the treatment program of all prisoners.

• Develop educational programs and vocational training courses for all prisoners.

• Provide conditions for the consistent application of provisions of the House Rules for the Enforcement of Prison Sentences in AECS, which provide for cultural and art performances, workshops, lectures, etc.

• Modernize and expand all the workshops in the Institution for Sentenced Prisoners as soon as possible, in order to engage in work 80% of the inmates.

• Organize more cultural activities, in cooperation with prisoners.

• Ensure same conditions for recreation for women serving their sentences as for male prisoners.

• Develop individual plans for the treatment of sentenced persons in AECS which will include a multi-dimensional approach and different work methods in the process of their resocialization. Establish standards in order to assess their success and provide recommendations for further improvement of individual plans. This particularly for prisoners serving long sentences.

• Develop a post-penal system which would include various social institutions, humanitarian organizations, associations and individuals who can help prisoners integrate into society.

• Abolish the right of AECS Director to decide on a parole.

• Profile the membership of the Parole Commission so that it consists of various experts (judges or other legal experts, psychologists, doctors, social scientists), who are not civil servants or employees of the Government or ministries.

• In perspective, consider the possibility of a court deciding on prisoners' parole.

• Further specify the criteria upon which the Parole Commission decides on a parole by the law or by-law. Inform convicts about the process of deciding on a parole and the criteria in a way accessible to them.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 117-145).

8. CONTACT WITH THE OUTSIDE WORLD

8.1. Podgorica Prison and Bijelo Polje Prison

According to the European Prison Rules, prisoners shall be allowed to communicate as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive visits from these persons.[422] Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offenses and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact.[423]

House Rules provide that a convicted person, no matter in which classification group, is entitled to two visits per month from the immediate family for a period of 60 minutes.[424] The right to emergency visit may be granted once a month, if there are reasonable grounds.[425] Employees say that in most cases sentenced persons are allowed to receive emergency visits. Sentenced persons residing in Podgorica Prison and Bijelo Polje Prison, interviewed in the presence of AECS officers, confirmed that this right is respected. According to the *House Rules for Enforcement of Prison Sentences* in AECS, the right to visits may be restricted only to a person sent to solitary confinement for committing a disciplinary offense.[426] In contrast, according to the European Prison Rules and CPT standards, contact with the family cannot be completely ruled out even in that case, unless it is a disciplinary offense committed in connection with the contact.[427] The results of the conducted research show that there were cases when AECS officers threatened sentenced persons with the prohibition of family contact and denial of visits.[428] Also, prisoners emphasize that the denial of contact with their family has occasionally been used as a disciplinary measure. ***It is necessary to harmonize the House Rules with the European Prison Rules and CPT standards, and discontinue the practice of using the prohibition of contact with the outside world as a disciplinary measure***, as the improvement of contact with the outside world should be the guiding principle, and it is important to ensure the convicted persons' contact with family and close friends.[429]

Married sentenced persons shall have the right to conjugal visits once a month for three hours, regardless of their classification group.[430] Female prisoners serving their sentences rarely exercise the right to conjugal visits, because, as explained by Chief of the Institution for Sentenced Prisoners, their spouses are not interested in this type of visit. Convicted persons from I classification group, who use awards[431] outside the premises of the Institution, have the right to conjugal visits in the

422 European Prison Rules, 24.1.
423 European Prison Rules, 24.2.
424 House Rules for Enforcement of Prison Sentences in AECS, Art. 99 and 100, Podgorica, August 2011.
425 House Rules for Enforcement of Prison Sentences in AECS, Art. 96, Podgorica, August 2011.
426 House Rules for Enforcement of Prison Sentences in AECS, Art. 96, Podgorica, August 2011.
427 European Prison Rules, 24.2.
428 In the survey conducted among inmates on 12 and 13 March 2012, when asked: *Have you ever been threatened by the prohibition of contact with your family or denial of visits*?, 21.7% of convicts responded with 'yes', and 78.3% responded 'no'; in the Prison for short sentences 16.4% said 'yes', 83.6% responded 'no'.
429 CPT Standards, p. 51.
430 House Rules for Enforcement of Prison Sentences in AECS, Art. 111, Podgorica, August 2011.
431 For their good behaviour and commitment to work, as well as for other rehabilitation reasons, prisoners can be awarded: 1) extended right to receive deliveries and visits, 2) unsupervised visits, 3) visits outside the premises of the organization, 4) free visit to town, 5) weekend with the family, 6) seven-day leave during a year, 7) partial or complete annual leave outside the premises of the organization. Law on Execution of Criminal Sanctions, Art. 52, *Sl. list RCG*, 25/94, 29/94, 69/2003 and 65/2004 and *Sl. list CG*, 32/2011.

month during which the award has not been used.[432] Complaints of sentenced persons to an authorized official of the Ministry of Justice were related to the unequal criteria for obtaining these awards.[433]

Under the Law on Execution of Criminal Sanctions, convicted persons are entitled to receive visits from their family members, but also from others with the approval of the head of the organization.[434] CPT delegation was informed that the prison director can extend the right to visit to unmarried partners.[435] The CPT stressed that such a right should exist by law, rather than being left to the discretion of the prison management.[436] However, three years later the situation remained the same. ***It is necessary to amend the Law on Execution of Criminal Sanctions so as to provide for the right to visits from unmarried partners, in accordance with the recommendation of the CPT.*** The right to conjugal visits specified in national legislation does not include the right to visits from unmarried partners, and thereby homosexual partners, who do not have the legal possibility of marriage in Montenegro.[437] Bearing in mind that the law on same-sex relationships does not exist in Montenegro, ***it is necessary to allow homosexuals the right to conjugal visits, under the same conditions as for heterosexual inmates.*** Current situation can be characterized as discrimination based on sexual orientation. In Serbia, both the Law[438] and the House Rules stipulate that "prisoners have the right to a visit from their spouse, children or other close person once every three months for three hours in special premises of the institution. Special room must be spacious enough, heated, lighted, with necessary furniture, bathroom and adapted for children. Close persons include persons listed by a convict as visitors".[439] Pursuant to this Article, convicted persons are also allowed to receive visits from unmarried partners. ***It is necessary to grant sentenced persons the right to a visit from their spouse, children or other close person once every three months for three hours in separate rooms. In this way this right would also include unmarried partners.***

Persons located in the Semi-open unit can receive visits from children within a small playground for children, equipped with modest inventory.[440]

As regards Bijelo Polje Prison, the CPT report states that in this prison, "there was one visiting room which was too small to meet the requirements of the establishment. The CPT trusts that this failing will be addressed in the new prison building." During the visit to Bijelo Polje Prison, monitoring team saw the newly refurbished visiting room, measuring some 20 m^2. Physical contact between prisoners and visitors has been disabled by setting up plexiglass boards. Convicted persons and visitors communicate by phone. The room has two surveillance cameras, for separate monitoring of inmates and visitors.[441] New prison in Bijelo Polje has not been constructed yet, so

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432 House Rules for Enforcement of Prison Sentences in AECS, Art. 111, Podgorica, August 2011.

433 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012, p. 34.

434 Law on Execution of Criminal Sanctions, Art. 48, *Sl. list RCG,* 25/94, 29/94, 69/2003 and 65/2004 and *Sl. list CG*, 32/2011.

435 CPT Report on the 2008 visit to Montenegro, p.70.

436 Ibid.

437 Law on Execution of Criminal Sanctions of Montenegro clearly stipulates: Married prisoners are entitled to a sex life with their spouse, in accordance with the House Rules (Art. 50). Also, *the House Rules for Enforcement of Prison Sentences in AECS* stipulate: Married prisoners are entitled to a marital life with their spouse. Right to marital life is exercised through the visits of a prisoner's spouse (Art.110), excluding thus heterosexual unmarried partners and homosexual partners from legal regulations.

438 Law on Execution of Criminal Sanctions, Art. 82.

439 House Rules of correctional institutions and district prisons (*Sl. glasnik RS*, 72/2010 of 8 October 2010), Article 55.

440 Monitoring visit conducted on 13 March 2012.

441 Monitoring visit to Bijelo Polje Prison conducted on 9 December 2012.

this CPT recommendation is not fully met. During the first monitoring visit to Bijelo Polje Prison, monitors also saw the visiting room for children. On this occasion, monitors gave suggestions to the Management to refurbish this room and adjust it so that the children feel more comfortable. During the following visits, it was noticed that the Management took our proposals into consideration and, in accordance with their capabilities, furnished the visiting room for children.

Sentenced person shall have the right to religious life and contacts with the clergyperson within his/her religion in accordance with the Rules.[442] Results of the research show that the majority of sentenced persons are allowed contact with a representative of their religious community.[443] In the Prison for short sentences over 80% of respondents said that they are not allowed contact with a representative of their religious community. ***It is necessary to provide conditions for the respect of religious rights of sentenced persons in the Prison for short sentences.*** In Bijelo Polje Prison, inmates interviewed in the presence of staff stated that the right to visits by representatives of religious community has been respected.[444] However, Podgorica Prison and Bijelo Polje Prison do not have specially adapted rooms for religious practice, but, if necessary, inmates use hallways, living rooms, cafeterias, etc. ***It is necessary to provide adequate facilities for the exercise of religious rights in both Podgorica Prison and Bijelo Polje Prison.***

House Rules define the right to use a phone. Prisoners in the Institution for Sentenced Prisoners are allowed to use pay phones in a certain time period.[445] When asked if they had ever been denied the right to use a phone, 32.4% of surveyed sentenced persons responded affirmatively and 67.6% negatively. In the Prison for short sentences, 17.4% respondents said that they had been denied this right, while 82.6% of prisoners who participated in this study gave a negative answer. ***It is necessary to provide conditions for sentenced persons to exercise this right in accordance with the Rules.***

In Bijelo Polje Prison there are no phones, so the sentenced persons are allowed to use mobile phones (not in the Remand), in accordance with the Rules and only between 3 pm and 10 pm.[446] According to the Rules, owning a mobile phone is qualified as a serious disciplinary violation.[447] ***It is necessary to align the existing practice of allowing the use of mobile phones in Bijelo Polje Prison with the House Rules.***

It is prohibited to use electronic communication in AECS under supervision, e.g. Skype, which would significantly reduce costs and enable further contact with family and friends. Such form of communication is suitable for families who do not have financial means to visit their family members serving a prison sentence. ***It is necessary to provide conditions for electronic communication with the outside world (via the Internet or Skype), under supervision, and amend the House Rules so as to provide for the possibility of electronic communication.***

The European Prison Rules state that prisoners shall be allowed to communicate with the media unless there are compelling reasons to forbid this for the maintenance of safety and security, in the public interest or in order to protect the integrity of victims, other prisoners or staff.[448] *House*

442 House Rules for Enforcement of Prison Sentences in AECS, Art. 114, Podgorica, August 2011.
443 In the survey conducted among inmates on 12 and 13 March 2012, when asked: *Are you able to maintain contact with a representative of your religious community*, 67.2% of convicts responded with 'yes', and 32.8% responded 'no'; in the Prison for short sentences 19.6% said 'yes', 80.4% responded 'no'.
444 House Rules for Enforcement of Prison Sentences in AECS, Art. 114, Podgorica, August 2011.
445 House Rules for Enforcement of Prison Sentences in AECS, Art. 95, Podgorica, August 2011.
446 Interview with prisoners in Bijelo Polje Prison, December 2011.
447 House Rules for Enforcement of Prison Sentences in AECS, Art. 136, para 12, Podgorica, August 2011.
448 European Prison Rule, p. 24.12.

Rules stipulate that convicted persons may purchase printed media and books or receive them from home and other persons who come to visit them, with the prior approval of the Head of the Treatment Sector.[449] During the visits, monitors noticed that newspapers were made available to prisoners. In most living rooms there was a copy of one or more daily newspapers. Sentenced persons have not complained of the violation of this right. In 2011, the Institution for Sentenced Prisoners was not subscribed to any magazines; prisoners received copies of a daily newspaper ''Pobjeda" in prison libraries on a daily basis. Some prisoners were subscribed to one or two newspapers ("Vijesti", "Dan", "Večernje novosti", "Blic") and received them daily.[450]

European Prison Rules emphasize that conditions of detention and the treatment of prisoners shall be monitored by an independent body or bodies whose findings shall be made public.[451] In its report the CPT recommended that the Montenegrin authorities develop the system of monitoring of prisons by independent outside bodies. In this context, to be fully effective, monitoring visits should be both frequent and unannounced. Further, the monitoring bodies should be empowered to interview prisoners in private and examine all issues related to their treatment (conditions of detention; medical records and other detention-related documentation; the exercise of prisoners' rights, etc.).[452] This CPT recommendation has been partially met. Unannounced visits and interviews with sentenced persons are granted to the Ombudsman representatives and authorized representatives of the Ministry of Justice, but not to representatives of NGOs involved in the protection of human rights. ***It is necessary to allow representatives of NGOs dealing with human rights to conduct unannounced visits and interviews with prisoners without the presence of AECS officials.***

8.2. Remand Prison

The European Prison Rules state that unless there is a specific prohibition for a specified period by a judicial authority in an individual case, untried prisoners shall receive visits and be allowed to communicate with family and other persons in the same way as convicted prisoners.[453] Remand prisoners receive 30-minute visits once a week,[454] even in case of foreign detainees and detainees whose families live far away. On the other hand, the CPT standards emphasise that when there is a need for some flexibility as regards the application of rules on visits and telephone contacts vis-à-vis prisoners whose families live far away (thereby rendering regular visits impracticable), such prisoners should be allowed to accumulate visiting time and/or be offered improved possibilities for telephone contacts with their families.[455]

In Podgorica Remand Prison detainees use pay phones, although access to a telephone requires authorisation by the competent investigation judge. This is not in accordance with the CPT recommendation ***to improve the situation of persons in Podgorica Remand Prison in terms of their access to a telephone, with the possibility of monitoring those calls that carry a risk of collusion.***[456]

449 House Rules for Enforcement of Prison Sentences in AECS, Art. 73, Podgorica, August 2011.
450 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012.
451 European Prison Rules, p. 93.1.
452 CPT, Report on the 2008 visit to Montenegro, p. 82.
453 European Prison Rules, p. 99.
454 House Rules for Detention, Art 42, page 234, no. 10, 22 May 1987.
455 CPT Standards, p. 51, Extract from the 2nd General Report CPT/inf (92)3.
456 CPT, Report on the 2008 visit to Montenegro, p. 74.

There is no option of electronic communication under the supervision, e.g. via Skype. ***It is necessary to provide conditions for electronic communication with the outside world (via the Internet or Skype), under supervision, and regulate the right to electronic communication in the Criminal Procedure Code.***

Visiting rooms are still booth-type facilities.[457] Despite recommending changes to this end in 2008,[458] the CPT has accepted the fact that it is justified in certain cases, for security reasons or to protect the legitimate interests of an investigation, to have visits which take place in booths and/or are monitored. However, the Committee once again urged the Montenegrin authorities to move towards more open visiting arrangements for remand prisoners in general. During the visits to the Remand Prison, monitoring team noticed that the booth-type room is still used for receiving visitors. ***It is necessary to organize visiting premises in the Remand Prison in accordance with the CPT recommendation.***

Visits from relatives are conducted in the room divided by a thick glass wall, of poor hygiene, and conversation is carried out over the phone. There is also a separate room for visits from children, equipped with children's toys. Attorney visits also take place in a separate room, over a short glass partition that allows direct, confidential conversation, without using a phone. Officers monitor these visits only visually. Attorney visits take place on weekdays and last 60 minutes.[459] Some visits may be prohibited in case they interfere with the proceedings.[460] Article 184 of the Criminal Procedure Code stipulates that in case of a disciplinary offense of a detainee, person managing the prison or person authorized by him may impose disciplinary punishment of restriction of visits or solitary confinement to 15 days,[461] although in its recommendation[462] the CPT stressed that disciplinary punishment of prisoners and detainees should not include a total prohibition of family contacts and that any restrictions on family contacts as a form of punishment should be used only where the offense relates to such contacts. **It is necessary to harmonize the Criminal Procedure Code with the CPT standards that disciplinary punishment of detainees should not include the prohibition of family contact.**

Upon the approval of the investigative judge, and when necessary under the judge's supervision or the supervision of a person designated by the judge, in accordance with the House Rules, detainees may receive visits from their spouse or unmarried partner and close relatives and, upon their request – from a physician, attorney and others.[463] This section of the Criminal Procedure Code[464] fulfils the CPT recommendations[465] to extend the list of persons who may come to visit detainees to unmarried partners and other loved ones. Detainees informed the monitoring team that this right is respected in practice.

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457 CPT, Report on the 2008 visit to Montenegro, p. 73: "The CPT accepts that in certain cases it will be justified, for security-related reasons or to protect the legitimate interests of an investigation, to have visits which take place in booths and/or are monitored. However, the Committee would like once again to invite the Montenegrin authorities to move towards more open visiting arrangements for remand prisoners in general."

458 CPT, Report on the 2008 visit to Montenegro, p, 73, Extract from the 2nd General Report CPT/inf (92)3.

459 House Rules for Enforcement of Prison Sentences in AECS, Art. 97, Podgorica, August 2011.

460 Criminal Procedure Code, Art. 183, para 1, *Sl. list CG*, 57/09 of 18 August 2009.

461 Criminal Procedure Code, Art. 184, para 1, *Sl. list CG,* 57/09 of 18 August 2009.

462 CPT, Report on the 2008 visit to Montenegro, Extract from the 2nd General Report CPT/inf (92)3.

463 Criminal Procedure Code, Art. 183, para 1, *Sl. list CG*, 57/09 of 18 August 2009.

464 Criminal Procedure Code, Art. 183, para 1, *Sl. list CG*, 57/09 of 18 August 2009.

465 CPT, Report on the 2008 visit to Montenegro, p. 70.

Detainees may exchange letters with persons outside of prison, pursuant to knowledge and under supervision of the investigative judge. Investigative judges may prohibit sending and receiving of letters and other mail detrimental to the conduct of proceedings. The prohibition shall not relate to the letters submitted by a detainee to international courts and domestic legislative, judicial and executive authorities or received from them. Submission of a request, complaint or appeal shall never be denied.[466] During its visit, the CPT delegation was informed that prisoners need to submit a request to the investigating judge in order to send and receive correspondence and access books. It is recommended that the Montenegrin authorities improve the situation of detained persons in terms of their access to correspondence and literature. The CPT considers that the involvement of a judge in this respect is excessive and should be abolished.[467] At the time of the monitoring visit, most often detainees did not submit requests to the investigating judge, although this right has not been precisely defined by the Criminal Procedure Code.[468]

With foreign detainees prison guards communicate in poor English, Russian and through pantomime. Documents submitted by foreign detainees to the court (e.g. requests for visits from relatives, pleas to foreign consular representatives, etc.) are drafted by an attorney in local language, because otherwise the prison authorities would have to engage interpreters (which appears to be a complicated task for the prison management and would take long, considering poor promptness in handling documents submitted by inmates in local language). In most cases, foreign detainees learn about their rights in detention from lawyers or other "experienced" (local) detainees, with whom they speak in poor Russian or English. Currently, a female citizen of Romania resides in AECS. She has not been provided an interpreter and is therefore excluded from all the activities available to other women serving their sentence in AECS. Her family and children live in another state and the only way to communicate with them is over the telephone, making this inmate's position extremely difficult and imprisonment "unbearable".[469]

A detainee may be visited by representatives of international committees against torture, the International Committee of the Red Cross, as well as representatives of international organizations dealing with the protection of human rights, as laid down by ratified international agreement. Upon approval of the court president, a detainee may receive visits from representatives of national organizations concerned with the protection of human rights.[470] If required so by a detainee and subject to the knowledge of the investigating judge, diplomatic and consular representatives of foreign states shall be entitled to visit and communicate with the detainee who is a national of their state, without supervision. The investigative judge shall inform the head of the detention facility where the detainee in question is held about the visit of a diplomatic or consular representative.[471] According to prison staff, these visits take place regularly and without interference, in a special room where they are enabled direct contact. Nine mailboxes for complaints to the Ombudsman have been set up in AECS, and two will be set up in Bijelo Polje Prison. Mailboxes were placed in the corners that are not covered by security cameras and are checked every 15 days by representatives of the Office of Ombudsman, who are the only persons holding keys to the boxes.[472] However, representatives of non-governmental organization concerned with human rights are not

466 Criminal Procedure Code, Art. 183, para 4, *Sl. list CG*, 57/09 of 18 August 2009.
467 CPT, Report on the 2008 visit to Montenegro, p. 75, Extract from the 2nd General Report CPT/inf (92)3.
468 Criminal Procedure Code, Art. 182, para 2 and 3.
469 Interview with this female detainee, 11 May 2012.
470 467 Criminal Procedure Code, Art. 183, para 4, *Sl. list CG*, 57/09 of 18 August 2009.
471 Criminal Procedure Code, Art. 183, para 2, *Sl. list CG*, 57/09 of 18 August 2009.
472 "Prisoners may secretly complain to the Ombudsman", Daily *Pobjeda*, 25 February 2012.

allowed to speak with detainees without the supervision of AECS officers. ***It is necessary to allow representatives of NGOs dealing with human rights to pay unannounced visits and interview prisoners on remand as well, without the presence of AECS officials***.

8.3. Recommendations

• Harmonize the House Rules with the European Prison Rules and CPT standards (disciplinary punishment should not include a total prohibition of family contact, even when a person is sent to solitary confinement, except in the case of a disciplinary offense committed in connection with such contact) and discontinue the practice of using the prohibition of contact with the outside world as a disciplinary measure.

• Amend the Law to provide for the right to visits from unmarried partners. Allow homosexual partners the right to conjugal visits. In the future, allow sentenced persons the right to receive three-hour visits from their spouse, children or other close persons once every three months, in separate rooms. This would expand the right to conjugal visits to unmarried partners.

• Change booth- type visit rooms at the Remand Prison.

• Provide conditions for the respect of religious rights of convicted persons in the Prison for short sentences.

• Amend the House Rules to provide for the possibility of supervised electronic communication (via internet or Skype).

• Allow unannounced visits and interviews with prisoners without the presence of AECS officials to representatives of NGOs dealing with human rights.

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 146-151 and 153).

9. PRISON STAFF

Employees of the Administration for Execution of Criminal Sanctions are responsible for the respect of human rights of persons deprived of their liberty. They are required to ensure that persons deprived of liberty enjoy all human rights, other than those restrictions that are unavoidable in a closed environment.[473]

Prison security, order, atmosphere and success of resocialization treatment depend on the prison staff. It is therefore important that all prison employees be qualified, continuously advance professionally and have adequate motivation for an extremely demanding job in prison conditions.

Monitoring team members did not receive AECS Director's permission to interview AECS employees, or survey them. Nevertheless, monitors used moments spent with the staff during prison visits to speak of their dissatisfaction with the employment conditions in AECS. This report is based on these open discussions, as well as available official reports of AECS and the Ministry of Justice.

9.1. Staffing levels and service requirements

According to official data on AECS employees,[474] the staffing levels are as follows:

SERVICE	EMPLOYEES
CABINET	5
TREATMENT	27
EDUCATION	4
GENERAL AFFAIRS	49
HEALTH	19
LABOUR	40
SECURITY	374
TOTAL	519

Within the Institution for Sentenced Prisoners, in unit B, on the second floor monitors noticed that only one security officer was responsible for 72 prisoners. In unit F, in the part accommodating men, two security officers supervised 68 inmates. In unit F, in the part accommodating women, there were three female officers on duty supervising 30 female inmates. In unit C, implementing only the closed-door regime, there were 21 prisoners and one security officer. In unit A, one security officer was responsible for 115 prisoners, and in unit D, two security officers for 144 prisoners.[475]

473 UN Human Rights Committee (HRC), *CCPR General Comment No. 21:* Art. 10, p. 3: "Persons deprived of their liberty enjoy all the rights set forth in the Covenant, subject to the restrictions that are unavoidable in a closed environment".

474 AECS Management response to the questionnaire of Human Rights Action, Z-KD br.355/11, Podgorica, 15 December 2011. These data differ from the data published in the Report of the Ministry of Justice on the number of employees in 2011, according to which a total number of employees was 504, so the difference is 15 officers, whose employment may have been terminated in 2011.

475 Monitoring team members first visited AECS on 3 November 2011 and received this information from officers who took them around prison units, which was confirmed later during the visit by monitors themselves.

It is clear that AECS staffing levels are insufficient and that more officers need to be employed for everything to function properly. **At the time of the visit conducted on 29 November 2011, only 7 officer were on duty and responsible for 476 prisoners (total number of inmates in units A, B, C, D and disciplinary unit according to prison staff).**[476]

For more detail on insufficient number of experts in the Treatment Sector, see section Treatment.

9.2. Employment conditions - salary and vacation

During the monitoring of AECS, unofficial information[477] was received that the staff working hours have been organized in shifts as follows: 12 h on duty, 24 h off duty, 12 h on duty, 48 h off duty. This means that working hours are from 7 am - 7 pm, followed by a day off, and again 7 am - 7 pm followed by two days off. However, as noted by AECS staff members, in practice it often happens that they are called to report for duty during their days off. *The possibility of being called when off-duty makes them tense even during the free time*. Also, it is important to note that *during the working hours* prison employees do not have a specified daily break time, adding to the tension and stress, which can lead to increased tensions in the discharge of duties.[478]

Work in night shifts is common and exhausting, with the same number of officer working in day shifts as in night shifts. They state that they are unhappy with their income. Monitors were informed that the head of the security service receives 450 euros monthly salary, security officers 350 euros, and employees at the watchtower 280 euros.[479] The average wage in Montenegro in April 2012 was (net) 491 euros.[480] Thus, the wage of the security service head in AECS is lower than the average wage in the Republic. In addition, there were complaints about night work being underpaid and overtime (work that does not fall between 10 pm and 6 am the following day) not being paid.[481] According to the general collective agreement, employees are guaranteed wage increase by at least 40% an hour for working night shifts, 100% for work during religious and national holidays, and 40% for overtime.[482] In addition, the European Prison Rules require that employees' salaries be adequate to motivate employees to perform their duties effectively, i.e. attract and retain suitable staff,[483] which is not the case in AECS.

Some staff members who work under the contract for an indefinite period of time received an apartment from the employer (about 40 m^2, where they live with their families), which, in the case of termination of employment, they must return.[484] This prevents them from quitting, as they

476 Information obtained through informal interview with AECS staff, during the fifth visit to AECS on 29 November 2011. Monitors spoke to the security service heads that were on duty.
477 Ibid.
478 CPT Standards, p. 26, Extract from the 2nd General Report [CPT/Inf (92)3].
479 Information obtained through informal interview with AECS staff, during the fifth visit to AECS on 29 November 2011. Monitors spoke to the security service heads that were on duty. Twelve-hour shifts without breaks and low income demotivate employees to perform their duties effectively.
480 Statistical Office of Montenegro, MONSTAT, 17 May 2012, http://www.monstat.org/cg/novosti.php?id=595.
481 Interview during the visit conducted on 14 March 2012 with officers on duty.
482 General collective agreement of Montenegro, Art.10, *Sl. list CG*, 49/08.
483 European Prison Rules, p. 79.1.
484 Information obtained through informal interview with AECS staff, during the fifth visit to AECS on 29 November 2011. Monitors spoke to the security service heads on duty who said that in the event of dismissal, they would be required to return the keys to the apartments where they reside with their families, as they can use them only while employed at AECS. They did not state other conditions that would deprive them of the right to apartments.

would lose the roof over their heads, while their earnings do not provide them with the opportunity to otherwise resolve the housing problem. Therefore, they are subject to manipulation and accept the denial of daily, weekly and annual leave, sick leave, overtime compensation, etc.

Health Insurance Law stipulates that in the event of temporary disability, an employee shall receive minimum 70% of his/her current salary.[485] However, AECS officials provided different information during an interview without the presence of chiefs and heads of the security service – that salary is reduced by 45% during sick leave.[486] As for early retirement benefits for work in difficult conditions, these are not taken into account during sick leave.[487] According to AECS employees, it often happens that a person has to come to work, even if sick or in the process of recovery, because there is no one to replace them.[488]

AECS employees have also addressed the Ministry of Justice[489] with the complaints about having to work up to 80 hours a week, not being pad for overtime, i.e. not getting time off for that work. Complaints also referred to work in confined spaces while performing guard duties, exposure to extreme heat or cold without the possibility of having warm or cold beverages, poor working conditions in watchtowers, which lack shelter from rain or wind, causing many health problems in employees, as well as superiors' autocratic behaviour and lack of understanding for the above issues.

9.3. Fixed-term employment contract and employment with no contract

Pursuant to the Rules on internal organization and staff systematization from 2006, 405 servants and employees in the Administration for Execution of Criminal Sanctions were systematized. In 2011, 504 (519)[490] servants or employees were employed, 250 under an unlimited contract and 254 under a fixed-term contract.[491]

AECS employees first addressed the Union of Free Trade Unions of Montenegro (UFTUM) and then the Ministry of Justice, complaining about their working conditions, especially due to the fact that more than 100 employees work illegally for years, without an employment contract, i.e. on the basis of a fixed-term contract which ended in 2006 or 2007.[492] Such situation (lack of employment contracts as a necessary legal document) puts them at a disadvantage, as it deprives them of labour rights they are otherwise granted under the law,[493] such as the right to fair remuneration, safety and protection of life and health at work, professional training, right to special protection during pregnancy and childbirth, right to special protection due to child care and other rights in accordance with the law and collective agreement.[494]

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485 Health Insurance Law, Art. 28, para 1 (*Sl. list RCG,* 39/04 and *Sl. list CG,* 14/2012).
486 Information obtained through informal interview with AECS staff during the visit on 27 December 2011.
487 Law on Pension and Disability Insurance, Art. 71, para 2 (*Sl. list RCG*, 54/03 ... *Sl. list CG*, 34/11).
488 Information obtained through informal interview with AECS staff, during the fifth visit to AECS on 29 November 2011. Monitors spoke to the security service heads on duty.
489 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012, p. 37.
490 According to AECS Management data of 15 December 2011 (Z-KD br355/119).
491 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012.
492 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012, p. 37.
493 Labour Law of Montenegro, Art.11 (*Sl. list CG*, 49/2008 of 15 August 2008).
494 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration

Failing to conclude employment contracts, the employer (AECS) is not only violating Article 172, para 1, item 5 of the Labour Law, which can be fined with 5,000 to 20,000 euros, but also Article 172, para 1, item 7 of the same Law, under which an employer is required to transform a fixed-term contract into a contract of indefinite duration. Specifically, Article 26 of the Labour Law stipulates that "if an employee continues to work for an employer after the expiry of a fixed-term contract, it is considered that the employment contract is concluded for an indefinite period, if the employee agrees to such employment." Therefore, *employees who continued to work after the expiration of their fixed-term employment contract not only have the right to regulate their legal status by the employment contract, but also to conclude a contract for an indefinite period of time with AECS.*

Although UFTUM required the Administrative Inspection of the Ministry of Internal Affairs and Labour Inspection of the Ministry of Labour and Social Welfare to carry out necessary controls due to a number of anonymous complaints about employment status and working conditions in the Administration for Execution of Criminal Sanctions of Montenegro,[495] in its response Administrative Inspection explained that it is impossible to carry out the inspection because a new act on systematization is in the process of drafting (?!), and that during the previous inspections in 2010 and 2011, the head of the organization had been instructed to rectify the established irregularities related to recruitment for a limited time without a vacancy announcement and working conditions. Bearing in mind the subsequent findings of the Ministry of Justice in respect of violations of labour rights by AECS Management, *there is a question of responsibility of the Administrative Inspection for untimely protection of the rights of AECS staff that should be urgently examined.*

According to the European prison rules, *professional prison staff shall normally be appointed on a permanent basis and have public service status with security of employment,* subject only to good conduct, efficiency, good physical and mental health and an adequate standard of education.[496] Healthcare professionals are also engaged under a fixed-term contract extended on a monthly basis. In order to stimulate Healthcare professionals to work in penal conditions, it is necessary to offer them a contract of indefinite duration and other benefits (higher wage coefficient for work in harsh conditions, longer vacations etc.). As for the benefits, the European Prison Rules stipulate that benefits and conditions of employment should reflect the exacting nature of the work as part of a law enforcement agency.[497]

Only the employees in direct contact with detainees and prisoners are entitled to early retirement benefits. Such benefits have been discontinued for other employees in AECS in December 2010,[498] including the Chief of the Institution for Sentenced Prisoners, although he has regular contact with prisoners. This measure does not motivate people to work at the Administration for Execution of Criminal Sanctions.

The right to vacation is usually exercised only owing to collegiality and collaboration among AECS staff members (because of the low stuffing levels, only one or two employees at a time can take a vacation).

for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012, states that AECS employees complain about working 80 hours per week without overtime compensation, working during time off and in difficult conditions (especially guards who endure bad weather conditions in the watchtower), about autocratic prison management etc.

495 Official letter to the Ministry of Labour and Social Welfare and Ministry of Internal Affairs regarding the violation of employees' rights in the Administration for Execution of Criminal Sanctions, 8 October 2011.

496 European Prison Rules, p. 78.

497 European Prison Rules, p. 79.2.

498 Regulation on jobs or tasks in public administration bodies with early retirement plan, Art. 3, para 5, *Sl. list RCG*, 54/03, 39/04, 61/04, 79/04, 14/07 and 47/07 and *Sl. list CG*, 79/08 and 14/10), the Government of Montenegro, adopted on 23 December 2010.

9.4. Staff expertise and competency

Of the total number of officers in AECS, 97 persons do not meet the conditions in terms of the education level for the position they are holding, of which 69 persons have been appointed on a permanent basis, and 28 under a fixed-term contract.[499] Particular attention should be paid to the fact that **42 security officers completed III level of secondary education and are employed in the Security Sector, with inadequate education level**.[500]

9.5. Safety equipment and uniforms

Security officer's equipment consists of: communication equipment, vehicles and special equipment devices. Special equipment includes: rubber truncheon, helmet, binoculars, whistle, compass, flashlight, safety goggles, safety mask, handcuffs, topographic map and first aid kit.[501] Monitors were told that employees in this sector do not have work coveralls or other winter equipment necessary for comfortable work, especially in 12-hour shifts. Employees also noted the lack of new communication equipment, means of restraint, pepper sprays, gloves, electric batons. Security officers complained of their new truncheons being worse than the previous ones (as noticed during one of the visits), since they are completely rigid and do not flex on impact as the old ones. These truncheons can cause serious injuries to prisoners in the event of their use.[502] During one of the final visits, officers complained of not receiving any uniforms for years and wearing used police uniforms, combined with their own sweater or worn work sweater, and uncomfortable shoes intended for manual workers, which they receive only once or twice in 6 years. Their uniforms looked worn out.[503] It is extremely important that officers be appropriately dressed, as this affects the work efficiency, corresponds to the seriousness of their job and contributes to the establishment of their authority.

9.6. Application of force

In informal interview with AECS employees, monitors mainly received unanimous answers, that force is applied only when necessary and that security officers are generally trained on the use of force. However, none of the officers commented on the conduction of trainings, i.e. educational courses on human rights.[504] On the other hand, surveyed prisoners stated that AECS officers apply force against them.[505] They further noted that they witnessed the use of force by officers against other inmates,[506] and that AECS officers insult[507] and threaten them.[508]

499 Ibid, p. 37.
500 Ibid, p. 37.
501 Rules on the Performance of Security Service, *Sl. list RCG*, 68/2006, Art. 69. However, from all the aforementioned special equipment, at the time of monitoring visits AECS security officers carried only rubber truncheons.
502 Information obtained through informal interview with AECS staff during the fifth visit to AECS on 29 November 2011. Monitors spoke to the security service heads on duty. Working conditions motivate or demotivate staff. In addition to being well-rested, well paid and having proper uniforms, employees will perform their duties more effectively if they have all the necessary equipment for comfortable work.
503 Information obtained through informal interview with AECS staff during the fifth visit to AECS on 29 November 2011. Monitors spoke to the security service heads on duty.
504 Ibid.
505 In a survey conducted among inmates on 12 and 13 March 2012, when asked: *Have the prison officials ever used force against you?*, 25.9% of respondent replied 'yes', 74.1% said 'no'.
506 In a survey conducted among inmates on 12 and 13 March 2012, when asked*: Have you ever witnessed the use of force against another prisoner?*, 36.3% of respondent replied 'yes', 63.7% said 'no'. In the Prison for short sentences 13.3% of respondent replied 'yes', 86.7% said 'no'.
507 In a survey conducted among inmates on 12 and 13 March 2012, when asked: *Do officials insult prisoners, i.e. use derogatory words when addressing them?*, 43.6% of respondent replied 'yes', 56.4% said 'no'. In the Prison for short sentences 26.4 % of respondent replied 'yes', 73.6% said 'no'.
508 In a survey conducted among inmates on 12 and 13 March 2012, when asked: *Have you ever been seriously threatened by AECS officer?*, 25.1% of respondent replied 'yes' and 74.9% 'no'. In the Prison for short sentences 14.9 % of respondent replied 'yes', 85.1% said 'no'.

According to the CPT standards, staff resources should be adequate in terms of numbers, categories of staff, as well as experience and training.[509] There is arguably no better guarantee against the ill-treatment of a person deprived of his liberty than a properly trained police or prison officer.[510]

In its Report on 2008 visit to AECS,[511] the CPT recommended that prison staff be reminded that the force used to control violent and/or recalcitrant prisoners should be no more than necessary and that once prisoners have been brought under control, there can be no justification for their beating. During the visits, monitors understood that AECS employees do not have a clear picture of the reasonable use of force.

AECS officers did not complete a specific training on the prevention of ill-treatment and prohibition of the use of excessive force in suppressing resistance.[512] Trainings organized for the purpose of achieving better treatment of prisoners were not attended by all staff members. The main reason is insufficient staff. If more than one or two officers went to the training, there would be no one to perform their official duties.[513] It appears that the main problem with the application of force is that the officers do not recognize the degree of force sufficient to restrain a prisoner.

As clearly stipulated in the CPT standards, ill-treatment can take numerous forms, many of which may not be deliberate but rather the result of organisational failings or inadequate resources. The overall quality of life in an establishment is therefore of considerable importance. That quality of life will depend to a very large extent upon the activities offered to prisoners and the general state of relations between prisoners and staff.[514]

CPT standards also point out that in any prison system, prison officials may occasionally be forced to use force to control violent and/or recalcitrant prisoners. These are clearly high risk situations in terms of potential ill-treatment of prisoners, and therefore require special protection measures.[515]

9.7. Bijelo Polje Prison staff

As for the prison in Bijelo Polje, the fact that the prison building is rather old, with a number of faults that affect not only the living conditions of persons deprived of their liberty, but also the safety of the institution (prison is located in the town centre and has a low fence), is an aggravating factor for the work of prison staff.

Inspection through direct insight into the personal records in relation to employment status and the right to annual leave has been carried out by the line of duty in respect of 29 persons employed in Bijelo Polje Prison under the contract of employment. All these persons have been employed in

509 CPT Standards, p. 42.
510 CPT Standards, p. 59, Extract from the 2nd General Report CPT/inf (92)3.
511 CPT, Report on the 2008 visit to Montenegro, p. 47.
512 In response to the Human Rights Action questionnaire Z-KD br 355/11 of 15 December 2011, AECS Management listed all the courses and trainings attended by AECS staff. By obtaining insight into the list, monitors came to the conclusion that AECS officials failed to attend this necessary training on the prevention of abuse and prohibition of the use of excessive force in suppressing resistance.
513 Interview with AECS staff during the visit conducted on 14 March 2012.
514 CPT Standards, Extract from the 2nd General Report CPT/inf (92)3, p. 44.
515 CPT, Report on the 2008 visit to Montenegro, p. 47.

violation of Article 17 of the Law on Civil Servants and State Employees, i.e. without prior decisions about recruitment for positions and public vacancy announcement, which violated the provisions of Art. 8, para 2 and Art. 19 and 20 of the Law on Civil Servants and State Employees in effect at the time of the adoption of decisions on employment depending on the time of recruitment or adoption of a decision.[516]

Bijelo Polje Prison employs 59 persons, 31 of which are employed under a fixed-term contract, and 28 on a permanent basis.[517] Staffing levels in this prison as well appear to be insufficient, since the monitoring team members during the visit found only a couple of security officers, chiefs and educators. In addition, the employees themselves mentioned the lack of security staff, as well as educators and medical staff. Working is organized in shifts, same as in the prison in Podgorica.

9.8. Recommendations

- *Increase staffing levels, especially in the security and treatment sectors.*
- *Provide time for rest (break) to all employees during the day.*
- *Regulate the legal status of employees hired under a fixed-term contract by concluding a contract of indefinite duration, since their contracts are considered as such in accordance with Article 26 of the Labour Law.*
- *Ensure the payment of benefits owed based on overtime, work during religious and national holidays and night work, in order to prevent court proceedings and further costs of these proceedings.*
- *Ensure regular payment of compensation for overtime, work during religious and national holidays and work in night shifts.*
- *Increase the number of trainings and courses for employees in accordance with a schedule that allows employees to participate in them.*
- *Ensure that competent persons with an appropriate education degree be in leadership positions in all organizational units and sectors within AECS.*
- *Provide by law accelerated retirement plan for heads of AECS.*
- *Increase the employees' salaries taking into account the work under difficult conditions.*
- *Provide adequate uniforms and other necessary equipment for AECS officers.*
- *Establish the responsibility of the Director, as well as the Administrative Inspection for violation or untimely protection of the rights of AECS employees.*

THE TABLE IN APPENDIX provides a detailed description of the degree of implementation of these recommendations by the end of the project in March 2013 (in the above order: recommendations 154-164).

516 Report on operations in the administrative field of the Ministry of Justice with the report of the Administration for Execution of Criminal Sanctions for 2011. Ministry of Justice, May 2012.
517 Ibid.

10. APPENDIX: COMPARATIVE TABLE WITH RECOMMENDATIONS AND ASSESSMENT OF A DEGREE OF THEIR IMPLEMENTATION IN MARCH 2013 (CPT / OMBUDSMAN / NGO)

No.	Recommendation - 2012	Response by AECS	Assessment of the fulfilment - 2013
1.	AECS Director must convey a clear message to all employees that physical or verbal abuse of prisoners is not acceptable and will be punished in accordance with law. (CPT)	Order has been communicated and a written message put up in the offices of security officers on duty. Meetings were held with the heads of shifts and an excerpt from the Rules on the Performance of Security Service submitted to them.	Recommendation fulfilled Training of the security sector staff should ensure that everyone understands the terms of physical and psychological abuse, and that there be no confusion about their meaning.
2.	Specify the Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions by including a warning that, when the resistance is suppressed, it is forbidden and punishable to continue to use force, i.e. use force as a punishment. (CPT)	Current Rules are in line with the current Law on Execution of Criminal Sanctions, which does not authorize the use of force when the reasons for it cease, i.e. when the resistance is overcome. With the adoption of the new Law all regulations will be harmonized.	Recommendation not fulfilled The Law on Execution of Criminal Sanctions in Art. 61 states that coercion shall be used "only when necessary to prevent resistance", which is indisputable. However, we believe that the by-law should further specify this, as the practice has proven that the force was abused mostly in this manner.
3.	Provide specifically tailored training to all members of the security service who already have contact with the inmates with the aim of adopting physical and psychological skills to maintain order while preventing abuse and reducing tension.	According to the program on the use means of coercion during April and May 2012, 118 guards from the security sector took a course and passed the exam on obtaining the title of a guard. This exam includes knowledge of relevant regulations. Ninety-eight security officers attended the course on "Handling weapons, organizing and carrying out the shooting"; 118 security officers attended the course "Adoption of physical skills and handling of coercion to maintain order while preventing abuse and reducing tension among prisoners".	Recommendation fulfilled However, mentioned programs did not include particular topics – the human rights of persons deprived of their liberty as a separate topic, or concept of the prohibition of torture and other ill-treatment. The following programs were reviewed: - Introductory course (training curriculum for civil servants and employees of the Administration for Execution of Criminal Sanctions); - Specialist course "Handling weapons, organizing and carrying out the shooting"; - Specialist course "Adoption of physical skills and handling of coercion to maintain order while preventing abuse and reducing tension among prisoners"; - Specialist course "Adoption of psychological skills to maintain order while preventing abuse and reducing tension among prisoners". We believe that it would be valuable to inform the officials about examples of torture and ill-treatment in prisons reviewed by international bodies for the protection of human rights, as well as the conclusions of these bodies in this regard.

4.	Ensure the keeping of records of each application of coercive measures against the detainees and prisoners, without exception. (CPT)	Special protocol book has been established. Special registers containing case files have been established in all organizational units accommodating persons deprived of liberty; special register has been introduced for recording the use of force, which, inter alia, contains data related to the start and duration of the use of force.	Recommendation fulfilled Registers are kept in all organizational units.
5.	Amend regulations to ensure that the inmate against whom the force was applied is granted access to all his relevant statements, as well as to the doctor's conclusions. (CPT)	Every prisoner against whom force has been applied is granted access to all his relevant statements, as well as to the doctor's conclusion.	Recommendation fulfilled
6.	Amend the Law on the Execution of Criminal Sanctions to prescribe in detail the procedure of using coercive measures, and particularly to ensure doctor's examination in each case of application of force, documenting of the statement of a person against whom the force was applied and bringing the case to the attention of the relevant ministry and state prosecutor. (CPT)	AECS informs the Ministry of Justice and the Police Directorate about the use of force, and then the Police Directorate informs the Prosecutor's Office. Drafting of the Law on the Execution of Criminal Sanctions is in progress.	Recommendation not fulfilled, because the Law is still in the drafting phase. Immediate reporting to the competent public prosecutor is in accordance with the recommendations of the CPT, as well as other allegations from the recommendation, as explained in the Report, p. 17-20. In practice, doctor's examination is ensured in each case of application of force. Records of the application of force in the Institution for sentenced prisoners, for example, show that the means of coercion have been applied only twice from June 2012 to date, i.e. in relation to two persons during the same incident in December 2012 (Lončar and Bošković). In 2013 in the Prison for short sentences, in the case of self-harm, fixation was applied during a period from 9 p.m. to 1 p.m. the following day. The CPT recommended that fixation be measured by hours, not days (Report, p. 22). In future, after engaging more medical staff, they should try to spend more time with persons in this position and monitor whether they have calmed down in order to discontinue fixation.

7.	Any case of exceeding or abusing one's authority must be recorded and must lead to initiation of the procedure of determining criminal or disciplinary liability, without hesitation and exceptions. Otherwise, the responsible chiefs, heads and director of AECS should therefore bear the consequences in accordance with the Criminal Code, which prescribes liability for abuse of official position, negligent performance of duties, concealment of a criminal offense and offender, etc. (CPT, 14.4)	If a superior officer or employee exceeds authority in the performance of the security service, whether by applying force to a greater extent than allowed or by abusing a prisoner, disciplinary procedure shall be initiated; if such behavior violates legally stipulated rights of a convicted person or inflicts bodily harm against them, AECS shall inform the Police Directorate and State Prosecution for further processing.	<u>Recommendation partially fulfilled</u> In the period from June 2012 to March 2013 there were no recorded cases of excess use of force or abuse of authority. However, as regards the case of alleged abuse of Marko Đurković in the Remand Prison on 3 May 2012, covered by the media, AECS informed the Police about it only on 24 October 2012, while the State Prosecutor questioned Đurković two months later - in late December 2012. Such conduct does not meet the requirement of urgency in accordance with international standards. Also, AECS conducted disciplinary action only against two officers, and subsequently the State Prosecutor launched a criminal investigation against three officers. Đurković stated that he had been hit by at least four officers, while others watched without objecting. There is doubt that this disciplinary action and the investigation included all responsible for active participation or consent to actions against Đurković. In October 2012 security officer in the Remand Prison N.N. applied excessive force against a detainee; the police was immediately notified, criminal charges were filed against the officer and the prosecutor ordered an investigation. The officer has been suspended, fined and meanwhile returned to work and is currently working on a watchtower. AECS Management has also immediately informed the police about the case of alleged beatings of prisoners Bošković and Lončar. This case was investigated by Ombudsman as well, who concluded that there was no evidence of abuse.
8.	Amend the Rules on the Performance of Security Service, Weapons and Equipment of Security Officers in the Administration for Execution of Criminal Sanctions by specifying the manner of the use of means of coercion in accordance with the CPT standards, to prevent the abuse and especially punishment by using means of coercion. (CPT)	Following the adoption of the Law on Execution of Criminal Sanctions by-laws shall be drafted, including the Rules on the Performance of Security Service, which will specify special authorities of officers.	<u>Recommendation not fulfilled</u>

9.	Since more than half of prisoners claim that officers carry truncheons, it is necessary to make additional efforts to hide them from view. (CPT)	Proposed Rules on uniforms have been drafted and submitted to the Ministry of Justice for further procedure. This recommendation was taken into account in drafting of the Rules.	Recommendation partially fulfilled Draft Rules on uniforms do not include information on how to carry a truncheon, which is not part of the uniform; there is rather "a hole for the truncheon" which is additional equipment (Art. 9), carried without restrictions. According to the Management of AECS, new uniforms will have pockets for carrying a truncheon. Monitors did not notice officers who carry truncheons during their visits.
10.	Ensure that AECS officers do not use improvised means of restraint and destroy all such means found with the prisoners, in accordance with the recommendation of the Ombudsman of 16 January 2012.	All illegal items found with prisoners or detainees during the search will be confiscated, stored or destroyed in accordance with the Rules.	Recommendation fulfilled House Rules (Art. 112) stipulate that illegal items found in prisoners shall be temporarily confiscated and that a record shall be made about it. Monitors were told that these items are kept in a separate storage within AECS in Podgorica, or destroyed, depending on the type of illegal items or substances in question.
11.	Develop a strategy on the prevention of violence among inmates. Include experts from various fields in its development, as well as staff members in contact with prisoners on a daily basis. (CPT)	Strategy for the Prevention of Violence among inmates has been adopted and communicated to staff in all organizational units accommodating convicted and detained persons.	Recommendation partially fulfilled We were informed that the Strategy was developed by AECS working group. We do not know whether it involved various experts. The strategy is evidently predominantly rooted in the CPT standards, which is certainly useful. Certain standards that are not in favour of AECS have not been included, such as the standard stipulating that detainees must be provided with meaningful activities outside the cell for a period of 8 hours a day, etc. Although it is a very important declaration of principles and standards, the main shortcoming of a Strategy is that it does not define short, medium and long term goals and does not provide for the adoption of action plan for achieving these goals. We suggest that the text of the Strategy be amended with this in mind. It will then become clear what has already been applied, and what is yet to be provided. Remarks: Paragraph 5 deals with the obligation to provide detainees with one hour in fresh air, which is not in accordance with the law which provides for 2 hours (Report, p. 98; CPC, Art. 182, para. 2). In Article 12, "independent body" referred to in international standards (e.g. European Prison Rules - EPR, p. 93) is not a government authority, referred to as "governmental inspection" (EPR, p. 92). Accordingly, the judge or official of the Ministry of Justice are not an independent body, as stated in the mentioned paragraph of the Strategy.

12.	Increase the number of employees in the Security Sector. (CPT)	Act on Systematization proposed staff increase. AECS is currently engaging staff in accordance with the job vacancy announcement.	Recommendation fulfilled It is certain that the number of employees in the security sector will increase.
13.	Ensure the application of conciliation and mediation procedures to the greatest possible extent to resolve disputes among inmates.	Mediation team was formed and it includes psychologist, pedagogue and defectologist with experience in mediation and necessary certificate.	Recommendation partially fulfilled Although the mediation team was formed more than half a year ago, prisoners are not interested in mediation, because according to the head of the Institution for sentenced prisoners, they abide by the system and values of informal community. We suggest the exchange of experience on the topic of mediation with representatives of prisons in Bulgaria, Slovenia and the UK who have had similar experiences. Consider the possibility of including the prisoner in the team as an ad-hoc member.
14.	Install video cameras and alarm systems in rooms with a large number of prisoners.	Expert opinion was sought from the Agency for the Protection of Personal Data, but the opinion received did not contribute to the adoption of a decision in favor of the implementation of this recommendation.	Recommendation not fulfilled
15.	Ensure that video surveillance footage be stored much longer than 7 days.	Video surveillance footage is stored longer than 7 days in most of the units.	Recommendation fulfilled In certain units footage is stored for up to 30 days or less. The problem is related to hardware and software. Systems have not yet been connected. However, when an incident occurs, as monitors have been informed, the footage is immediately used for further procedure.

DISCIPLINARY VIOLATIONS, PROCEDURES AND MEASURES

Most of the recommendations have been implemented, documentation of disciplinary actions is properly kept and the House Rules are available to both detainees and prisoners. Punishment of solitary confinement for more than 21 days occurred in 10% of cases, but such longer placements under solitary confinement were usually terminated earlier. As regards the upcoming amendments to the Law on Execution of Criminal Sanctions, latest recommendations of the CPT in relation to solitary confinement should be borne in mind, particularly the one stating that solitary confinement should last no longer than 14 days. The new Law should also improve guarantees of fairness of disciplinary proceedings, extend the deadlines for court protection, prescribe periodic reviews of decisions on solitary confinement and transfer, prescribe remedies against those decisions, etc. Decisions on transfer still do not contain an instruction on legal remedy. It is necessary to encourage inmates to take advantage of mediation team services in the event of a conflict.

No.	Recommendation - 2012	Response by AECS	Assessment of the fulfilment - 2013
16.	Amend legal provisions and reduce the period of stay of inmates in solitary confinement to a maximum of 21 days.	Of a total of 249 disciplinary actions ("reports") conducted within the Institution for sentenced prisoners in 2012, 34 inmates received a sentence of solitary confinement for more than 21 days, of which 17 were punished by a maximum of 30 days (for escape and assault of an officer). Out of 50 disciplinary actions conducted in 2013, there were 5 sentences of more than 21 days, one prisoner was sentenced to a maximum of 30 days. However, no person was in solitary confinement for a total of 30 days – the punishment was terminated earlier. Drafting of the Law on the Execution of Criminal Sanctions is in progress and this issue will be aligned with international standards; until that time the current law will be applied.	Recommendation partially fulfilled Regulations have not changed, however, disciplinary punishment of solitary confinement for more than 21 days is proportionally rarely used in practice (about 10% of cases). It has been noticed that placement under solitary confinement for more than 21 was usually terminated earlier. In its 21st General Report from 2011, CPT recommended that solitary confinement should last no longer than 14 days.
17.	All paperwork relating to disciplinary procedure must be documented orderly, while the charges and the decision must be delivered to prisoners with an instruction on legal remedy. Provide proof of orderly delivery. (CPT)	All paperwork relating to disciplinary procedure is documented orderly; charges and decision with an instruction on legal remedy are delivered to prisoners, with the signature of a prisoner as a proof of orderly delivery.	Recommendation fulfilled After inspecting the records of disciplinary reports from the Institution for sentenced prisoners and individual cases, we have found that the documentation is in order and that each decision has the signature of a prisoner in question.

18.	Ensure that persons serving a sentence of solitary confinement have the right to visits from family members and other close persons. (CPT)	Regardless of the imposed disciplinary punishment against a sentenced person, receiving regular visits is a statutory right that can never be brought into connection with a disciplinary offense. The same is stipulated by the House Rules adopted in December 2012.	Recommendation fulfilled Several prisoners, including those in solitary confinement, confirmed in an interview that their right to regular visits has not been denied during solitary confinement. New House Rules do not prescribe the denial of regular visits as a form of punishment while serving a sentence.
19.	Ensure that all persons held in solitary confinement have the right to stay in the fresh air for a minimum period of one hour per day, in accordance with the law. (CPT)	National and international standard stipulating that all persons held in solitary confinement have the right to stay in the fresh air for at least 1 hour per day is complied with.	Recommendation fulfilled According to the duty book in Disciplinary unit and interviews with prisoners, particularly those in solitary confinement, it was concluded that the recommendation has been implemented.
20.	Ensure that the decision on solitary confinement be delivered to all inmates before they are sent there, and that only exceptionally inmates are sent to solitary confinement prior to receiving the decision.	Decision on solitary confinement is delivered to all inmates before their isolation.	Recommendation fulfilled Persons in Disciplinary unit (in solitary confinement) confirmed that they had received a decision before being taken to solitary confinement.
21.	When imposing a disciplinary measure of solitary confinement, after a convicted person has committed three minor violations of the House Rules, the prison Chief should be particularly vigilant and not allow this measure to be the subject of abuse and type of pressure on the prisoners, as it leaves the possibility of arbitrary interpretation of minor violations of the House Rules by the Security Service.	House Rules adopted in December 2012 do not provide for the possibility of imposing a disciplinary measure of solitary confinement against a convicted person after the person has committed three minor violations of the Rules.	Recommendation fulfilled New House Rules do not provide for the punishment of solitary confinement in the case of three minor violations of the Rules.
22.	Ensure that in each case a person sent to solitary confinement has direct contact with the doctor before being sent to solitary confinement.	After the imposition of a disciplinary measure, just before being sent to solitary confinement, prison doctor determines if the convicted person is capable of isolation. Upon receiving doctor's confirmation, the person is sent to solitary confinement.	Recommendation fulfilled However, this recommendation is no longer featured in the European Prison Rules. The said Rules (p. 43.2) require regular doctor's visits to prisoners who are in isolation.

23.	Ensure that the doctor who normally looks after the health of a prisoner against whom the disciplinary proceedings have been initiated does not decide on his/her ability to undergo the punishment of solitary confinement.	Healthcare in the organizational units in AECS in Spuž is provided by two full-time engaged doctors - one works in the Remand Prison and the other in the Institution for sentenced prisoners and Prison for short sentences. If deciding on detainee's ability to undergo the punishment of solitary confinement, the necessary examination will be carried out by the doctor who examines convicts and vice versa.	Recommendation not fulfilled In the second half of 2012 two doctors were employed in AECS in Podgorica, however, as of 1 March 2013 AECS employs only one doctor. See the recommendation above.
24.	Ensure the implementation of the CPT recommendation in relation to the right to appeal with regard to transfer by specifying regulations and in practice. Decisions on transfer must include basis and reasons for transfer of the convicted person and instruction on legal remedy. (CPT)	The right to appeal the decision on transfer to another organizational unit as well as with regard to all other administrative acts is guaranteed by the Law on General Administrative Procedure. All decisions include an instruction on legal remedy.	Recommendation not fulfilled After examining multiple decisions adopted in 2012 and 2013 it was found that none of them contained an instruction on legal remedy. Regulations have not been specified. Also, although we are told that some decisions were adopted at the request of convicts, the decision itself does not state that, but only that the Treatment Sector requested the transfer.
25.	Prescribe the principle that solitary confinement and transfer shall be for the shortest possible time and that decisions on isolation and transfer be reviewed e.g. every month or at least every three months. (CPT)	The legislation does not provide for time limits regarding the stay of inmates in another organizational unit. However, decisions to transfer inmates to another organizational unit are reviewed once a month and further stay in another organizational unit depends on whether the reasons for transfer have ceased.	Recommendation not fulfilled Law on Execution of Criminal Sanctions that should regulate this issue has not yet been amended. During the reporting period there was only one case of solitary confinement for security reasons, which ended by release of the prisoner in September 2012. Amendments to the Law should regulate this issue.
26.	For the purpose of legal certainty, specify the deadline for the adoption of this decision – immediately or, exceptionally, if the safety reasons require so, no later than 24 hours after the transfer or isolation has started. If the decision is not adopted within the prescribed period, provide for the possibility of immediate initiation of an administrative procedure, or no later than 30 days from the beginning of implementation of a measure.	Article 120 of the House Rules stipulates that after conducting disciplinary proceedings and determining the facts, the head of the organizational unit will adopt a decision on disciplinary responsibility within 48 hours. Other deadlines related to disciplinary procedure or transfer, if not regulated by any other act, shall be applied in accordance with the Law on General Administrative Procedure.	Recommendation not fulfilled Law on Execution of Criminal Sanctions that should regulate these issues has not yet been amended.

27.	Amend the Law on Execution of Criminal Sanctions to provide for all guarantees of procedural fairness contained in the European Prison Rules.	Drafting of the Law which will incorporate all international standards is in progress.	Recommendation not fulfilled Drafting of the Law on Execution of Criminal Sanctions is in progress. Although the new House Rules contain many guarantees, not all of them have been laid down (e.g. the defendant's right to offer evidence and call witnesses).
28.	It is recommended that the deadline of 3 days for initiation of an administrative dispute be extended to at least 7 days, since persons deprived of their liberty are in a more difficult position to conduct trials as compared to free individuals, who are entitled to a considerably longer deadline (30 days).	The deadline of 3 days defined by the House Rules applies to the filing of complaints to the director and decision on disciplinary responsibility. The deadline of 30 days determined by the Law on Administrative Procedure applies to the protection before the Administrative Court as well as to the protection of the convicted person.	Recommendation not fulfilled In the Report we referred to Article 64d of the Law on Execution of Criminal Sanctions, which deals with the stated deadlines for action for judicial protection.
29.	Inform prisoners about the conditions for access to free legal aid pursuant to the Law on Free Legal Aid. Amend this law to enable the prisoners of lower socioeconomic status to have access to free and impartial legal assistance in disciplinary procedures against them.	Convicted persons are always informed of the conditions for access to free legal aid provided in AECS when serving a prison sentence. They are entitled to legal aid within AECS . They also have an access to Brochure on free legal aid in Montenegro.	Recommendation partially fulfilled, in the part within the competence of AECS. Brochures on free legal aid of the Basic Court in Podgorica are available to prisoners. Law on Free Legal Aid has not been amended.
30.	Ensure that all prisoners be timely and continuously informed of their rights and obligations.	Upon admission all prisoners learn about their rights and responsibilities and confirm this with their signature. Legal acts that regulate the execution of criminal sanctions have been made available to them.	Recommendation fulfilled in principle Although prisoners confirmed that now they receive the House Rules and other regulations upon request, there are also those who do not know about available legal remedies. We suggest that a simple brochure be handed to all the prisoners to inform them about legal remedies at their disposal.

31.	All inmates must be familiar with the contents of the House Rules and AECS Management must make it available to prisoners. Ideally provide House Rules in the form of a brochure that would be delivered to every convicted person at admission. In the meantime, ensure that the prison library has enough copies of the Rules that can be handed out to convicted persons upon request. For the needs of foreigners who do not understand the language, provide for translation of the Rules into several languages.	House Rules are available at each living room and library. House Rules and Rules for the Enforcement of Custody were translated into English and Albanian languages and made available to foreign prisoners and detainees in AECS.	Recommendation fulfilled During the visit of the monitoring team there were no copies of House Rules in the living rooms in units, however, prisoners confirmed that the Rules are available in all prison libraries.
32.	In case of self-injury, examine mental condition of a convicted person and subject the person to a proper medical treatment, if necessary. Accordingly, legal provisions that treat self-injury solely as a disciplinary offense subject to penalties should be amended. Also, the Law on the Enforcement of Criminal Sanctions should specify that in case of self-injury a medical opinion must be obtained prior to initiation of a disciplinary procedure.	Any person who attempts to harm themselves or inflicts self-harm is examined by a psychiatrist, as such behavior in inmates is at first percieved as a result of a mental disorder. If self-harm or attempted self-harm is not the result of mental disorder, then it represents a serious disciplinary offense.	Recommendation fulfilled According to the new House Rules, self-injury is considered as serious disciplinary offense, if not the result of a mental disorder. In each specific case an opinion of a psychiatrist is sought.
33.	Encourage peaceful resolution of disputes among inmates in all AECS units.	A team was formed composed of psychologists and educators trained in mediation - peaceful resolution of conflicts among prisoners.	Recommendation partially fulfilled, mediation team has been established, but prisoners need to be encouraged to use this form of conflict resolution (see also Recommendation no. 13 above).

REMAND PRISON PODGORICA

Most of the premises in the Remand Prison have been renovated, living conditions improved, as well as the space for walking. However, there is still a problem of failure to meet the standard of at least 4m^2 per person which, in combination with the fact that inmates usually spend 23 hours a day locked in such small rooms (female detainees 22 hours), constitutes inhumane treatment. Courts should therefore order custody extremely restrictively and, in particular, not allow stay in detention for several years, as this is in violation of European standards. We are advocating for the construction of a new remand prison building, which will allow for the application of the CPT standard according to which detainees should spend several hours a day in activities outside of their cells.

No.	Recommendation - 2012	Response by AECS	Assessment of the fulfilment - 2013
34.	Urgently renovate and extend unit A within the Institution for sentenced prisoners (e.g. add new floor). (CPT)	Lack of financial resources. Capital budget for 2014 envisages the reconstruction of unit A. During this year bathrooms in the said unit will be renovated.	Recommendation not fulfilled, but it is encouraging that the construction of a new building is planned for 2014 and that the funds have been provided for this purpose.
35.	Take measures to address the problem of overcrowding and achieve compliance with European standards. Prescribe a minimum standard of 4 m^2 of free space per convict, in accordance with the international standard and comply with this standard in practice. (CPT)	AECS management is undertaking a series of activities to resolve the issue of overcrowding and generally improve the conditions of stay of persons deprived of their liberty. Reconstruction and renovation of almost all the units increased prison capacity, so in some facilities the accommodation conditions are now close to European standards.	Recommendation partially fulfilled There is no overcrowding in most of the units, in contrast to unit A, which does not even closely comply with the standards for accommodation of prisoners (28 beds in about 50 m^2). In unit F there are rooms accommodating 6 people in a maximum of 16 m^2. The problem of non-compliance with the standards is still present at the Remand Prison (e.g. room with 11 detainees in 25 m^2, second floor, Room L3), although the situation is much better than in previous years (the number of detainees does not exceed 300, the capacity is 370 beds, and in 2008 there were over 500 people in Podgorica Remand Prison). However, all this should be viewed in the context of detainees who are locked in cramped cells for 23 hours a day for several years. All this together represents treatment that can not be considered as humane.

36.	In accordance with the plan, construct a new prison for long sentences in Podgorica.	The Action Plan of the Government of Montenegro and the Master Plan envisage the construction of a prison hospital, prison for long sentences and prison in Bijelo Polje, which will address the issue of overcrowding in other facilities as well.	Recommendation not fulfilled, but the construction has been scheduled and resources provided.
37.	Bring down inadequate shacks within the so-called "Economy" (unit E within the Institution for Sentenced Prisoners) and build new facilities to accommodate inmates.	Several facilities in the Economy were adapted to accommodate 30-40 people. Other facilities will be demolished and new ones built when the conditions are met.	Recommendation partially fulfilled
38.	In accordance with the plan, construct the Special Hospital.	Building of a prison hospital has been envisaged by the Action Plan of the Government of Montenegro and the Master Plan. The Council of Europe Development Bank will finance 3 facilities, funds have already been secured.	Recommendation not fulfilled, but the construction has been scheduled and resources provided.
Unit A			
39.	Provide the required bedding, including pillows and pillow cases, which should be available to every convict. Information on the possibilities of using prison bedding must be made available to all convicts and detainees.	AECS provides bedding for all persons deprived of their liberty, but also allows the use of own bedding. Tailor's workshop has been opened, 4 prisoners were trained to work in the workshop, 2500 bed sheets and 1300 pillowcases were made, as well as 100 work suits for prisoners.	Recommendation partially fulfilled Prisoner from unit A, a foreigner, did not know he was entitled to bedding and borrowed it from one of the convicts. A few other prisoners confirmed that the prison authorities "did not make an effort to notify them of the right to bedding...". On the other hand, some other inmates confirmed that they have been informed. The problem of insufficient information could be solved by handing brochures to everyone upon admission to prison.
40.	If the prisoners choose to clean their clothes or bedding themselves, provide for the possibility of drying the clothes in a separate room, so that it is not done in the rooms they sleep in.	In some units it has been made possible to dry bedding in the open.	Recommendation partially fulfilled

41.	It is necessary to reconstruct the unit A (e.g. add new floor) to address the issue of overcrowding. Meanwhile, paint the walls.	In the capital budget for 2014 the Ministry of Justice and AECS proposed construction of a new unit A.	Recommendation not fulfilled The problem of overcrowding is still present - 28 prisoners sleep in bunk beds in the bedroom of 50 m^2. Rooms are painted, in part.
42.	Pay more attention to the hygiene of sanitary facilities and provide new sanitary equipment.	Since June 2012, 30,000 euros have been invested in sanitary equipment; 30,000 euros is planned for this year.	Recommendation fulfilled Sanitary equipment has been repaired in most units; bathrooms in each room in the Prison for short sentences are currently being reconstructed.
43.	Provide adequate heating and cooling.	Air conditioning has been installed in all living rooms and hallways. According to Director's decision, prisoners are allowed to have a mobile air conditioning (water cooling fan) in the summer.	Recommendation partially fulfilled There are radiators and other heating devices in dormitories and rooms, which are the property of prisoners, but the prisoners still complain about the heating. During the visit it was noted that there was only one radiator in the living room that can accommodate up to 30 people. There are air conditioners in the hallways, not in the rooms. In unit A, in the most numerous room with 28 people there are only three radiators, which can not be used simultaneously with TV sets, due to problems with the electrical system.
44.	Install video surveillance in the office for educators.	Not planned under the project.	Recommendation not fulfilled In the anonymous survey conducted in March 2012, convicts stated that educators' offices had also been used for ill-treatment, particularly in unit A.
45.	Designate a separate room for smokers and set smoking ban sings in all the hallways and bedrooms.	Due to the lack of accommodation and other capacities, there are no conditions to designate separate rooms for smokers in the facilities used to accommodate persons deprived of their liberty. All facilities have 'no smoking' signs placed in appropriate places.	Recommendation not fulfilled Inmates still smoke in dormitories. AECS management is trying to establish non-smoking rooms, but this is not always possible.

46.	Inform all detained and imprisoned persons of their right to prison bedding, as well as the right to have their personal or prison bedding regularly washed in the laundry room.	Prisoners have access to all the documents governing their life and work during their stay in AECS. House Rules stipulate that all prisoners in the Institution for sentenced prisoners shall be notified of the right to use prison bedding as well as their own bedding. Upon admission they sign a statement that they are familiar with the House Rules.	Recommendation partially fulfilled Monitors spoke to several inmates, especially in the Remand Prison and units A and C, who were not informed about the right to use the laundry room and obtain prison bedding. On the other hand, inmates in units B and D were familiar with the above rights.
Unit B			
47.	Install central heating in staff premises.	Air conditioner has been installed.	Recommendation fulfilled
Unit C			
48.	Provide new shower heads and prevent their destruction.	Seven shower cabins were installed in rooms accommodating prisoners. House Rules specify material liability of convicts who damage AECS property.	Recommendation fulfilled Shower cabins have been replaced in the common bathroom.
49.	Set up a shelter from inclement weather in the unit C yard and purchase sports equipment.		Recommendation not fulfilled Courtyard in unit C is still very small and without any shelter from bad weather conditions. In addition, this unit does not have sports equipment or, for example, a basketball hoop. We recommend that the shelter be made of transparent material to allow surveillance from the watchtower.
50.	It is necessary to reduce the destruction of prison equipment, by informing inmates about the responsibilities for such behaviour laid down in the House Rules.	Since June 2012 several decisions on material responsibility for the destruction of AECS property were adopted. Material liability for damage is specified in the House Rules.	Recommendation fulfilled
Unit D			
51.	Enable the use of prison bedding.	Sufficient quantities of sheets have been supplied and distributed to all the facilities lacking bedding.	Recommendation fulfilled Prisoners are informed of their right to use prison sheets; inmates in this unit had no remarks to this end.

52.	Make available information on the use of the laundry room.	Prisoners have been informed about their right to use prison bedding and laundry room.	Recommendation fulfilled A number of prisoners uses the laundry room, mostly those who have less frequent contact with their family members who could wash their linens.
53.	Address the problem of overcrowded rooms.	For many years AECS has been faced with the problem of lack of accommodation capacities. Certain rooms in unit D occasionally outnumber actual accommodation capacity. We try as much as possible to evenly distribute the prisoners, not only in the rooms but also the units.	Recommendation partially fulfilled At the time of the visit there was no overcrowding in the rooms in this unit.
Semi-open unit			
54.	Provide laser equipment for video surveillance.	Project documentation and resources required.	Recommendation not fulfilled
55.	Demolish dilapidated shacks and build new ones, in accordance with the standards, which would have more beds and better living conditions.	Conditions for the demolition of shacks have not yet been created because the funds for the construction of new ones are not provided. In the meantime, all shacks in the Semi-open unit have been renovated and adapted, creating thus decent conditions for stay.	Recommendation partially fulfilled
56.	Expand the greenhouse and farms.	Preparation of the business plan in collaboration with the Faculty of Economics in Podgorica is in progress.	Recommendation not fulfilled, but we welcome the development of a business plan, which is one of the fulfilled recommendations.
Prison for short sentences			
57.	Constructing additional premises of about 50 m² next to the existing facilities would considerably help in avoiding overcrowding and thus complying with international standards regarding the placement and conditions of stay of sentenced persons.	Reconstruction of part of the building of the Prison for short sentences is in progress, which will increase its accommodation capacities.	Recommendation partially fulfilled The reconstruction, which implies the replacement of shared bathrooms with bathrooms in each room, will provide for an extra room in every department, in addition to better comfort, but this will not provide as much space as constructing of an additional floor would. In the meantime, AECS Management informed us that constructing of an additional floor in this building is not possible due to technical reasons.

58.	Provide a library.	Reconstruction of this building provided for a room for library.	Recommendation fulfilled, although the library that we have found is very meager. We were informed that the central library will be established for all prisons, i.e. units.
59.	Take out excess beds from the room for foreign inmates in order to make more space.	Renovation of rooms for foreign inmates is currently in progress.	Recommendation fulfilled At the time of the visit, in March 2013, not one foreign inmate resided in AECS. This situation is extremely rare.
60.	Set up a shelter from inclement weather in the yard.		Recommendation fulfilled However, during a visit in March 2013, the entire sports court in the backyard was flooded, which is an issue that needs to be addressed.

REMAND PRISON PODGORICA

Most of the premises in the Remand Prison have been renovated, living conditions improved, as well as the space for walking. However, there is still a problem of failure to meet the standard of at least 4m^2 per person which, in combination with the fact that inmates usually spend 23 hours a day locked in such small rooms (female detainees 22 hours), constitutes inhumane treatment. Courts should therefore order custody extremely restrictively and, in particular, not allow stay in detention for several years, as this is in violation of European standards. We are advocating for the construction of a new remand prison building, which will allow for the application of the CPT standard according to which detainees should spend several hours a day in activities outside of their cells.

61.	Construct a new building of the Remand Prison, which would have rooms with fewer beds, complying with the standard of 4 m², and provide a living area with computers and other options for activities outside the cell.	The measure has been partially applied due to the lack of funds in the budget.	Recommendation not fulfilled Unfortunately, we have not been informed of any plan envisaging the construction of a new remand prison building in future.
62.	Until the new prison building is constructed, renovate the existing accommodation capacities and paint all the rooms.	Reconstruction of Remand Prison is in the final stage.	Recommendation fulfilled Most of the rooms have been painted, and it is planned to paint the rest of them as well. There are toilet facilities in the rooms and in the shared bathroom.
63.	Renovate rooms that are not currently used.	Rooms that had not been used were renovated and intended for archive, storage and possibly a mini library.	Recommendation fulfilled, all rooms are operational. However, these premises - former isolation rooms - are now used for training on stationary bikes, but they are extremely narrow and inadequate for that purpose.

64.	Provide non-transparent shower curtains in bathrooms in the female part of the Remand Prison to ensure privacy of female detainees.	Non-transparent shower curtains have been provided in bathrooms.	Recommendation fulfilled
65.	Adapt special rooms for solitary confinement in Podgorica Remand Prison.	The process of reconstruction is in progress.	Recommendation fulfilled

Bijelo Polje Prison

Conclusion: Although in its report from 2009 the CPT stated that it believed that the government would take steps to complete construction of a new prison in Bijelo Polje on time, this has not happened, however, funding has been provided and the construction is in plan.

66.	In accordance with the plan, construct a new building for Bijelo Polje Prison. (CPT)	Construction is envisaged by the Master Plan, funds have been provided.	Recommendation not fulfilled, but funds have been provided and the construction is in plan.
67.	Until a new prison building in Bijelo Polje is constructed, it is of priority to build additional premises - living room and disciplinary cells for convicted persons.	Directorate of Public Works signed a contract for works on the reconstruction of Semi-open unit in Bijelo Polje Prison. The reconstruction will start soon.	Recommendation not fulfilled, although it appears that it will be soon.
68.	Renovate bathrooms and toilets in the prison for convicted persons and maintain hygiene. (CPT)	Sanitary facilities were made in the Semi-open unit, and the Closed unit lacks 1 bathroom and 1 toilet.	Recommendation partially fulfilled
69.	Provide adequate space for prisoners to take walks, with a shelter from inclement weather, especially bearing in mind that prisoners do not have a living room. (CPT)		Recommendation not fulfilled, but according to AECS management the reconstruction, which is expected to begin in a few months, will resolve this issue.
70.	Expand farms and build a greenhouse for growing vegetables and flowers. (CPT)	Chicken farm has been expanded to about 5,000. Part of eggs produced is used for the consumption of prisoners and detainees, and some are sold through retail outlets in AECS and Bazar.	Recommendation partially fulfilled The greenhouse has not been expanded. Business plan will show if this will be profitable.
71.	Set up multiple shelters from inclement weather in all the yards.	Shelters have been set up.	Recommendation partially fulfilled There is no shelter in the disciplinary section in unit C.
72.	Encourage the use of alternative sanctions, particularly work in common interest, in order to reduce the number of convicted persons serving their sentence in the prison.	The Ministry of Justice is currently drafting the Law on Alternative Sanctions.	Recommendation not fulfilled

JUVENILES

Conclusion: Placement of juveniles in the Remand Prison does not meet the standards.

73.	As a rule, provide separate accommodation for minors in detention and juvenile prison from that of adults, either by constructing special facilities or adapting premises in the existing facilities. Provide special treatment for minors and actively promote their contact with the outside world. (CPT)	Department for juveniles has been set up in all organizational units, except in Bijelo Polje Prison. There are no spatial capacities in prison in Bijelo Polje.	Recommendation partially fulfilled Special conditions for juveniles, a special unit, have been provided in the Institution for sentenced prisoners in Podgorica, within unit F. Minors have their separate big yard, but without sufficient sports equipment (there is no football or basketball field, although there is enough space. Gym equipment is scarce and worn out). The conditions of detention for juveniles are just as bad as for other inmates. During the visit to a juvenile who was in Remand Prison we noticed that he was in a cell with an adult who, according to the assessment of a staff member, was accused of "one of the minor offenses - general endangerment and illegal possession of weapons", so that he would not be alone in the cell. Conditions in the cell were poor. The only difference compared to adults is that minors are allowed to stay outdoors 3 times a day for an hour. (see description of the application of recommendation no. 154).
74.	Develop brochures on the placement of juveniles in AECS. Make transparent all information relating to the regime that will in future be carried out in relation to juvenile prisoners or detainees.	Brochure was developed and made available to juveniles in AECS.	Recommendation fulfilled
75.	Provide a special prison unit for juvenile inmates.	Juvenile imprisonment is carried out in AECS. Mentioned sentences are carried out in the juvenile unit, established within the Institution for sentenced prisoners.	Recommendation fulfilled
76.	Provide conditions for the consistent application of Art. 153 of the House Rules, and prevent isolation of minors by allowing them to participate in different types of activities in accordance with Art. 154 and 155 of the said Rules.	The said Articles are now Art. 132, 133 and 134.	Recommendation partially fulfilled

PERSONS WITH DISABILITIES

Conclusion: The main recommendation remains the same – ensure functional access to people with disabilities in all organizational units as well as suitable accommodation for detained and convicted persons who are wheelchair users.

77.	Adapt all facilities for persons with disabilities.	Access ramps were set up in the Institution for sentenced prisoners in unit F and in the Semi-open unit.	Recommendation partially fulfilled Access ramps have been set up, but not by the standards – they are steep and narrow, do not have a fence and are not adequately marked. There are no ramps that would allow wheelchair users or those with walking difficulties exit to the yard in unit F, Semi-open unit (although there is a ramp at the entrance, and since the unit is semi-open it is possible to use it to go outside, however, it is still desirable to set up a ramp at the exit to courtyard area) or in Prison for short sentences (reconstruction is currently in progress and we were assured by the Chief that a ramp will be set up at the exit to the yard). Access ramp at the entrance to the Prison for short sentences is better than those in other units, but it was not made by the standards. Inside the building of Prison for short sentences there is a difference in floor level of 5 to 6 cm that needs to be bridged by a ramp (near the entrance). Doorsteps are higher than expected, and should be bridged by small ramps (it was said that this would be done during the reconstruction).
78.	Adopt a Rulebook on the treatment of persons with disabilities in AECS.	Guidelines on the treatment of persons with disabilities during the execution of the sentence of imprisonment and detention was adopted. Brochure for inmates with disabilities was developed and made available.	Guidelines on the treatment need to be improved, as the UK brochure was used that has not been properly adjusted.
79.	Adapt a special room for searching persons with disabilities, in order to appropriately carry out the procedural authority to search a person.	Room for searching has not been provided due to the lack of accommodation capacities.	Recommendation not fulfilled

80.	Provide appropriate accommodation for prisoners and detainees who are wheelchair users.	A room has been provided on the ground floor in unit F, as well as in Semi-open unit and in Prison for short sentences. AECS management immediately acted on the recommendation and transferred prisoner M. from unit F to Prison for short sentences.	<u>Recommendation not fulfilled</u> The said room on the ground floor in unit F has not been adapted for disabled people. This room accommodates 6 prisoners, two of whom use both wheelchair and crutches, which is too much for such a small area (16 m^2). A person with amputated lower extremities said that the conditions were not good. Toilet, which is part of the room, is too narrow and it is impossible to access it in a wheelchair, and although the door has been widened, it is practically impossible to get into it because it is small. Interestingly, doorsteps were bridged with little ramps. People with disabilities use toilet with the help of other inmates. Beds have not been provided with appropriate equipment (e.g. trapeze to lift a person from a lying position). Their food is brought into the room. Bathroom close to the room is inadequate. Entry into the bathroom is not adequate because the door can not be opened all the way, which is a problem when entering, there are no handles. It is impossible to access shower cabins, six of them, in a wheelchair. There is enough space in the bathroom to adapt one shower cabin. If using crutches, there is a risk of falling, i.e. getting injured because of the slippery floor (tiles). Convict M. complained about falling in the bathroom and breaking his prosthesis. He takes a bath with the help of others. He said that he used to have a "companion" (another prisoner who assisted him) who was transferred elsewhere. There is no room for people with disabilities in the Semi-open unit. There is a room called the "sick room", which was absolutely inaccessible, starting from the door width (70 cm), interior, extra door for another part of the room and toilet door that is difficult to reach. This room has been partitioned to enable ill inmates to get help when needed - a bed has been placed inside to accommodate an inmate to assist ill inmate. In Prison for short sentences there is a room designed to accommodate persons with disabilities (with four beds; it is currently accommodating an inmate with visual impairments). In the room there is a toilet which is more spacious (although not completely following the standard) and it is possible to access it in a wheelchair. There are no handles and it would be advisable to install them. There are clinic and dining room near this room. Conclusion: There are no conditions in the Semi-open unit to accommodate inmates with disabilities. In unit F it is necessary to adapt the toilet and bathroom for prisoners with disabilities, and in the meantime find a way to transfer an inmate currently staying there to a more appropriate part of the prison (for example, to Prison for short sentences).

81.	Regularly update AECS website, publish all by-laws governing the operation of this institution, as well as updated information on the prison population figures, development projects and current events.	So far the website has been updated with information about the Management and contact person for cooperation with NGOs. Update of information on laws, regulations and other news is in progress.	Recommendation partially fulfilled
82.	Inform all detained and imprisoned persons of their right to prison bedding, as well as the right to have their personal or prison bedding regularly washed in the laundry room.		Recommendation partially fulfilled
83.	Considering that inmates are allowed to use various household appliances including electronic devices, devices for heating, cooking, gas bottles, etc., their use should be regulated by the House Rules, for the purpose of safe use and fire safety.	Prisoners and detainees are prohibited from using gas cylinders, which has been confirmed by inspection of all the premises within AECS. Guidelines on fire protection will be adopted.	Recommendation partially fulfilled
84.	Prohibit smoking, except in designated areas.	This is not possible in Remand Prison because each room would need a separate room for smokers. “No smoking“ signs were put up in all appropriate places.	Recommendation not fulfilled
85.	Set up the computer room in units within the “Circle”.	Computer room has been set up in Semi-open unit and at the moment a number of computers are being repaired. In a short time prisoners will be able to use them.	Recommendation not fulfilled
86.	Provide more premises for conjugal visits and refurbish them.	Premises are painted, but the number has not increased.	Recommendation partially fulfilled
87.	Install air conditioning in the laundry room and ensure that its capacity is sufficient for the entire AECS.	Air-conditioning has been installed; there is enough capacity, it is in plan to purchase new professional laundry machine.	Recommendation fulfilled

DISCIPLINARY UNIT

Conclusion: call bells have been installed in disciplinary cells, however, it is recommended to better organize space for walking (provide sports equipment, shelter from inclement weather).

88.	Install call bells in all disciplinary cells.	Call bells have been installed.	Recommendation fulfilled
89.	Install video surveillance in all other cells and in yards intended for walks.	This measure will be implemented during this year, through video surveillance system upgrade.	Recommendation partially fulfilled Three solitary confinement cells have video surveillance, three cells do not.
90.	Set up benches, sports equipment and shelter from inclement weather in the yards intended for walks.	A sufficient number of benches were produced and set up.	Recommendation not fulfilled We did not notice benches in one of the three yards in Disciplinary unit.
Yard within the Circle			
91.	The conditions for sports and recreation could be much better, with fewer financial investments (e.g. purchase table tennis equipment, set up shelter from inclement weather, mark jogging tracks etc).	Treadmill, table tennis and other exercise equipment has been provided in the Female unit.	Recommendation fulfilled
92.	Set up benches in the yard area, in front of the units A, B and D.	Benches have been set up behind the facilities.	Recommendation fulfilled
Kitchen and dining room			
93.	Make additional efforts to inform each prisoner about the possibility of filing a complaint regarding the quality or variety of food.	Each prisoner has been informed about their rights (right to food) and how to protect them within the institution and outside the institution - Ombudsman, NGOs involved in human rights.	Recommendation fulfilled We saw prisoners carrying requests and complaints about food to the Director and we are familiar with the cases providing special diets. It seems that the complaints system works.
94.	Examine the quality of food, given the results of a survey among prisoners.	In accordance with the Rules on food tables, prison doctor checks the quality of meals every day. There is a book of observations. Prisoners were surveyed at AECS level about the quality of food and related issues – nutrition in accordance with one's religion, diet, etc. Prisoners are interviewed on admission.	Recommendation fulfilled Daily samples are taken for bacteriological testing of food safety. Prisoners still complain about the food, especially that breakfast and dinner are the same, however, after examining a number of weekly menus, we did not gain that impression.
95.	Consider the possibility of opening a bakery, where inmates would be able to train and work.	There are no financial resources. Tender for new prison kitchen worth €230,000 will be announced.	Recommendation not fulfilled It is not profitable.

HEALTHCARE

It is necessary to hire sufficient number of doctors and nurses and provide appropriate stimulus for medical staff for the work in prison conditions, especially by ensuring their annual leaves, as well as adequate compensation which includes overtime pay. In connection with the lack of sufficient number of doctors, there is also a problem of not carrying out medical examination within 24 hours upon admission of a prisoner (Report, p. 81).

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

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

In addition, during the recording of injuries doctors should enter in the medical record of a prisoner their conclusion as to whether the observed injuries are consistent with the allegations of the injured person about the manner they have been sustained, in accordance with the CPT recommendation.

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

RESPONSE BY AECS

In the previous period in certain cases doctors failed to carry out medical examination within 24 hours upon admission to prison. These issues are now overcome and, pursuant to the House Rules provisions, AECS management will make an effort so as to prevent these cases from happening in future.

The situation is more stable now, smaller quantity of other antidepressants was procured and tendering procedure for medications for this year is ongoing. Full normalization is expected after the completion of tender procedure, with the optimum amount of a wider range of psychiatric therapy.

No.	Recommendation - 2012	Response by AECS	Assessment of the fulfilment - 2013
96.	After the recording of injuries, medical report should contain all necessary information. (CPT)	Procedure of recording of injuries has been adopted in accordance with the CPT recommendations.	Recommendation partially fulfilled All injuries to persons admitted to AECS are thoroughly described and recorded in the medical records. Prison doctors record in detail objective medical findings in personal health records of given prisoners, including a brief reference to statements of that person, in most cases. However, there is no conclusion as to whether the observed injuries are consistent with the allegations of injured person (i.e. whether they have occurred in the way the injured person described). See p. 83 of the Report.

97.	Such report should be submitted to a competent prosecutor systematically. ("Whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record should be systematically brought to the attention of the relevant prosecutor", CPT, p. 20).	If a doctor records injuries in a person deprived of liberty sustained as a result of abuse, he submits the report to Chief of the organizational unit who then takes further appropriate steps, including notifying the Police. Past practice has shown that the most effective way of clarifying all events is timely notification of the Police by AECS on a specific event, which then takes further appropriate steps within its competence and prosecutes criminal charges in cooperation with the competent prosecutor.	Recommendation not fulfilled It is necessary to stipulate an obligation to report directly to the State Prosecutor, who shall, in accordance with the CPC, receive criminal charges and qualify the facts.
98.	Also, the injured person should be able to seek medical examination from a doctor who has received recognised training in forensic medicine. (CPT)	This examination is their right and they have been informed about it. It is available to all persons deprived of their liberty and carried out at the expense of convicted and detained persons as defined by the House Rules.	Recommendation fulfilled House Rules stipulate that the prisoner is entitled to examination by a medical specialist of their choice and at their own expence (Art. 62).
99.	Stimulate health professionals to work in prison conditions by offering them a contract of indefinite duration and other benefits (higher salary coefficient for work in difficult conditions, longer vacations, etc).	The process of staff recruitment in accordance with job vacancy announcement is in progress. Pursuant to Act on internal organization and job systematization, current vacancy announcement is for one doctor and eight nurses. Pursuant to Decision on increasing civil employees and servants' remuneration for performing certain tasks, earnings of staff in the Healthcare service increased up to 30% due to difficult working conditions.	Recommendation partially fulfilled, given that the process of medical staff recruitment is in progress. Healthcare professionals are not stimulated. A number of medical professionals are still employed under a service contract. A number of them are employed for a limited time period. Overtime hours are not paid. Healthcare service nurses are not able to take annual leaves due to the lack of staff. Fees of all professional consultants (doctors specialists who come to AECS certain number of times per month) have been reduced by 50% as of 1 March 2013.

100.	Number of medical technicians is still below the optimal level and needs to be doubled. (CPT)	Systematization Act provides for a large number of nurses, and the process of admission of candidates in accordance with job vacancy announcement is in progress.	Recommendation partially fulfilled, by prescribing a greater number of nurses (12 in total - 10 in Podgorica, 2 in Bijelo Polje, compared to 7 currently in Podgorica), who have not yet been employed. However, the number of nursing staff has not been doubled pursuant to the systematization and we believe that the prescribed number of 10 nurses is not sufficient for 1,200 prisoners. Currently one chief nurse works at the Healthcare service, as well as 7 shift nurses, 2 lab technicians, pharmaceutical technician and physical therapist. After 15 hours of work, until 7 a.m., there is only one nurse on duty in charge of about 700 people in the Institution for sentenced prisoners (714 on 21 March 2013) and one nurse in charge of 400-500 people (469 on 21 March 2013). This is a pressing problem and the number of nurses needs to be promptly and drastically increased in order to solve other issues in the Healthcare sector. One doctor left the prison on 1 March and now one doctor works eight-hour shifts on weekdays.
101.	Establish a separate register for recording traumatic injuries observed on prisoners (upon the admission and/or during their stay in prison). (CPT)	Special registers were established for recording traumatic injuries observed in inmates, both upon admission and during the stay in AECS. Special registers are part of a personal health record and can be found in all organizational units in AECS accommodating persons deprived of their liberty. This activity has been carried out in accordance with the Action plan for the prevention of torture adopted by the Government of Montenegro.	Recommendation fulfilled
102.	Hire a psychologist who would be a part of the Healthcare Service and whose primary task would imply psychotherapeutic work with detainees and prisoners.	It is not envisaged that a psychologist works as a psychotherapist within the Healthcare Service, but that several psychologists work in the Treatment Sector, whose job description is to "participate in the therapeutic work of the Prison Hospital expert team..."	Recommendation not fulfilled It is essential that a psychologist be part of the Healthcare Service. Within the Healthcare Service s/he would deal solely with psychotherapy and would not have other duties implied in the Treatment Sector. Psychologist would have access to detained persons, not only prisoners, because the Treatment Sector deals exclusively with prisoners. It is desirable to employ a clinical psychologist, additionally trained for psychotherapy.

103.	Increase the number of psychiatrist's working hours, since the existing engagement twice a week for several hours is insufficient.	New Systematization Act envisages a psychiatrist employed for unlimited time period.	Recommendation partially fulfilled, as it has been envisaged to employ a psychiatrist full-time, but in the meantime sufficient engagement of a psychiatrist was not provided. Psychiatrist often examines more than 40 people during a visit and the standard of such examination can not be satisfactory. If there was an optimal number of nurses, then one psychiatrist could have a task to use triage, i.e. determine who needs urgent examination and who can wait for the next visit of the psychiatrist.
104.	Urgently refer M.Z. to treatment and care in an appropriate institution in the country or abroad. (CPT and Ombudsman)	The procedure was reinitiated and all the relevant institutions informed.	Recommendation not fulfilled
105.	Provide at least two additional ECG machine, a device for defibrillation and equip a mini laboratory.	Listed devices and equipment have been supplied (handheld ECG machine, stethoscope and laboratory for biochemical analysis). Handheld ECG, stethoscope and a mini-lab were donated. Handheld ECG is not functional, because its use requires a computer and special belts for each analysis, which requires considerable investment; mini lab is also not in use, a stethoscope is used. There are no ECG and defibrillator.	Recommendation not fulfilled It is necessary to provide at least two additional ECG machines, a device for defibrillation and equip a mini laboratory.
106.	The existing practice where a guard attends medical examination of prisoners should be changed immediately. It would be advisable to install security alarms in examination rooms, which would enable health professionals to call for help if a patient becomes violent or tries to escape.	For reasons of safety the presence of a security officer may be required, and only at the request of a physician.	Recommendation not fulfilled Presence of a guard in the same room where the examination is being conducted is more often the rule than the exception. Efforts should be made to make the presence of security officers during a medical examination an exception. Security alarms in doctors' offices were not installed. See p. 81 of the Report.

107.	Prevent recurrence of cases of prolonged fixation of the mentally ill in AECS, as this represents an example of abuse.	Fixation is carried out as required by the Rules on the performance of the security service and the recommendation of a psychiatrist. Case of segregation and fixation in the Prison for short sentences occurred because of the self-harm due to current psychological distress. After the event a physician examined the convicted person prior to fixation, as evidenced by the report on occurrence of temporary psychological distress in that person. Fixation took place from 9 p.m. on 17 February 2013 to 1 p.m. on 18 February 2013, when the doctor examined the prisoner just before untying him and concluded that there was no need for further fixation because the situation has stabilized. During fixation the prisoner was allowed to visit the toilet several times and in the morning of 18 February 2013, in accordance with the House Rules, took half an hour walk.	Recommendation fulfilled
108.	Consistently comply with all aspects of the Malta Declaration. Amend the law and specifically authorize the competent ministry to adopt the protocol on a manner of conduct of the Healthcare Service in case of a hunger strike of inmates (both detained and convicted persons). It is particularly important to define the scope of doctor's examination in assessing somatic functions.	Procedure has been developed. Protocols for recording health information of persons who engage in a hunger strike have been established. The examination includes the following: - statement of the patient on current health problems and previous illnesses; - basic information about the general state of the patient (state of consciousness, orientation in space and time, etc.); - vital functions check (heart, lungs, blood pressure, pulse, and if necessary ECG and blood sugar); - additional examination if there are data from the personal history that indicate that (laboratory, X-ray diagnostics, ultrasound); - body weight; - daily follow up and recording of patient's general condition and vital functions (blood pressure, pulse, skin hydration, state of visible mucous tissues and body weight) - further diagnostic and therapeutic measures are taken in accordance with the state of somatic and psychological health of the patient.	Recommendation fulfilled

109.	It is advisable to equip the medical office in Bijelo Polje Prison with ECG machine.	During this year the medical office in Bijelo Polje Prison will be equipped with ECG machine.	Recommendation not fulfilled
110.	Make sure that the doctor in charge of the prisoner does not declare whether that person is capable of serving the disciplinary measure of solitary confinement.	Since two doctors are employed in Spuž (one for detainees, another for prisoners) and one doctor in Bijelo Polje, it is secured that a psychologist who is not in charge of regular medical examinations of a person provides his statement on whether that person is capable of serving disciplinary measure of solitary confinement. Pursuant to the House Rules provisions, prior to execution of the disciplinary punishment of solitary confinement a doctor is required to provide accurate and reasoned written opinion on whether the person is fit to serve the punishment. Recommendation provides that the physician in charge of the prisoner does not provide his opinion, however, due to the lack of staff, as only one doctor works in the Healthcare Service, this is impossible to ensure.	Recommendation not fulfilled Please see once again pages 82 and 83 of the Report and footnotes 304 and 305. We propose harmonization of the House Rules for the enforcement of sentences of imprisonment with the revised version of the European Prison Rules and CPT's 21 General Report from 2011 (p. 49, points 62 and 63, the translation will be provided and delivered). The point is that before the execution of disciplinary punishment of solitary confinement doctor should not have to provide his statement on the ability of a prisoner to be referred there, as this undermines the trust between doctor and patient. The doctor should be notified immediately when someone is placed in isolation, visit this person as soon as possible and then regularly visit him/her. (CPT strongly urged Serbia to refrain from the practice where physician must certify that prisoners are fit to undergo the punishment of solitary confinement, see CPT Report on 2007 visit to Serbia, p. 104).
111.	Without further delay, enable the treatment in the hospital for infectious diseases to all persons suffering from Hepatitis C, in accordance with doctor's recommendations.	The dynamics of treatment has been determined in collaboration with the Infectious Diseases Clinic. Currently one person is being treated and others will soon be subjected to treatment.	Recommendation fulfilled Two inmates are currently receiving treatment and, according to allegations, three more will soon be able to undergo treatment.
112.	Provide the training for prison staff on topics related to drugs.	Courses on the subject of drugs are organized periodically, but there is no necessary continuity and these courses do not cover enough staff. During this year activities on the education of prison staff on topics related to drugs will be intensified.	Recommendation partially fulfilled

113.	Maintain the continuity of educational and counselling programs for prison population on the problem of substance abuse.	Counseling on drugs organized by NGOs Juventas and 4Life are continuous. Prison population attended and still attends this training on a voluntary basis. Upon the assessment and observation of prison population by a psychologist, in cases where there is need for it, continuous counseling on the problem of addiction is conducted, but also if a convict express the need for such program.	Recommendation partially fulfilled AECS Management needs to bring more initiative into providing this training on a regular basis, in cooperation with NGOs.
114.	Establish a Drug-free unit.	AECS does not have spatial or administrative capacities for the establishment of such unit at the moment.	Recommendation not fulfilled We believe that it is possible to ensure this with the existing spatial capacities. Recommendation is explained on p. 87 of the Report.
115.	Expand therapeutic offer for those who enter the prison with the dependence.	Therapy is prescribed in accordance with available medications and recommendation of a psychiatrist. Inmates who began treatment of addiction prior to the execution of the prison sentence in any of the treatment centers continue to receive their treatment as recommended by that center.	Recommendation partially fulfilled Current therapeutic offer implies medication therapy prescribed by a psychiatrist. Multi-disciplinary programs should be introduced to help convicted persons overcome the problem of addiction, with the ultimate goal of enabling them to lead socially adapted life after the release from prison.
116.	Provide state financial support to NGO projects related to education, rehabilitation and resocialization of substance abusers.		Recommendation partially fulfilled Support exists, but is insufficient.

TREATMENT

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

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

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

In accordance with the recommendation of the CPT, it is necessary to change the regime for detainees, whose position is particularly unfavourable. Lack of outdoors activities has devastating effect on their mental and physical health, given that detainees spend majority of their time in the cells, with the exception of a one-hour walk, especially if taken into account that some of them have been in custody for 6 years or even longer. It is particularly worrying that nearly the same regime applies to juveniles in custody.

No.	Recommendation - 2012	Response by AECS	Assessment of the fulfilment - 2013
117.	Provide conditions for respecting the rights of detainees to spend minimum 2 hours a day outdoors.	Bijelo Polje Prison provided 2-hour walks for detainees. In Prison in Podgorica detainees spend an hour outdoors.	<u>Recommendation not fulfilled in relation to detainees in Podgorica</u> In Podgorica Remand Prison detainees are still not provided with the stay in the fresh air for 2 hours a day. They stay in the fresh air twice a day for 30 minutes, and on Thursdays and Fridays, visiting days, only 30 minutes (although the visits do not take place outdoors). Female detainees enjoy the right to 2-hour walks, while a juvenile, who was in custody at the time of our visit, was able to stay in the fresh air for an hour and a half, i.e. three times a day for half an hour. We reiterate that the time which prisoners spend outdoors is typically the only time they spend out of their cramped cells. It is therefore very important to ensure 2-hour walks, as required by law.

118.	Urgently improve the regime in the Remand Prison, in order to allow detainees to spend more hours outside their cells and engage in meaningful activities of various natures (work, education, group games, sports). (MT, CPT[1])	Implementation of this measure depends on the number of detainees. Sport activities have been provided in designated and adapted areas within the Remand Prison.	Recommendation not fulfilled Detainees do not engage in any activities outside their cells, except for walks within extremely limited time period and limited environment. It is necessary to improve the regime in Remand Prison in terms of purposeful activities, such as work and education. Continuous stay in the cells has devastating effect on mental and physical health of detainees, especially if one considers that some of them have been in custody for 4, 6 or more years. The same regime was applied in relation to a juvenile, 16-year-old high school student. As regards sports and recreational activities, 4 narrow cells with old stationary bikes are not appropriate for physical activity and are rarely used by detainees.
119.	Employ more persons of appropriate professional profile in the Treatment Sector - three persons in the Section for personality examination, five educators in the Section for treatment implementation in Podgorica Prison and three educators in Bijelo Polje Prison. (MT)	AECS is currently engaging 4 persons in accordance with the job vacancy announcement, namely: social worker, psychologists, defectologist and pedagogue.	Recommendation partially fulfilled Since the Report was published in June 2012, not a single person of adequate professional profile was employed in the Section for personality examination or Section for treatment implementation. As part of the Government's professional training project, two psychologists and two criminologists are doing their internship. Systematization Act provides for half the increase of the number of employees in relation to the recommendation.
120.	Set up mailboxes in each prison unit or establish a service where prisoners could submit their letters, appeals and requests for the Management and receive a confirmation with the filing number. (MT)	Mailboxes for inmates' letters have been set up as part of the project "Open Prison", intended for addressing the Ombudsman. Mailboxes through which persons deprived of their liberty may address AECS Management were installed in all organizational units in July 2012.	Recommendation fulfilled From interviews with prisoners we learned that, despite the existence of mailboxes, educators ("professors") still help convicts write their appeals, complaints, requests and submit them to the Management. AECS should abolish the practice of educators carrying letters, appeals and requests of prisoners to the authorities in the Management, so they could have more time to perform duties in accordance with their professional qualifications, and also to prevent the "disappointment" at educators in case that the reaction does not arrive on time or is negative.
121.	Develop a system for treatment implementation, which will clearly define the scope of work for all employees. (MT)	Act on Systematization clearly specifies the scope of work for all positions in the job description.	Recommendation not fulfilled The situation remains unchanged. We maintain the position that the scope of work of educators should be defined in accordance with professional qualifications of employees, as it is regulated, e.g. in a German prison system (see p. 100 of the Report).

1 Revise the regime of remand prisoners in light of the following remarks in paragraph 57 (remand prisoners spent 23 hours or more a day in their cells, in some cases for several years, with the only activity outside the cell being a walk in the open air for 30 minutes twice a day; on Fridays they could not practice physical activity, the rest of the time they stayed in their cells and their pastime included playing board games, listening to the radio, watching TV). (58.1) Remarks under paragraph 57 and recommendations specified in paragraph 58 are applied to remand prisoners in Bijelo Polje. (58.5)

122.	Introduce a program of evaluation of the treatment of prisoners, and for the employees of the Treatment Sector provide professional supervision programs and programs to prevent the burnout syndrome. (MT)	In the second half of 2012 the program of supervision and the program of prevention of burnout syndrome were adopted.	Recommendation not fulfilled, because the implementation of the program has not yet started, but it is encouraging that it was adopted. It is necessary to start the implementation of this program as soon as possible.
123.	Provide ongoing training for staff in the Treatment Sector on new methods of work, as well as training for the early detection of mental disorders and suicide risk in inmates. (MT)	Training program for employees of the Treatment Sector has been developed and during this year a number of activities on this topic will be implemented. Training of five experts from the Section for treatment implementation is ongoing. Training is carried out in the Ministry of Justice, and the lecturers are experts from Germany and the Netherlands. After the training the participants will receive relevant certificates.	Recommendation fulfilled Efforts should be made to establish ongoing training for all staff members at the Treatment Sector in future.
124.	Introduce a system of objectification of the criteria for transfer from one classification group to another by developing questionnaires with precisely defined criteria that are scored. (MT)	Classification of prisoners is done in the manner prescribed by the Law and House Rules which ensure that, during the reclassification, each person is considered in an objective manner. Different system of determining the criteria for reclassification would be in contradiction with the above regulations.	Recommendation not fulfilled The situation is unchanged. Unit F accommodates a number of convicts who had the status of the first classification group for several months, but have not yet been transferred to the Semi-open unit due to lack of accommodation facilities. Also, they do not enjoy the benefits of the first classification group status. Head of the Treatment Sector explained that the Semi-open unit has been faced with the problem of overcrowding and that a part of convicts reclassified to the first classification group will be moved to the Semi-open unit after the prisoners from the first classification groups receive parole. House Rules (Art. 95-99) stipulate that the benefits of the first classification group (awards) can be enjoyed only after two months spent in the Semi-open unit, and that the decision on awards (treatment change) is a specific decision, which is not automatically linked to transfer to the first group, i.e. Semi-open unit.

125.	Modernize and expand all the workshops in the Institution for sentenced prisoners as soon as possible, in order to engage in work 80% of the inmates. Provide employment for 80% of female inmates and broaden the choice of work activities, including the "economy", so that they could have the same choice of engagement as men with the same status. (MT)	Implementation of this recommendation requires considerable resources that are not provided in the Budget for this year. For the purpose of engaging a greater number of prisoners, AECS management is developing new production programs that do not require greater financial investment. Management is undertaking activities aimed at the development of programs for greater rate of employment of convicted women. Currently 60% of the female prison population is employed.	Recommendation not fulfilled The percentage of 60% of employed women compared to the earlier 30% is the result of a reduced number of female inmates - now there are 18, earlier there were 28. As for the types of engagement of female inmates, the situation remained unchanged.[2] Further efforts need to be made in order to secure the conditions for engaging of convicts. AECS management informed us that the business plan for the improvement of production in AECS is currently being drafted in cooperation with the Faculty of Economics, which is commendable.
126.	Align the House Rules for Enforcement of Prison Sentences with Art. 57 of the Law on Execution of Criminal Sanctions in the part concerning the wages for employed prisoners and ensure that employed prisoners be paid for their work in accordance with the Law. (MT)	Income of employed prisoners is calculated and paid in accordance with the Law for the achieved norm and full number of working hours.	Recommendation not fulfilled Article 51 of the Rules states that "Working prisoners are entitled to a pay of at least 30% of the minimum salary in Montenegro", while the Law stipulates a minimum of 50%. We conclude that the Rules are still not in compliance with the Law.
127.	Ensure the development of a business plan for expanding the production in AECS. (MT)	Data on workshops capacities, land, available financial resources, farms were forwarded to the Faculty of Economics in Podgorica in order to develop a "business plan" to expand production in AECS. Business plan is in a drafting phase.	Recommendation fulfilled

2 See Report, p. 108.

128.	In Bijelo Polje Prison, buy a machine for the production of concrete elements and organize a workshop for employment of prisoners. (MT) It is essential that the new prison in Bijelo Polje be provided with workshops, sports facilities, a proper library and other possibilities for purposeful activities. (CPT, p. 60)	There are no conditions at the current capacities. In planning and performing the work on adaptation of Bijelo Polje Prison, the possibility of implementation of this recommendation will be considered.	Recommendation not fulfilled The situation is unchanged.[3]
129.	Offer foreign prisoners the same activities and work engagement as to other prisoners by engaging an interpreter when needed. It is necessary to provide additional support to overcome isolation and improve difficult position of these persons which are the result of language and cultural barriers. Provide a translation of the House Rules in several languages. (MT)	Foreign prisoners are engaged same as other prisoners. For now, in everyday communication translation services of other prisoners are used, and in case of official actions a registered translator is engaged. Regulations governing the rights and obligations of persons deprived of their liberty have been translated into Albanian and English and made available to persons deprived of liberty who are not familiar with Montenegrin language.	Recommendation partially fulfilled During our visit to unit F we have noticed pleasant atmosphere among the convicts, and some prisoners were translating into Albanian and Italian questions of the monitoring team to convicted persons who do not understand Montenegrin language.
130.	It is necessary to establish cooperation with certain companies in order to employ convicted persons outside the prison as well. Employment outside the prison would have multiple benefits, both during incarceration and after the release. (MT)	The new Law on Execution of Criminal Sanctions and the Law on Alternative Sanctions will standardize this area.	Recommendation not fulfilled The situation is unchanged.[4]

3 See Report, p.106.
4 See Report, p. 107.

131.	Adopt amendments to the House Rules for the Enforcement of Prison Sentences (Art. 69 and 70) stipulating that primary education shall be organized for all prisoners who have not completed primary school. Regulate the right to take exams more precisely, so as to ensure the part-time completion of primary, secondary or high education. (MT)	Management allows all prisoners who express interest in primary or other form of education to take exams outside of AECS. Based on the recently conducted survey, a group of convicts was formed who will be involved in the literacy program in collaboration with the Centre for Education of Montenegro. House Rules envisage examination for all levels of education.	<u>Recommendation partially fulfilled</u> The new Rules do not precisely define whether examination outside the premises of AECS refers to the part-time completion of primary, secondary or high education. Currently one convicted person, a student of the Faculty of Law, uses this right.
132.	Organize literacy courses for illiterate prisoners (particularly in Bijelo Polje Prison)	A group of convicts who will participate in the literacy program has been formed in Podgorica Prison. The program will be implemented in cooperation with the Center for Education of Montenegro. As regards Bijelo Polje Prison, it is not possible to organize literacy course for persons sentenced to short prison sentences, but we will consider that possibility.	<u>Recommendation partially fulfilled</u> Literacy courses for illiterate prisoners in Bijelo Polje Prison were not organized.
133.	Clearly define the right to use portable computers (laptops) in AECS in the House Rules for the Enforcement of Prison Sentences and define objective conditions for the exceptional limitation of this right. (MT)	No regulation envisages the possibility of using portable computers. Use of any equipment or technical devices must be prescribed by applicable regulations. The possibility of using laptops and other devices will be considered in drafting of new regulations.	<u>Recommendation not fulfilled</u> The situation is unchanged.
134.	Develop educational programs and vocational training courses for all prisoners. (MT, CPT)	Educational and vocational training program for prisoners has been adopted. According to the Director, there is the possibility currently being discussed that prisoners who have been professionally trained in the workshops receive a certificate, which would help them in finding employment after the release from prison.	<u>Recommendation fulfilled</u>

135.	Include educational workshops on substance abuse, HIV/AIDS, sexually transmitted diseases, risk of transmission of hepatitis A, B and C, in the treatment program of all prisoners. (MT)	NGO "Juventas" conducts workshops on substance abuse, infectious diseases, HIV and AIDS. NGO "4Life" conducts workshops on substance abuse treatment in 12 steps.	Recommendation partially fulfilled We believe that, in addition to educational workshops conducted by NGOs, it is necessary to organize training workshops on substance abuse as part of treatment for all prisoners. For the implementation of this recommendation management needs to engage more people in Sector for the implementation of treatment[5] and unburden educators from the obligation to carry appeals, requests and complaints of convicts to AECS Management.[6]
136.	Organize training for the work on computers for all persons deprived of liberty. (MT)	Computer room will again be made operational and available to all prisoners when computers are fixed and re-installed. In the meantime, information is collected on the number of inmates interested in training to work on computers.	Recommendation partially fulfilled
137.	Provide conditions for the consistent application of provisions of the House Rules for the Enforcement of Prison Sentences in AECS, which provide for cultural and art performances, workshops, lectures, etc. (MT)	In cooperation with cultural institutions in Montenegro AECS occasionally organizes cultural events. According to the Head of the Institution for sentenced prisoners, the plan is to open a position for the organizer of cultural and sporting activities, who would be responsible for this segment of work with convicted persons.	Recommendation partially fulfilled Cultural and art events, workshops, lectures, etc., are not organized to a sufficient extent, especially not at the initiative of AECS management. Opening of the exhibition space is in plan, where works of convicts would be exhibited and available for sale. It is essential that civil society organizations be more involved in the implementation of these activities and thus contribute to improving the quality of life of prisoners.
138.	Develop individual plans for the treatment of sentenced persons in AECS which will include a multi-dimensional approach and different work methods in the process of their resocialization. Establish standards in order to assess their success and provide recommendations for further improvement of individual plans. This particularly for prisoners serving long sentences. (MT)	Special treatment proposal is made for each convicted person, adapted to his/her mental and physical characteristics and capacities, respecting thus the fundamental principle of imprisonment - individualization.	Recommendation not fulfilled Special treatment proposal is made for each convicted person during the process of psychosocial diagnosis of convicts[7], but there are still no individual plans in the implementation of treatment of prisoners.

5 See recommendation no.
6 See recommendation no.
7 See Report, p. 102.

139.	Ensure same conditions for recreation for women serving their sentences as for male prisoners. (MT, CPT, p. 54)	Since the publication of the Report treadmill, mats, weights and table tennis were purchased.	Recommendation fulfilled It is necessary to provide a separate room for exercising in the women's prison, because the mentioned equipment is located in the visiting room.
140.	Organize more cultural activities, in cooperation with prisoners. (MT)	Cultural events are organized occasionally, but insufficiently. We invite NGOs to cooperate on this issue.	Recommendation not fulfilled The situation is unchanged.[8]
141.	Develop a post-penal system which would include various social institutions, humanitarian organizations, associations and individuals who can help prisoners integrate into society. (MT)	Implementation of this recommendation is the responsibility of the Ministry of Justice.	Recommendation partially fulfilled, through the establishment of the Directorate for Parole with the Ministry of Justice. The situation has somewhat changed. The Ministry of Justice is responsible for the post-penal treatment of persons who deserve probation and on that basis leave AECS. There is the Directorate for Parole within the Ministry whose officials have recently been employed, are currently involved in training programs and are already in touch with the people who come out on parole. It is expected that this service will soon start to work at full capacity and in new premises. During the visit of the monitoring team to women's prison one female convict, who served a long sentence, was visibly concerned about the lack of adequate support after leaving AECS. She is alone and without family support, housing, resources, job, so she does not see the way to provide herself with adequate living conditions. It often happens that after serving the sentence convicted persons are left to themselves, abandoned by their families and stigmatized by society. Proper treatment of these people requires more effort.
142.	Abolish the right of AECS Director to decide on a parole.	Parole of convicted persons at the discretion of Director is regulated by law. Drafting of the new Law is in progress.	Recommendation not fulfilled
143.	Profile the membership of the Parole Commission so that it consists of various experts (judges or other legal experts, psychologists, doctors, social scientists), who are not civil servants or employees of the Government or ministries.	The structure and operation of the Parole Commission are regulated by the Rules of Procedure of the Commission. Recommendation is the responsibility of the Ministry of Justice.	Recommendation not fulfilled Commission is composed of the Ministers of Justice, Health, Interior and Human Rights, as well as Deputy Supreme State Prosecutor, judge of the Supreme Court, AECS Director and Advisor at the Ministry of Justice.
144.	In perspective, consider the possibility of a court deciding on prisoners' parole.	This recommendation is subject of consideration of the Criminal Code and the Law on Execution of Criminal Sanctions.	Recommendation not fulfilled

8 See Report, p. 113.

145.	Further specify the criteria upon which the Parole Commission decides on a parole by the law or by-law. Inform convicts about the process of deciding on a parole and the criteria in a way accessible to them.	Criteria upon which the Parole Commission decides are regulated by the Law and the Rules of Procedure of the Commission.	Recommendation not fulfilled Implementation of the recommendation is responsibility of the Ministry of Justice

CONTACT WITH THE OUTSIDE WORLD

According to the European Prison Rules, inmates are granted the right to communicate without limitation, through letters, phone or otherwise, with their families, other persons and representatives of outside organizations and to receive their visits. Contact with the family must not be completely ruled out, even when the person is sent to solitary confinement, except in the case of a disciplinary offense committed in connection with the contact. We commend AECS Management for implementing the recommendation to harmonize the House Rules with these standards and thus abolish the practice of the prohibition of contact with the outside world used as disciplinary measures against detainees and prisoners. Also, persons in custody are allowed to use telephone with the approval of the court.

However, visiting rooms at the Remand Prison in Podgorica remained the same, i.e. "booth-type", which does not ensure privacy or physical contact between prisoner and visitor. In addition, due to the lack of adequate facilities, 3-hour family visits with children have not been allowed. The current Law on Execution of Criminal Sanctions does not grant the right to conjugal visits to unmarried and homosexual partners.

As for the juveniles in custody, regime of the contact with the outside world is the same as for the adult detainees, although the CPT recommended that their contact with the outside world should be actively promoted. (71.2) (CPT)

We commend the Management for allowing us to speak with detainees and prisoners without the presence of guards, which is a significant improvement compared to the previous year of monitoring.

No.	Recommendation - 2012	Response by AECS	Assessment of the fulfilment - 2013
146.	Amend the Law to provide for the right to visits from unmarried partners. Allow homosexual partners the right to conjugal visits. In the future, allow sentenced persons the right to receive three-hour visits from their spouse, children or other close persons once every three months, in separate rooms. This would expand the right to conjugal visits to unmarried partners. (MT,CPT)	Law on Execution of Criminal Sanctions provides for the right of prisoners to conjugal visits by spouses, excluding thus the possibility of this kind of visits by unmarried and homosexual partners. It is currently not possible to organize family visits with children for 3 hours for technical reasons, because rooms for this purpose have not been adapted. Depending on the investment, we anticipate adaptation of premises for that purpose.	Recommendation not fulfilled The situation is unchanged. The new Law on Execution of Criminal Sanctions has not yet been passed. There is only one small room for family visits with children and a small garden with a playground for children for inmates placed in the Semi-open Unit of the Institution for sentenced prisoners.

147.	Change booth-type visit rooms at the Remand Prison. (MT) The Committee would like once again to invite the Montenegrin authorities to move towards more open visiting arrangements for remand prisoners in general. There was one visiting room at Bijelo Polje Prison which was too small to meet the requirements of the establishment; the CPT trusts that this failing will be addressed in the new prison building. (CPT, p. 73)	There are no booth-type visit rooms in any of the organizational units.	Recommendation not fulfilled "Booth-type visits" are still present in Remand Prison. All visits, except for lawyers' visit, are conducted in a room divided by unclean thick glass, where convicted person and visitor communicate over the phone, in front of guards and other inmates/visitors, who are arranged in a row. Physical contact between prisoners and visitors is prevented by plexiglass plates. Situation in Bijelo Polje Prison is also unchanged.
148.	Improve the situation of persons in Podgorica Remand Prison in terms of their access to a telephone, with the possibility of monitoring those calls that carry a risk of collusion. (MT, CPT)	Detainees can use a telephone with the permission of the court.	Recommendation fulfilled
149.	It is necessary to align the existing practice of allowing the use of mobile phones in Bijelo Polje Prison with the House Rules.	No response.	Recommendation not fulfilled New House Rules do not define the use of mobile phones in Bijelo Polje Prison.
150.	Allow unannounced visits and interviews with prisoners without the presence of AECS officials to representatives of NGOs dealing with human rights. (MT) CPT recommends that the Montenegrin authorities develop the system of monitoring of prisons by independent outside bodies. In this context, to be fully effective, monitoring visits should be both frequent and unannounced. Further, the monitoring bodies should be empowered to interview prisoners in private and examine all issues related to their treatment (conditions of detention; medical records and other detention-related documentation; the exercise of prisoners' rights, etc.) (CPT, p. 82)	This issue will be regulated by provisions of a memorandum of cooperation with NGOs dealing with human rights.	Recommendation fulfilled with regard to interviews with detainees without the presence of guards. Unannounced visits were not sought, because the Agreement with the Ministry of Justice and AECS implied announced visits. Enabling interviews with detainees and prisoners without the presence of AECS officials is a significant improvement compared to the first year of monitoring.

151.	Harmonize the House Rules with the European Prison Rules and CPT standards (disciplinary punishment should not include a total prohibition of family contact, even when a person is sent to solitary confinement, except in the case of a disciplinary offense committed in connection with such contact) and discontinue the practice of using the prohibition of contact with the outside world as a disciplinary measure.	Regardless of the imposed disciplinary punishment against an inmate, regular visit which represents a statutory right is not associated with the disciplinary offense, as prescribed by the new House Rules as well. However, the use of extraordinary visit that is directly related to the conduct of the convicted person is limited.	Recommendation fulfilled
152.	Provide conditions for the respect of religious rights of convicted persons. (MT)	One of the statutory rights of a convicted person while serving a sentence or while in custody is the right to religious life. At the request of inmates, clergymen of religious communities perform ceremonies in AECS, thus far in the improvised conditions.	Recommendation partially fulfilled
153.	It is necessary to provide conditions for electronic communication with the outside world (via the Internet or Skype), under supervision, and amend the House Rules so as to provide for the possibility of electronic communication.	Electronic communication in AECS is not available for now for technical reasons. It is also not required under applicable laws and regulations.	Recommendation not fulfilled
Repeated recommendation of the CPT	As concerns juvenile remand prisoners, many of them may have behavioural problems related to emotional deprivation or lack of social skills; their contacts with the outside world should be actively promoted. (CPT, p. 71)		Recommendation not fulfilled At the time of our visit there was a 16-year-old juvenile in the Remand Prison. We were told that his complete isolation was prevented by placing him in a cell with an adult alleged to have committed the lightest offense - illegal possession of weapons. The juvenile was allowed contact with the outside world to the same extent as other detainees, i.e. he had the right to a phone call and received visits from his family and his lawyer only once a week. This is by no means sufficient, given that the stay in custody (prison) for the first time in his life is certainly a trauma for the child. Since this was a child who attended school regularly, there was no way to allow him to stay up to date with school curriculum, which made him particularly worried. He met with a psychologist 3 times a week and spent time outdoors 3 times a day for half an hour. Contact of juvenile detainees with the outside world should be more intense and organized differently, especially for those who regularly attend school.

STAFF

New staff are being engaged in accordance with the new job systematization. This procedure will ensure an increased number of employees in addition to positions being covered by persons with the appropriate level of expertise. March salary has been increased due to difficult working conditions and overtime hours were paid. However, disputes are still being conducted due to previous debts to employees. Funds for new uniforms have been provided. Increased number of employees who should start working in the coming months will relieve pressure on AECS staff, particularly in the security and treatment sectors. However, we believe that the new job systematization does not provide for a sufficient number of medical staff and that AECS needs for more than 2 doctors and 13 nurses in Podgorica to take care of 1300 inmates. We expect that the increased number of staff will allow everyone to use the necessary break during their shift ("time-out"). We also expect that a training program for the prevention of burn-out syndrome will be implemented, to the benefit of all staff members who are in constant and direct contact with detainees and convicted persons.

No.	Recommendation - 2012	Response by AECS	Assessment of the fulfilment - 2013
154.	Increase staffing levels, especially in the security and treatment sectors. (CPT)	AECS is currently engaging 254 employees in accordance with the job vacancy announcement.	Recommendation fulfilled The number of employees has increased in accordance with the new systematization and the process of hiring is in progress.
155.	Provide time for rest (break) to all employees during the day.	All employees use the right to break starting from 9 a.m. until the end of their shifts, due to the work at different working hours.	Recommendation not fulfilled Due to insufficient number of employees, AECS staff members do not know that they are allowed to use a break, so they turn off their attention and/or walk outside their workplace.
156.	Regulate the legal status of employees hired under a fixed-term contract by concluding a contract of indefinite duration, since their contracts are considered as such in accordance with Article 26 of the Labour Law.	AECS is currently engaging 254 employees in accordance with the job vacancy announcement. All employees who were engaged on a temporary basis filed an application in accordance with the job vacancy announcement.	Recommendation partially fulfilled New Act on job systematization in AECS was developed, as the institution has become an integral part of the Ministry of Justice. Based on the new systematization, a competition was announced for the hiring of a greater number of employees.
157.	Ensure the payment of benefits owed based on overtime, work during religious and national holidays and night work, in order to prevent court proceedings and further costs of these proceedings.	This measure is being implemented in cooperation with the Ministry of Justice and Agency for the Peaceful Settlement of Disputes.	Recommendation not fulfilled Court procedures are still being conducted.

158.	Ensure regular payment of compensation for overtime, work during religious and national holidays and work in night shifts.	The law establishes an obligation to require an approval of the Administrative Inspection for the introduction of overtime work. This was done during 2012 and the approval has been granted.	Recommendation fulfilled Salary for March 2013 has been increased due to overtime hours.
159.	Increase the number of trainings and courses for employees in accordance with a schedule that allows employees to participate in them.	All programs in line with the recommendations were developed and implementation of individual programs has started.	Recommendation partially fulfilled All programs in line with the recommendations were developed, but trainings were implemented slowly due to the lack of staff and expected new job systematization.
160.	Ensure that competent persons with an appropriate education degree be in leadership positions in all organizational units and sectors within AECS.	Possibility for the implementation of this measure is somewhat limited by the lack of personnel who meet the requirements prescribed by law or other regulations. Public job vacancy announcement that was issued advertised jobs for senior executives as well.	Recommendation partially fulfilled, but is expected to be applied to a greater extent upon the completion of the process of recruitment of new staff, which is ongoing.
161.	Provide by law accelerated retirement plan for heads of AECS.	The Ministry in charge of the Fund for Pension and Disability Insurance proposed to the Government the Decree regulating job positions with accelerated retirement plan. AECS was involved in drafting of the Decree and suggested that all job positions in AECS keep accelerated retirement plans.	Recommendation not fulfilled
162.	Increase the employees' salaries taking into account the work under difficult conditions.	Salary of all AECS employees is increased by 30% on the basis of difficult working conditions (Decision on salary increase of civil servants and employees).	Recommendation fulfilled
163.	Provide adequate uniforms and other necessary equipment for AECS officers.	Proposed Rules on uniforms, ranks and insignia was drafted and submitted to the Ministry of Justice for further action. Uniforms will be purchased upon the adoption of the Rules. The funds for the purchase of uniforms are provided in the Budget for this year.	Recommendation fulfilled Funds were provided and announcement of a tender for the purchase of uniforms is in plan.
164.	Establish the responsibility of the Director, as well as the Administrative Inspection for violation or untimely protection of the rights of AECS staff.	Responsibility of the Director and Administrative Inspection on these issues is regulated by applicable regulations.	Recommendation not fulfilled No one has been prosecuted for violation of the labour rights of AECS employees.