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Final assessment on the fulfillment of recommendations presented in the report: *Respect for human rights of patients placed in psychiatric institutions*



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Introduction

As part of the project "Monitoring Respect for Human Rights in Closed Institutions in Montenegro"¹, on 30 November 2012 NGOs Human Rights Action (HRA), the project leader, Centre for Anti-discrimination "EQUISTA", Centre for Civic Education (CCE) and Women's Safe House (Shelter) published the report Respect for human rights of patients placed in psychiatric institutions – Dobrota Special Psychiatric Hospital in Kotor, Psychiatric Clinic at the Clinical Centre of Montenegro in Podgorica and Psychiatric Unit within the public health institution General Hospital in Nikšić (hereinafter: the Report).²

The Report presents the degree of implementation of 25 recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe (CPT) aimed at the promotion of the respect for human rights of patients at Dobrota Special Psychiatric Hospital in Kotor, set forth in the Report to the Government of Montenegro on the visit to Montenegro carried out by the Committee from 15 to 22 September 2008, as well as 6 recommendations of the Protector of Human Rights and Freedoms (Ombudsman) of Montenegro set forth in the Report of the Ombudsman on the human rights of mentally ill persons placed in institutions in March 2011. Within the conclusions of the Report, NGO monitoring team gave a total of 61 recommendations, some of which are repeated recommendations of the CPT and Ombudsman. Recommendations are addressed to: Director of the Special Psychiatric Hospital, Ministry of Health, Ministry of Justice, Ministry of Labour and Social Welfare, Police Directorate, Capital City, President of the Basic Court in Kotor, misdemeanour authorities, Parliament of Montenegro, Director of the General Hospital in Nikšić and Director of the Psychiatric Clinic at the Clinical Centre of Montenegro in Podgorica, with the aim to protect and improve the respect for human rights of patients placed in psychiatric hospitals.

More than a year since the publication of the Report with recommendations, in January 2013 the monitoring team of NGOs made a final assessment on the fulfillment of recommendations.

Final assessment of the fulfillment of recommendations contained in the Report is based on the following sources of information:

1. responses received from the Director of the Special Psychiatric Hospital in Kotor (hereinafter: the Hospital);
2. responses received from the Director of the Psychiatric Clinic at the Clinical Centre of Montenegro;

¹ Details about the project available at: <http://www.hracion.org/?p=1444>.

² Report with recommendations available at: <http://www.hracion.org/?p=1154>.

3. responses received from the Director of the General Hospital in Nikšić³;
4. responses received from the Ministry of Justice⁴;
5. responses received from the Ministry of Labour and Social Welfare⁵;
6. responses received from the Ministry of Health⁶;
7. data collected during the final monitoring visit to the Hospital carried out on 15 December 2012⁷;
8. data collected during the final monitoring visit to the Psychiatric Unit in Nikšić carried out on 19 January 2013⁸.

Below is a table containing recommendations and assessment of their implementation.

NOTE: Each recommendation specifies a body that made the recommendation.

Abbreviations:

CPT – *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*

Ombudsman – *Protector of Human Rights and Freedoms of Montenegro*

MT – *NGO monitoring team*

Report – *Report on the respect for human rights of patients placed in psychiatric institutions of 21 November 2011.*

³ Response of the public health institution General Hospital in Nikšić, no. 110 of 4 January 2013.

⁴ Decision of the Ministry of Justice no. 01-9701/12 of 28 December 2012.

⁵ Response of the Ministry of Labour and Social Welfare no. 56-749/2012-2 of 11 January 2013.

⁶ Response of the Ministry of Health no. 01-3982/2012-4.

⁷ Visit conducted by a team composed of: psychiatrist Dr Olivera Vulić and trained monitors, legal experts, Mirjana Radović and Danilo Ajković.

⁸ Visit conducted by trained monitors Mirjana Radović and Danilo Ajković.

Assessment of the fulfillment of recommendations relating to Dobrota Special Psychiatric Hospital in Kotor (hereinafter: the Hospital)

Of a total of 53 recommendations related to the Hospital, 22 were fully implemented (41.5%), 18 partially (33.9%), while 13 recommendations were not implemented (24.5%).

As regards CPT recommendations from 2009, 16 were fully implemented (64%), 1 recommendation partially (4%), 8 were not implemented (32%).

No.	Recommendation addressed to:	Recommendation	Current situation	Assessment of the fulfillment
Ill-treatment				
1.	Ministry of Health	In accordance with the systematization of jobs, immediately ensure employment of another 15 nurses and, in cooperation with the Hospital management, provide a new job structure to meet the real needs of patients (MT; CPT recommended the presence of "an adequate number of staff at the Hospital" and development of the employment strategy that would allow it).	Hospital Director, Dr Tomčuk, informed us that the Ministry of Finance provided its consent for the employment of 15 nurses; vacancies announcement has been published on that occasion and interviewing of candidates is in progress. Ministry of Health stated that the new systematization of jobs will be developed based on the reform of health care institutions at secondary and tertiary levels, which is currently in progress. ⁹	Since only a third of the required number of staff has been employed, which is not sufficient to meet the real needs of patients, we conclude that the <u>recommendation was partially fulfilled.</u>

⁹ On 18 January 2013, Hospital Director submitted a request to the Ministry of Health for the engagement of four nurses on the basis of voluntary internship; obtaining the consent would increase the existing nursing staff levels.

2.	Hospital Director	In cooperation with the Ombudsman, install complaint boxes which would be accessible only to authorized person from the Ombudsman's Office or ensure other direct means of communication with the Ombudsman's Office (MT).	Complaint boxes were not installed in line with the recommendation, nor were patients informed about the possibility of other direct way to contact the Office of the Ombudsman. ¹⁰	<u>Recommendation not fulfilled.</u>
3.	Hospital Director	Ensure that the acquired knowledge on non-violent conflict resolution be continuously transmitted to new employees at the Hospital (MT).	Recommendation is being carried out continuously. ¹¹	<u>Recommendation fulfilled.</u>
Forensic psychiatric unit (FPU)				
4.	Ministry of Justice	Ensure that the FPU be relocated from the Hospital, and in the meantime provide adequate funds for its operations, primarily for the necessary security staff expenses (CPT, MT).	FPU is still located within the Hospital, which bears the expenses of its securing. ¹²	<u>Recommendation not fulfilled.</u>
5.	Ministry of Justice and	Create a protocol on the FPU	Protocol on the performance of the	<u>Recommendation partially</u>

¹⁰ Director Tomčuk stated that the recommendation was not carried out because boxes for patients' complaints have been set up in each Hospital ward back in 2006, complaints are reviewed by the Council for the Protection of Patients' Rights, and patients also have the right to submit complaint to the Protector of Patients' Rights. Also, Dr Tomčuk mentioned that installing another complaint box in each ward would be completely unnecessary, as this is not the practice at establishments that the Hospital has visited and established cooperation with.

¹¹ Doctors convey their knowledge to nursing staff through conducting internal training on weekends on a regular basis. Hospital Director keeps a record of training attendance.

¹² Ministry of Justice stated that the relocation of the FPU will be possible only after the construction of the Special Hospital for the execution of security measures in cooperation with the Ministry of Health, without specifying when the construction would start.

	Ministry of Health	operations (until its relocation), especially in connection with the employment of security service (CPT, MT).	security service in Special Psychiatric Hospital was developed, relating only to the manner of the provision of security service. Protocol on the FPU operations has not yet been developed. For more detail see p. 33 of the Report.	fulfilled , given that the protocol on the FPU operations has not been developed.
6.	Ministry of Health and Hospital Director	Ensure that more nursing staff be present at the FPU at all times, and that the role of security staff be limited to perimeter security (CPT, MT).	Situation remained unchanged. Interviewed staff said that they would refuse to work at the ward in the absence of security service staff, given the patients' pathology and nature of committed crimes. During our follow-up visit, the same situation was found as regards the number of nursing staff engaged. The reasons for this, according to the Director, are high security risk and a lack of medical staff.	<u>Recommendation not fulfilled.</u>
7.	Hospital Director	Ensure that all patients placed at the FPU have access to toilet facilities 24 hours a day (CPT, MT).	Access to toilet facilities 24 hours a day has been ensured.	<u>Recommendation fulfilled.</u> ¹³

¹³ Dr Tomčuk informed us that the alarm system, connected to the security staff room, has been installed in each patient room at the FPU, enabling patients to leave their rooms during the night to use a toilet.

8.	Police Directorate, Ministry of Justice, courts	Ensure that in each case of suspected mental condition of the perpetrator of a criminal or misdemeanour offence, that person be examined by a psychiatrist and/or referred to expert evaluation in an appropriate psychiatric institution (MT).	After publishing the Report, there has not been any case of deprivation of liberty of a person suspected of having a mental illness, without ensuring him/her a psychiatric evaluation. However, both patients and Hospital Director informed us that misdemeanour authorities still impose the security measure of mandatory psychiatric treatment and confinement in a medical institution without prior reference to an appropriate psychiatric institution for observation in order to establish a diagnosis of possible mental disorder and conduct evaluation over a necessary period of time (see recommendation # 46). For more detailed description of the issue see the Report, p. 29.	<u>Recommendation partially fulfilled.</u>
9.	Ministry of Justice and	Urgently provide appropriate placement in a psychiatric institution	Milan Zeković is still located at the Institution for Execution of Criminal	<u>Recommendation not</u>

	Ministry of Health	for mentally ill person Milan Zeković (CPT ¹⁴ , MT).	Sanctions. ¹⁵	<u>fulfilled.</u>
Patients' living conditions				
10.	Ministry of Health and Ministry of Labour and Social Welfare	Provide for better territorial mental health centres coverage, which would cooperate closely with social welfare centres to ensure care for mentally ill persons who do not require (further) hospital treatment, in order to achieve ultimate goal to provide help for the mentally ill in the community and reduce the need for hospital treatment, except in the acute phase of a disease (MT).	Even though the territorial coverage is satisfactory, in order to provide better care for the mentally ill who do not require hospital treatment and are socially neglected, it is necessary to ensure a better cooperation of mental health centres with centres for social welfare.	<u>Recommendation not fulfilled.</u>

¹⁴ „The CPT recommends that the Montenegrin authorities take urgent steps to address the situation of the above-mentioned prisoner, in the light of the preceding remarks”, 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. 68.

¹⁵ As regards appropriate accommodation of Mr. Zeković, the Ministry of Justice stated that it had submitted the request for his transfer to the Ministry of Justice of the Republic of Serbia in April 2011. After the follow-up request, on 5 November 2012 the Ministry of Justice of the Republic of Serbia submitted a response stating that a decision on the request has not yet been adopted and that the Council meeting was scheduled for 28 November 2012. Until 28 December 2012, Montenegrin Ministry of Justice did not receive further information about the status of the case.

11.	Ministry of Health and Capital City	Ensure adequate inpatient treatment and rehabilitation for women with substance abuse issues in Montenegro (MT).	At the Psychiatric Clinic at the Clinical Centre of Montenegro in Podgorica, five beds have been provided for inpatient treatment of substance addicts of both sexes - a total of ten beds.	Bearing in mind that only five beds were provided for inpatient treatment of women with substance abuse issues and that the only rehabilitation centre for addicts in Montenegro ¹⁶ , in Kakaricka gora, accommodates only men, we conclude that the <u>recommendation was only partially fulfilled.</u>
12.	Ministry of Health and Ministry of Justice	Make an effort to start the construction of the Special Hospital within ZIKS as soon as possible and provide human resources solutions ahead, to avoid repeating the situation where the hospital was built but remained non-functional (MT).	See Recommendation # 4. Situation remained unchanged.	<u>Recommendation not fulfilled.</u>

¹⁶ Public Institution for accommodation, rehabilitation and re-socialization of users of psychoactive substances - Kakaricka gora.

13.	Ministry of Health and Hospital Director	Renovate all the facilities to achieve a positive therapeutic environment. It is necessary to renovate sanitary facilities and take measures to achieve a higher level of hygiene (MT, CPT ¹⁷).	Conditions improved significantly. However, additional investments are needed. ¹⁸	<u>Recommendation partially fulfilled.</u>
14.	Hospital Director	Ensure personalized space in which patients stay and provide for lockable space for patients' belongings (CPT, MT).	Situation changed insufficiently, space was partially personalized. ¹⁹	<u>Recommendation partially fulfilled,</u> given that patients have cabinets that can not be locked.
15.	Hospital Director	Improve the quality and variety of food and provide suitable containers for serving (MT).	All patients that we spoke to commended the quality of food (fruit included) and stated that the method of serving the food has been changed.	<u>Recommendation fulfilled.</u>

¹⁷ "CPT welcomes the ongoing efforts to refurbish the hospital and recommends that the Montenegrin authorities continue this process in the remaining non-renovated areas."

¹⁸ There has been noticeable progress in achieving a positive therapeutic environment – wards are painted, neat and decorated for the holidays, with partially reconstructed toilets. However, there is still a problem of adequate heating in wards accommodating chronic patients who have been staying in rooms with no heating for years (only the central corridor is heated, which is not enough during the winter months). Dilapidated wooden doors and windows on the north side of the chronic wards (male and female) were completely replaced with PVC units, thanks to the funding from Petrovic Njegoš Foundation. At the chronic male ward it is necessary to repair the roof, leaking in some places.

¹⁹ According to Dr Tomčuk's explanation, recommendation has not yet been implemented primarily due to the patient safety risk evaluation (with the lack of medical personnel there is a possibility for accident situations to occur), while patients accommodated at the Hospital chronic wards for years do not have any personal belongings, and their clothes are mainly donated by Caritas charity organization.

16.	Ministry of Health and Hospital Director	Equip separate rooms within wards so as to ensure that visits take place smoothly in the event of adverse weather conditions too, and regardless of the availability of dining rooms (MT).	Situation remained unchanged and is unlikely to be changed in near future. Visits still take place in the dining rooms. Doctor stated that the lack of space and overcrowding at the Hospital do not allow for the conversion of existing premises.	<u>Recommendation not fulfilled.</u>
17.	Ministry of Health and Hospital Director	Ensure that the Hospital be accessible to people with disabilities as well (MT).	Situation remained unchanged. It is not certain that the situation at the Hospital can change, due to cascading terrain and old buildings. ²⁰	<u>Recommendation not fulfilled.</u>
18.	Ministry of Health and Hospital Director	Provide a new electric generator (MT).	Funds have been provided and a tender open for the purchase of an electric generator; following legal procedure, the Hospital will receive a new electric generator.	<u>Recommendation fulfilled.</u>
Treatment and activities				
19.	Ministry of Health	Urgently call for applications for specialization in the field of child	Doctors specializing in child psychiatry are currently doing their internship.	<u>Recommendation partially fulfilled.</u> We particularly

²⁰ Although the Ministry of Health stated that it would take measures to ensure that all health institutions allocate funds for this purpose from the funds to be distributed in 2013, Hospital Director believes that the adjustment of Hospital space for people with disabilities requires considerable investment given the old buildings and land configuration - cascade with multiple pavilion-type objects.

		psychiatry, and in the meantime ensure the employment of a child psychiatry specialist in Montenegro. If needed, ensure the possibility of placement of minors at the Hospital (Ombudsman, MT).	Children aged 16 to 18 years can be treated at the Clinical Centre of Montenegro, while it is more rational to refer younger juveniles to health facilities in the region. ²¹ However, in the meantime, engagement of a paediatric psychiatry specialist has not been provided for in Montenegro.	emphasize that it is still crucial to engage a child psychiatry specialist who would provide outpatient treatment to children under the age of 16.
20.	Hospital Director	Repeated CPT's recommendations on the need to develop individual treatment plans for patients (CPT, MT).	All inspected medical records included individual treatment plans.	<u>Recommendation fulfilled.</u>
21.	Hospital Director and Ministry of Health	Include more patients in occupational and sporting activities, expand the offer of these activities and for this purpose employ more occupational therapists and volunteers (CPT, MT).	Situation changed insufficiently. Although, following the Report's publication, the Hospital has offered its patients to once a week watch movies (which is practically the only activity that patients are substantially interested in, according to the Hospital Director), it does not appear that a larger number of patients are included in the occupational and sports activities. This situation is explained by the nature of patients' diseases, i.e. the lack of will power (abulia), as one of the symptoms	<u>Recommendation not fulfilled.</u>

²¹ According to the response of the Ministry of Health.

			of schizophrenia diagnosed in the majority of patients, but also by an insufficient number of therapists and volunteers to further motivate patients to engage in these activities.	
22.	Hospital Director	Each case of the so-called rapid tranquilization (chemical restraint) be entered not only in the duty handover books, but also in the physical restraint record books, and all data from the books from individual wards be diligently transferred to the register at the central level (CPT, MT).	Recommendation implemented in practice.	<u>Recommendation fulfilled.</u>
23.	Hospital Director and Ministry of Health	Ensure continuous work of a dentist, by providing additional stimulation or otherwise (MT).	Dentist provided in practice.	<u>Recommendation fulfilled.</u>
24.	Ministry of Health	Ensure that the obligation to perform an autopsy on people who pass away at the Hospital be legally defined in accordance with Art. 128 of the Law on Healthcare. It is essential that the Ministry of Health as soon as possible adopt rules that will specifically prescribe the work of a coroner (MT).	Response to the Ministry of Health states that the Ministry has prepared amendments to the Law on Healthcare that will precisely define the work of a coroner (we obtained the same information while drafting the Report more than one year ago).	<u>Recommendation partially fulfilled.</u>

25.	Hospital Director	Strengthen supervision of patients, especially those who have already shown a tendency towards suicide. All personnel in a psychiatric facility should be trained to recognize patients who show the signs of increased risk of suicide. These patients should be placed under a special surveillance program and provided with appropriate psychological support (CPT, MT).	Recommendation implemented in practice. ²²	<u>Recommendation fulfilled.</u>
Hospital Staff				
26.	Ministry of Labour and Social Welfare	Urgently provide social care for persons placed in Dobrota Hospital, whose further treatment at this facility is not needed (Ombudsman, MT).	The Hospital still, to the same extent, provides care to persons whose inpatient treatment is not needed. ²³ After publishing this recommendation, of a total of 40 persons (about 1/3 of hospital population), only four people	<u>Recommendation not fulfilled.</u>

²² Interviewed staff indicated that they have increased the level of supervision over these patients and inform a doctor on duty of all, even the slightest observed changes.

²³ Ministry of Labour and Social Welfare stated that there are no specialized facilities to accommodate these individuals, and that they can be provided accommodation in homes for the elderly and disabled in Risan and Bijelo Polje, if there are vacancies and the stipulated criteria are met. However, even then such persons must be entitled to adequate healthcare - physicians in mental health centres. Nevertheless, after reviewing medical records of patients staying at the hospital for over a year, we saw that in some cases social welfare centres do not accept the opinion of the council of psychiatrists that a person is capable of living in the conditions of family environment or social housing, but state the opposite opinion and refuse to accept them. We strongly believe that there is no reasonable justification for doubting the expertise of psychiatrists at the Hospital to assess the psychological status of a patient. Hospital Director confirmed that the Hospital does not have adequate cooperation with homes for the elderly and disabled. Since the publication of our report in November 2011, no person has been placed in these homes.

			have been placed in the home for the elderly or for persons with disabilities. ²⁴	
27.	Ministry of Health and Hospital Director	Hire additional staff necessary to perform the work in accordance with the standards. Take measures that would contribute to making the work with psychiatric patients at the Hospital more attractive to nursing staff (CPT, Ombudsman, MT).	As regards employment of additional staff, see recommendation # 1. All medical professionals employed at the Hospital in Dobrota, Clinic in Podgorica and Nikšić Psychiatric Unit have been stimulated with a 15% salary increase.	<u>Recommendation partially fulfilled.</u>
28.	Ministry of Health and Hospital Director	Invest efforts and resources to further educate Hospital staff and exchange experience with colleagues who work in similar establishments (MT).	Recommendation implemented in practice. ²⁵	<u>Recommendation fulfilled.</u>
29.	Ministry of Health	Encourage more frequent practice for students at the Hospital (MT).	Situation remained unchanged.	<u>Recommendation not fulfilled.</u>
30.	Ministry of Health and Hospital Director	Install an alarm system, particularly in male and female acute wards, so that	Staff are equipped with walkie-talkie devices. Communication takes place at	<u>Recommendation fulfilled.</u>

²⁴ For example, two patients without a mental illness, but with some degree of mental retardation, reside at the Hospital since 1999. The procedure for their transfer to the Public Institution Komanski Most has been underway since 2008.

²⁵ Continuous training of staff working in the field of mental health starts in January 2013 at the state level, thanks to the funds provided by the European Union Delegation. Eight two-day workshops will be held on weekends at the premises of the Psychiatric Hospital in Kotor and conducted by the Dutch medical staff.

		staff could call for help in case of an incident with patients at any time. This measure is partly based on the staff levels increase, since this type of security protection too would be inadequate in a situation when only one or two nurses work in a ward (MT).	the Hospital level, including the security guards.	
Fixation				
31.	Ministry of Health and Ministry of Labour and Social Welfare	Ensure an early retirement plan for staff working under difficult conditions and in high-risk wards (MT).	Situation remained unchanged. ²⁶	<u>Recommendation not fulfilled.</u>
32.	Ministry of Health and Hospital Director	Designate special rooms in every ward for carrying out the measure of physical restraint (CPT, MT).	Special isolation rooms have been provided, allowing continuous monitoring of patients with limited freedom of movement.	<u>Recommendation fulfilled.</u>
33.	Hospital Director	Ensure accurate keeping of the physical restraint record books (CPT,	Recommendation implemented in practice.	<u>Recommendation fulfilled.</u>

²⁶ Ministry of Labour and Social Welfare in its reply stated that in order to determine working positions eligible for an early retirement plan, it is necessary to ensure that the entity seeking the establishment of such working positions initiate legal procedure. The Ministry also stated that on 20 May 2012 the Hospital contacted the Ministry with a request to determine working positions eligible for an early retirement plan, to which the Ministry responded on 31 May 2012. In its response, the Ministry referred the Hospital to the manner of initiating the procedure for determining such working positions. The Ministry of Health stated that it has launched an initiative towards the Clinical Centre of Montenegro to start the procedure for the preparation of documents on risk assessment in order to create conditions for the initiation of a procedure on the possible approval of an early retirement plan.

		MT).		
34.	Hospital Director	Ensure keeping of the central registry for continuously entering data from the wards record books, to provide an overview of all the measures taken to restrict the physical freedom of movement at the Hospital (CPT, MT).	Recommendation implemented in practice. ²⁷	<u>Recommendation fulfilled.</u>
35.	Hospital Director	Ensure debriefing of the patient after the measure of physical restraint has been removed (CPT, MT).	Interviewed staff stated that the debriefing is carried out following the termination of the measures. At the time of the visit monitors did not find any patients to additionally confirm implementation of the recommendation.	<u>Recommendation fulfilled.</u>
36.	Hospital Director	Ensure enforcement of the legal obligation to promptly inform legal guardian of a mentally ill person about the use of force, in addition to informing an independent multidisciplinary body (MT).	Interviewed staff stated that legal guardians are informed immediately (telephone numbers are available in the medical records). At the time of the visit no patient was subjected to physical force, in order to further confirm implementation of the measure.	<u>Recommendation fulfilled.</u>

²⁷ Central Register has been kept as of 24 November 2011. All cases of "chemical" and physical restraints are entered in the Register. Percentage of the use of ampoule therapy is much greater as compared to resorting to mechanical fixation, which is absolutely acceptable in a psychiatric hospital setting. Register entries are detailed and contain all the necessary information.

Safeguards				
37.	Hospital Director	Ensure compliance with the Law on the Protection and Exercise of the Rights of Mentally Ill Persons, which provides for a written consent for undergoing medical examination or a procedure in cases when the mentally ill person can make a decision and express his/her will (MT).	All randomly selected medical records included written consents.	<u>Recommendation fulfilled.</u>
38.	Hospital Director	Ensure that a doctor issues confirmation regarding person's ability to provide consent to medical treatment, in accordance with the law (CPT, MT).	All randomly selected medical records included doctor's confirmation regarding person's ability to provide consent to medical treatment.	<u>Recommendation fulfilled.</u>
39.	Hospital Director	Ensure that in all cases of involuntary hospitalization a notice of involuntary hospitalization be submitted to the court within a 48-hour statutory	In all randomly selected medical records a notice had been submitted within a 48-hour deadline.	<u>Recommendation fulfilled.</u>

		deadline (MT).		
40.	President of the Basic Court in Kotor	Ensure effective implementation of deadlines in the case of involuntary hospitalization provided for in the Law on Non-Contentious Proceedings (MT).	Situation remained unchanged – the courts still, at times, fail to not comply with a statutory deadline for decision making. ²⁸	<u>Recommendation not fulfilled.</u>
41.	Hospital Director	Ensure that the patient personally receive the decision on involuntary placement in a psychiatric institution in writing and be notified of the reasons for the decision in writing, as well as the possibilities and the deadline for filing an appeal (MT).	Interviewed patients who had been forcibly hospitalized had a copy of the Court's decision in their documentation.	<u>Recommendation fulfilled.</u>
42.	Ministry of Justice	Amend the Law on Non-Contentious Proceedings by prescribing the court's obligation in the procedure for deciding on involuntary hospitalization to (1) hear the person concerned in the first instance procedure or a procedure on appeal, (2) require a second opinion on	Ministry of Justice indicated that amendments to the Law on Non-Contentious Proceedings for 2013 have not been planned. Although the changes to the Law on the Protection and Exercise of the Rights of	<u>Recommendation not fulfilled.</u>

²⁸ Illustrative is the case of involuntary hospitalization of female patient D.K.:

- a) D.K. was forcibly hospitalized on 9 November 2012;
- b) Hospital sent the notice of involuntary hospitalization to the Court on the same day - 9 November 2012;
- c) Court received the notice on 13 November 2012;
- d) Court decided on hospitalization on 22 November 2012 (please note that the legal deadline is 8 days);
- e) Court decision was submitted to the Hospital on 26 November 2012;
- f) Patient gave consent to treatment on 5 December 2012.

		the need for compulsory hospitalization of an expert psychiatrist who is not employed at the facility, (3) decide whether the person concerned is able to understand the significance and legal consequences of his/her participation in the process, (4) ensure that patients who undergo compulsory treatment have assistance of a legal counsel during the procedure, and that those who are unable to pay their attorney's fees be granted legal aid.	Mentally Ill Persons are underway, it is necessary to amend the Law on Non-Contentious Proceedings in order to introduce guarantees of the merits of one's placement in a psychiatric institution in a decision making procedure on involuntary hospitalization. For more detail see p. 23 of the Report.	
43.	Hospital Director	Ensure that persons involuntarily placed in the Hospital be personally acquainted with their rights, as well as their families. Draft an appropriate brochure (MT).	Recommendation implemented in practice. Work on a brochure is in progress. ²⁹	<u>Recommendation fulfilled.</u>
44.	Ministry of Justice	Ensure regular control of the execution of the security measure of mandatory psychiatric treatment and confinement in a medical institution (CPT, MT).	The Ministry of Justice stated that in the period from 1 November 2011 to 19 December 2012 it has carried out four controls of the legality of the execution of measures of mandatory psychiatric treatment and confinement in a medical	<u>Recommendation fulfilled.</u>

²⁹ Two interviewed (forcibly hospitalized) patients stated that the doctor who admitted them also introduced them to their rights. One of the forcibly hospitalized patients had a written appeal and waited for the court decision to submit it (third involuntary hospitalization). Inspected patient's documentation included a phone number of the family member.

			institution, which was confirmed by the Hospital Director.	
45.	Government and Parliament	Urgently adopt legislation that will ensure that courts act in misdemeanour proceedings, i.e. that misdemeanour judges are elected in the same manner as judges of ordinary courts (MT).	The law has not been adopted. Centre for Civic Education has since filed an initiative to the Constitutional Court to review the constitutionality of the Law on Misdemeanours due to the violation of a guarantee of the right to a fair trial, because of the competencies and manner of appointment of misdemeanour authorities that act in misdemeanour proceedings.	<u>Recommendation not adopted.</u>
46.	Misdemeanour authorities	Refrain from imposing a measure of compulsory treatment and confinement in a psychiatric institution without prior referral of the person concerned to the observation in a psychiatric clinic (MT).	Practice of the misdemeanour authorities has not changed compared to the findings of the previous Report (p. 29).	<u>Recommendation not adopted.</u>
47.	Ministry of Justice	Stipulate under the LPRMI (Art. 17, para 3) the obligation to inform family members of the mentally ill person about the implementation of a medical procedure without his/her consent (MT).	Recommendation partially adopted. Human Rights Action submitted a proposal of amendments to the Draft Law on Amendments to the Law on the Protection and Exercise of the Rights of Mentally Ill Persons and proposed that family of a mentally ill person be informed about the implementation of a	<u>Recommendation partially adopted.</u>

			medical procedure without the consent of that person, as well as a person designated by the mentally ill person. Proposal was partially adopted by prescribing that a person chosen by the mentally ill person shall be informed.	
48.	Ministry of Justice	Delete Article 50, para 1 from the Law on Non-Contentious Proceedings ³⁰ (MT).	Ministry of Justice stated that the amendments to the Law on Non-Contentious Proceedings are not planned.	<u>Recommendation not adopted.</u>
49.	Ministry of Health and Hospital Director	Amend the Hospital Statute to ensure the impartiality of the Council for the Protection of Rights of the Mentally Ill, regarding the manner of proposing and appointing its members (CPT, MT).	Statute was not amended.	<u>Recommendation not adopted.</u>
50.	Ministry of Health	Establish the Committee for Mental Health (MT).	Committee has been established.	<u>Recommendation fulfilled.</u>
Substance abuse treatment ward				
51.	Ministry of Health	Ensure urgent inpatient treatment for	In the Hospital in Dobrota, women with	<u>Recommendation partially</u>

³⁰ The above provision of the Law on Non-Contentious Proceedings, whose deletion has been proposed, reads as follows: "A person placed in a psychiatric institution shall be required to undergo the necessary treatment measures, but any measure which could endanger his/her life or health or alter his/her personality requires his/her consent or the consent of his/her representative." We wish to stress that every person has a right to privacy and protection of personal integrity, which includes the right not to be treated unless the person provides his/her consent. Exceptions to this rule must be strictly regulated and applied restrictively, only when necessary. For more detail see p. 23 of the Report.

		women with substance abuse issues outside the female acute ward (MT).	substance abuse issues can still be placed only at the female acute ward. However, five beds have been provided within the Psychiatric Clinic at the Clinical Centre in Podgorica to accommodate female addicts. See recommendation # 11.	<u>fulfilled due to a small number of beds provided.</u>
52.	Ministry of Health	Provide funds for the renovation and capacity increase in the substance abuse ward, or establish wards of this type in other institutions (MT).	Ward has been partially renovated. It is painted, neat, restrooms are renovated, but spatial capacity remained the same. For more detail see p. 35 of the Report. Ten beds have been provided at the Psychiatric Clinic at the Clinical Centre in Podgorica for the treatment of substance abusers. Currently, 30 patients with the imposed court measure of compulsory treatment of drug abuse is waiting to be admitted to hospital.	<u>Recommendation partially fulfilled.</u> We believe that the offered capacity remains insufficient, as well as the choice of various treatment options.
53.	Ministry of Justice	Take action, particularly in the form of training of judges, in order to shorten the stay of patients with the imposed court measure of compulsory treatment in accordance with the patient's recovery, which would allow the treatment of a larger number of people	In its response the Ministry of Justice stated that the health institution carrying out the security measure takes into account when the measure had been enforced, after which the court orders the police authority to escort a person in question to a penal institution in order	<u>Recommendation partially fulfilled.</u> Judges impose a measure with a maximum duration of 2 years. We emphasize that the optimal detoxification period in substance abuse cases is

		in the current accommodation capacities (MT).	to continue the implementation of the imposed measure.	measured in months, not years. For more detail see p. 35 of the Report.
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Assessment of the fulfillment of recommendations relating to the Psychiatric Unit within the General Hospital in Nikšić

All recommendations were addressed to the Director of the General Hospital in Nikšić. Of the seven recommendations, four were fully implemented, two partially, while one recommendation was not implemented.

No.	Recommendation	Current state	Assessment of the fulfillment
1.	Immediately ensure the implementation of safeguards in the context of involuntary placement during the admission, stay and discharge from the Unit, especially in terms of court supervision (MT).	During the visit, it was confirmed that all the patients at the Unit had a signed consent on their stay at the Unit. ³¹	<u>Recommendation fulfilled.</u>
2.	Take measures to fight prejudice against the mentally ill, which is particularly detrimental in medical staff and hospital management, as it leads to discrimination against patients (MT).	Interviewed staff noted that in practice, within the General Hospital, level of prejudice towards patients has decreased, especially among the medical staff. ³²	<u>Recommendation fulfilled.</u>
3.	Provide regular stay of patients in the fresh air in the yard, as	Interviewed patients stated that	<u>Recommendation partially</u>

³¹ Official response of the General Hospital in Nikšić has been confirmed and reads as follows: "Psychiatric Unit within the General Hospital Nikšić is an open-type ward, so there are no technical conditions for securing involuntarily hospitalized patients. Patients who require involuntary hospitalization are always accompanied by police officers and referred to Dobrota Special Psychiatric Hospital in Kotor immediately or within 24 hours. All other patients admitted to the Psychiatric Unit sign a form for voluntary treatment."

³² Official response of the General Hospital in Nikšić reads as follows: "The Hospital is currently preparing seminars to be held by qualified personnel from Montenegro and abroad, which would be organized in the form of lectures and training of staff at the Hospital level, while the staff engaged at the Psychiatric Unit have already been educated on the matter."

	well as a covered area so that patients are able to stay outside the Unit in the event of inclement weather as well (MT).	they spend time outdoors whenever weather conditions allow so. Covered area has not been provided. ³³	<u>fulfilled.</u>
4.	Engage a doorman at the Unit (MT).	Doorman has been employed within the Internal Medicine Unit, but is also responsible for securing the Psychiatric Unit.	<u>Recommendation fulfilled.</u>
5.	Improve nutrition of mentally ill persons placed at the Unit (MT).	Patients interviewed were satisfied with a diet that includes fruits.	<u>Recommendation fulfilled.</u>
6.	Ensure that patients be informed of their rights (MT).	Situation has not changed from the previous visit. Interviewed patients were not familiar with their rights in relation to the treatment and stay at the Unit. Despite patients' voluntary stay, it is necessary to at least verbally inform them of the possibility to file a complaint to the Hospital Director and Protector of Patients' Rights. Also, they need to be informed on how and where to obtain the complaint form. Making of a brochure is in progress.	<u>Recommendation not fulfilled.</u>

³³ Following is the official response of the General Hospital in Nikšić: "The Hospital is currently not able to build a shelter for patients to stay outdoors in the case of inclement weather, as the Psychiatric Unit building represents a cultural and historic monument and obtaining permission for its reconstruction requires a special procedure."

7.	Simplify the procedure for patients to address the Protector of Patients' Rights (MT).	Situation has not changed from the previous visit; it is still necessary to simplify the procedure for addressing the Protector of Patients' Rights. For more detail see p. 42 of the Report.	<u>Recommendation not fulfilled.</u>

Assessment of the fulfillment of recommendations relating to the Psychiatric Clinic at the Clinical Centre in Podgorica

Recommendation was addressed to the Ministry of Health and has been implemented to some extent.

No.	Recommendation	Current state	Assessment of the fulfillment
1.	Improve material conditions for the stay of patients and work of personnel, by completely renovating the building in order to: a) reduce the existing number of beds in the rooms. b) provide a room for patient care and organization of therapeutic groups. c) provide a room for physical restraint of patients. d) provide computer equipment for staff (MT).	According to information received from the Clinic Director, only part of the recommendation under d) was implemented, i.e. Psychiatric Clinic has been provided with IT equipment for staff, namely 6 computers and 10 phone lines that allow direct Internet access in all official premises used by doctors and head nurse.	<u>Recommendation partially fulfilled.</u>

Conclusion

We commend the efforts of the Special Psychiatry Hospital in Kotor and Ministry of Health on the implementation of recommendations, particularly those formulated in 2009 by the CPT on the basis of its visit to the Hospital in September 2008, such as: improving material conditions of accommodation of patients, work on continuous training of staff, development of individual treatment plans for all patients, implementation of due procedure in connection with the application of measures of physical restraint of patients, i.e. obtaining the patient's consent prior to starting the treatment. We also wish to commend Hospital's efforts for providing specific conditions (specially built premises) in which patients, whose condition requires so, may be subject to continuous supervision. There has been some progress in increasing the safety of personnel working with patients. Patients' nutrition has also been improved. Since the final monitoring visit took place just before the New Year, monitoring team noticed that the entire Hospital was decorated for the holidays, which was particularly welcomed by patients.

Unfortunately, despite a noticeable improvement, we wish to note that some of the most important recommendations have not been met, including the recommendation to the Ministry of Labour and Social Welfare **to address the issue of hospital stays of several years (even decades) of the so-called social patients**, people whose health condition does not require further hospital treatment, but who continue their stay at the Hospital because they could not be provided with adequate social care otherwise, as well as the **issue of the shortage of medical staff**, which is the responsibility of the Ministry of Health. Recommendations on the need for adequate social care of patients were also set forth by the CPT and Protector of Human Rights and Freedoms of Montenegro. Although the funding for hiring five nurses has been approved, this is still not satisfactory. Also, the existing staff is not sufficiently stimulated to work with psychiatric patients (e.g. they are not entitled to an early retirement plan). Lack of staff also results in a failure to meet the CPT recommendation to increase the offer of therapeutic and rehabilitative activities to patients.

There is still a **need for a specialist in child psychiatry** (until the completion of specialist internship of a child psychiatrist).

The Ministry of Justice is responsible for addressing the issue of the **status and funding of the FPU**, whose relocation is not expected in the near future (until the construction of the Special Hospital within ZIKS) and whose status is still not regulated. Members of the security service are still engaged in this ward, in the presence of patients, contrary to the CPT recommendation. **Person with the imposed measure of compulsory treatment and confinement in a medical institution, Milan Zeković, is still located at the Institution for Execution of Criminal Sanctions, not in an appropriate medical institution**, although the CPT recommended so in 2008.

It is necessary to **urgently carry out the reform of misdemeanour authorities**. We wish to emphasize that misdemeanour authorities are not independent from the executive power and thereby do not meet the guarantee of impartiality, although they may impose the measure of compulsory treatment and confinement in a medical institution, involving deprivation of liberty for up to two years. Additionally, it is **necessary to change the practice of misdemeanour authorities to impose a measure of compulsory treatment and confinement in a medical institution** in a procedure which does not ensure proper assessment of the patient's health, with appropriate expert evaluation in the institution over a certain period of time.

As regards the procedure of involuntary hospitalization, **it is necessary to make appropriate amendments to the Law on Non-Contentious Proceedings** in order to introduce guarantees of the merits of one's placement in a psychiatric clinic in the process of deciding on involuntary hospitalization, and ensure that courts act in accordance with deadlines prescribed by this Law in the proceedings relating to involuntary hospitalization.

Implementation of recommendations regarding the installing of mail boxes for addressing the Protector of Human Rights and Freedoms would have further improved the respect for the rights of patients, as well as the revision of a method for the appointment of members of the Council for the Protection of Patients' Rights, as proposed by the CPT.

It is also essential to make further investments in the material conditions of patients' accommodation (particularly heating), provision of special premises for the reception of visitors and adaptation of the facilities for people with disabilities.

Practice of involuntary stay of patients at the Psychiatric Unit in Nikšić has been changed. Patients who do not agree to voluntary treatment are referred to the Hospital in Dobrota, which then informs the court about involuntary stay within a 24-hour deadline. Also, patients have commended the quality of food. It is necessary to provide patients with the opportunity to stay in the fresh air in case of bad weather conditions as well, and take steps to insure better informing of patients about their rights.

Open-type Clinic in Podgorica needs to be renovated urgently. In addition to renovating the building exterior, it is necessary to ensure sufficient number of toilets and shower cabins, adapt and refurbish hospital rooms currently equipped with 7 beds and provide premises for therapeutic work with patients. Out of a total of 61 recommendations made by the monitoring team for the protection and promotion of human rights of patients placed in psychiatric institutions, 26 (42%) were fully adopted, 21 (35%) only partially, while 14 (23%) recommendations were not adopted.