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## **Monitoring conditions in KPZ Niš**

(May 2007 – May 2008)

Niš, May 2008.

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## Introduction

System for execution of prison sanctions is expected to solve all the problems and mistakes left behind by primary family and all social institutions- from the nursery to the school and so on, that dealt with the prisoner until the age when he committed a crime for which he was sentenced. This is, of course a conclusion which fully simplifies the role of all the actors and functioning of the whole society, but gives the essence of expectations set in front of this system, those that have to be realized with the least possible financial investments. According to the rule, all the others unite, with no reserves, in failure criticizing, normally unreal expectations, without reconsideration of the role and responsibility that they have in reaching and functioning of “safe society” (meaning from local community to state)

In order to better understand current state, we can use an example of a prison, in this case Penitentiary Niš. The contents of this publication are the Report on monitoring imprisonment conditions in Penitentiary Niš, in the period May 2007 – May 2008 and selection of articles from international and national legislation related to the aspects that we followed. As a report model we used OSCE guide “Monitoring on prisons and imprisonment institutions, practical guide for NGOs”

Problems that cannot be successfully solved by implementation of any law and that require different approach in solving are:

- Understanding (of different penitentiary services, admission services that are yet to be included and widest community) that the prisoner is a person whose freedom of movement is restricted, as a penalty for committed crime, while he keeps right to enjoy all other rights.
- That laws represent a list of what is not allowed and that there is a large field of possibilities for work with the prisoners which do not have to be stated in laws for it is not forbidden and its implementation is not an offence.
- Lack of affirmative approach;

Here, we also want to draw attention to groups of prisoners that have to be additionally taken care of so that they could accomplish equality in the existing system. Those are:

- Disabled persons;
- Minorities (ethnic, national, religious, illiterate)
- Poor

One of the aims of our work is a contribution to the reform of System for execution of prison sanctions, where, according to our opinion, a key role should be given to re-socialization. Starting point is that education is a process of adopting socially preferable and acceptable

attitudes as well as system of values. Treatment implies redefinition of adopted, inadequate attitudes and system of values as well as adoption of those missing ones.

The change with prisoners that is possible to accomplish, during sentence serving, is adequate attitude towards the crime for which they are sentenced, which we can understand as a minimum of necessary change. Optimum to maximum would be insight in relevant causes that brought to the crime and establishment of new system of values that implies respect of both personal and other society members' values and rights, as well as adoption of the way so that this system can function.

In the process of education and treatment, award and punishment play important role. It is necessary to emphasize that during education every person adopts both system of values and the way in which this system is learned. That is why it is necessary to emphasize that education should be based on system of awards and an award could be anything, while the sanction/punishment could be withdrawal of the award. This approach qualitatively raises the level of the whole system of individual's personal values, which is a necessary precondition for the respect of others and it creates greater capacity for accepting positive changes- all these constitute re-socialization program.

Qualitative differently set up re-socialization must be followed by adequate change in the organization of implementation system

Results that would come from re-socialization program designed in this way would absolutely satisfy set-up goals concerned with prison sanctions within National strategy of Justice System reform/ System for execution of prison sanctions, which is based on three main aims:

- Safe-guarding of every prisoner and detainee, in safe and secure way and in humane conditions, in line with international laws.
- Promotion of other types of sanctions except institutional, for punishment and treatment of prisoners
- Reduction in repeated offence rate after release.

We believe that it is particularly important in Serbia that the results of reaching these goals are as good as possible. Serbian society is a post-conflict one, or maybe in people's heads lasting conflict society, which has not gone far in the process of transition from socialism to capitalism, which is being implemented chaotically, while the violence rate is dramatically increasing. Violence and crime exist everywhere in the world, but in comparison to developed countries, from the aspect of ordinary citizen, they are, conditionally speaking, predictable over there and the system can handle them (for example, there is a web page for Chicago where one can see, on the city map, the type of criminal in each street. It is regularly updated, which, for example, has an impact on the selection of the area where one wants to live). There is an impression that there are no safe places in Serbia, in sense suburbs-downtown, village-town, and it is not possible to make any relation between the location and type of criminal. That is why it is important to cut the chain and establish control over violence and criminal. Prisons, according to our laic estimation, could be that place. That is why we think that reformation of prison system and planning, as well as implementation of efficient re-socialization program are additionally in interest of widest community and that they should include all stakeholders, directly or indirectly related to the realization of "safe society".

## **Basic information on the project and its realization:**

### ***Overall objectives:***

*Prevention of torture and contribution to torture eradication.*

*Contribution to the reform of prisons and places of detention by making an impact on the authorities and by creating an enabling atmosphere in public*

*Approaching EU standards regarding prisons*

### ***Specific objectives:***

*Monitoring the provision of accomplishing of other human rights as guaranteed to persons with a suspended freedom of movement during the period of their being convicted (monitoring conditions in detention);*

*Improving life quality of persons deprived of their liberty during the period they serve their prison sentences and realizing better internal security of prisoners*

*Improvement of working conditions and increase of work effectiveness of the staff.*

*Developing public opinion and conscience concerning their attitude towards the imprisoned as community members and in favour of the community itself*

### ***Methodology:***

#### *1) Visits:*

- Obtaining the authorization of access*
- Establishing the program of visits/ plan for each visit*
- Methodology of visits*
- Follow up to the visit*

#### *2) Visits repetition*

#### *3) Observation and comparison*

#### *4) Conversations: (``free``/ purposeful discourse or an interview)*

#### *5) Reports (Annual and after each visit)*

#### *6) Measures recommended*

#### *7) Questionnaires*

#### *8) Reporting results to international institutions, bodies and organizations*

## **General information about the institution**

Name of the institution: Penitentiary at Nis KPZ Niš

Type of the institution: closed, plus semi-open and open units Niš

### **The authorities of jurisdiction:**

Ministry of Justice - Administration for the Execution of Penitentiary Sanctions

**The warden:** Svetoljub Mazić

**Notice:** *The enlargement of the prisoners in Penitentiary at Niš is due to the adaptation of Penitentiary at Sremska Mitrovica. About a hundred of prisoners have been transferred from this institution to Niš. They should be returned to Penitentiary at Sremska Mitrovica till June, 2008.*

#### **1./2. Regular visit "1"**

Date of the visit: 09.07.2007.

Number of persons deprived of their liberty on the day of the visit: 945

#### **Regular visit "2"**

Date of the visit "2": 10.08.2007.

Number of persons deprived of their liberty on the day of the visit: 956

#### **The aim of first and second visit:**

Gathering basic information from the aspect of monitoring the penitentiary at Niš (physical condition of the building, the residence condition and treatment of the imprisoned, fulfilment of international standards...) which will later serve as "initial state" with which all changes will be compared noted during the project provided visitations.

Visit 1 :

The extensive surveillance ward; the prison part "C"; hospital and ambulance; kitchen and dining room.

Visit 2 :

The extensive surveillance ward; the prison part "C"; admission ward ; hospital and ambulance; working area (production, laundries, boiler rooms, stockrooms ,.....); The semi-open type ward where the prisoners are allocated and the economy; the ward for elderly prisoners; the holiday ward; library, culture centre, school (if there is any), C4 ward - employed prisoners; "no drugs" ward.

#### **3. Regular visit "3":**

Date of the visit: 2.10.2007.

Number of persons deprived of their liberty on the day of the visit "3": 1.058

#### **The aim of the third visit:**



- Primary detection of the factors closely related to the cases of discrimination, corruption and the existence of informal groups (specific targets of the project 2 and 3). as well as exploring the motivation for education and labour;
- The visitation of the admission ward and adding to the description of ambulatory part;
- Monitoring of the changes related to the prior visit and complement of the report "1+2".

4. Extra visit "1"

Date of the visit: 21.08.2007.

The occasion of the special visit payed on 21.08.2007. are the "Danas" newspaper articles issued on friday and saturday on 17. and 18. - 19. 08.

**The aim of the visit** was detecting the state of the prisoner who had gone on hunger-strike and the reasons for doing it.

5. Extra visit "2"

Date of the visit: 22.10.2007.

The special visit was arranged after the telephone call made by the prisoner Bojan Draganović who requested our urgent visit and interview with him and the other prisoner whose name he hadn't mentioned.

6. Extra visit "3"

Date of the visit: 25.10.2007

**The aim of the visit** was monitoring the case of the prisoner Bojan Draganović (5628) with which the taem of the Centre was introduced to during the extra visit "2" (22.10.2007.)

7. Extra visit "4"

Date of the visit: 12.11.2007

**The aim of the visit** was monitoring the case of the prisoner Bojan Draganović (5628) with which the taem of the Centre was introduced to during the extra visit "2" and "3" (22.10.07. I 25.10.07.)

8. Regular visit "4"

Date of the visit: 07.12.2007.

Number of persons deprived of their liberty on the day of the visit "4": 1.114

**The aim of the fourth visit :**

The insight into the medical service system

Assessing the subjective feeling of safety of the Albaninan prisoners

Giving insight into the results of the disciplinary hearing proceeded with the prisoner Draganović (extra visits 2/3/4)

Adding data from the prior visits

9. Regular visit ``5``

Date of the visit ``5``: 18.01.2008.

Number of persons deprived of their liberty on the day of the visit ``5``: 1126

**The aim of the fifth visit :**

- Introducing with the security service
- Giving insight into the results of the disciplinary hearing proceeded with the prisoner Draganović (extra visits 2/3/4)
- Giving insight into the documentation of the disciplinary hearings proceeded against the prisoners.
- Adding data from the prior visits

10. Regular visit ``6``

Date of the visit ``6``: 22.02.2008.

Number of persons deprived of their liberty on the day of the visit ``6``: 1127

**The aim of the sixth visit:**

- Introducing with the education and training service
- Adding data from the prior visits
- Giving insight into the documentation of the disciplinary hearings proceeded against the prisoner Draganović (extra visits 2/3/4)
- Giving insight into the documentation of the disciplinary hearings (against prisoners and employees)

11. Regular visit ``7``

Date of the visit ``7``: 04.04.2008.

Number of persons deprived of their liberty on the day of the visit ``7``: 1157

**The aim of the seventh visit:**

- Gathering information on necessary improvement of the working services
- Giving insight into the documentation of the disciplinary hearings (against prisoners and employees)
- Adding data from the prior visits

12. Regular visit ``8``

Date of the visit ``8`` : 05.05.08.

Number of persons deprived of their liberty on the day of the visit: 1.153

**The aim of the eight visit:** control visit.

On the day of the visit the number of prisoners in sub-groups was as follows:

- Number of prisoners in Drug free ward is 7
- Number of registered drug addicts 287
- Number of alcoholics 81
- Number of prisoners with Hepatitis B and C 81

- Number of prisoners with TBC 1
- Number of HIV infected 1
- Number of prisoners engaged at work in open and closed part 212
- Number of prisoners on servicing disciplinary measure in solitary confinement 4
- Number of prisoners Muslims 46
- Number of prisoners Bosnians 9
- Number of prisoners Albanians 23
- Number of Roma prisoners 119
- Number of disabled prisoners...

\*

It could be said that there is no evidence whose only purpose is to systematically keep records about the persons with special needs and the needs that derive from that as well as for additional assistance.

The data we got is related to prisoners who are, in different ways, temporarily or permanently, not capable of working, for different medical reasons. At the same time, prisoners whose diagnostic procedure is in progress, due to possible disability, are neither recognized as persons freed from work nor as disabled persons. In that sense they are not recognized as persons who need additional assistance and other person's care during diagnostic procedure.

Since we don't know the number of disabled persons, we don't know the types of disability in a particular case, as well as needed individual assistance.

Out of this it can be concluded that there is a system lack because disabled persons are not recognized as a category that requires special accommodation conditions, by which they would be brought to equal position with other prisoners, i.e. they would not be discriminated.

- Number of prisoners freed from work for medical reasons 15
- Number of prisoners in the hospital on the day of the visit 24

***Implementing team:***

Aleksandar Cvejić Team leader/ lawyer/ monitor; Verica Milošević Psychologist/ monitor; Milan Jovanović Lawyer/ monitor; Snežana Radivojević Doctor/ monitor; Slađana Živković Kostić Economist / monitor and PR person

Project coordinator : Lidija Vučković

Project assistant : Milena Čelić

## History of Penitentiary in Niš.

After Niš and its surroundings were liberated from Turks, a prison was built up in Niš, at the location of today's fortress. After Požarevac, Niš was the second town in Serbia to have a prison. Catacombs in the Fortress were used for the detention of prisoners.

No methods, means or special treatments and reeducation were applied. The guards lived in the Fortress, warden and his deputy rarely got in touch with the prisoners. Each room in which the prisoners spent their time had a room master called "dinarac" It was a prisoner who took care of other prisoners' needs, discipline, hygiene, work and health and at the same time he was a mediator between the prisoners and the warden.

As the time was passing, capacities of Niš Penitentiary became insufficient for the accommodation of all the prisoners. By the end of 19<sup>th</sup> century, new location for Niš Penitentiary was defined, today's location, in the area located 4 kilometers from Niš suburbs. The construction of new penitentiary started in 1908. Central part of First pavilion was built by 1910. During the escalation of First World War the Penitentiary was managed by a warden, infantry lieutenant colonel of Serbian army, Jaša he Nenadović. Hi did something that was considered to be a great deed in the history of punitive policy- invited all the sentenced prisoners of this institution to "stand up for the defense of their motherland that was in danger". After the liberation, the prisoners were allowed to leave the prison, no matter the duration of the rest of the sentence.

From 1915 till 1918 Penitentiary did not work as an institution, instead, it was used by Bulgarian occupants for the accommodation of soldiers and horses. In the period from 1918 to 1941 Penitentiary institute expended rapidly and its capacities were increased. Intensive building starts in 1920. Central part was added with a central wing in the period from 1922-1928, kitchen and bakery, with store houses in 1932, and second pavilion was built in 1934. In 1930 a decision to finance a building with cells was brought by the Ministry for Civil Structure. Starting from 1941 the Penitentiary was managed by Germans who took over the prison, together with the prisoners. After the escape of the detainees from the Camp Crveni Krst (Red Cross), Germans shot 600 prisoners. 350 prisoners, sentenced by German rules remained in the Penitentiary. Rooms in the prison were used then by a special police for hearings and torturing. Sentenced prisoners in the Penitentiary institute were used as hostages for each killing of a German soldier.

In October 1944 the Penitentiary remained empty, abandoned and destroyed. Everything was broken in the rooms, the documentation was burnt down and rest of the prisoners grabbed their chance and escaped after the Germans had left.

From 1949 we can follow the changes in the architecture of Penitentiary-Niš. Besides pavilions and "white house" there were: Main support building, Guards barrack (a ward where a restaurant and a kitchen were located), a building Governor's villa, cultural and educational house for the prisoners, industrial building- a factory, a metal workshop, waiting room used by prisoners' families, talking room, used for the conversations between the prisoners and the visitors.

Out of the Prison circle there was, so called" housing colony, with the flats for the officers in the prison, During 1951, a building for accommodation of railway guards, a facility for sow forth delivery, economy building, a shop and a store house of "Deligrad" factory were built. In 1954, the prisoners got the building which had been previously used for school. A part of the building for prisoners in open-type regime was reconstructed in 1956 and on the ground floor a laundry drier was built. Visit hall which served for visits to prisoners was built and equipped in 1969 and in 1970, a canteen with the kitchen was built and equipped. It started with its work in 1971.

(Source: ``Pnitentiary and correctional institute in Niš, 90 years 1910-2000'', 2001, authors: Prof PhD Slobodanka Vilic Konstantinovic, Prof PhD.Vojislav Djurcic, doc. PhD. Nevena Petrusic)

## 1. Facilities in Penitentiary

### Outward and inward appearance (architectural, development stage, facilities, hygiene), of the penitentiary

The whole penitentiary complex is surrounded by the 5 meter high safety wall. At the full length of the wall there is a barbed wire with 10 equally spaced posts.

Renovation within the complex: During the summer in 2007, the sewage and water supply system were replaced within the whole penitentiary complex. During the same period the dormitory "B" was also renovated.

#### 1.1. Increased Supervision Department

The building was built in 1934. Outward, it is in a very good condition. Inward, it is in a far worse state and the worst is in the basement where solitary confinement cells are located.

The walls in the hallways and rooms haven't been painted for a long time and this is something that should be done immediately unless the whole building is to be renovated. The walls are partially oil strainer varnished and painted to the ceiling. At the moment, much of the oil strainer varnish is scaled off and cracked. The floors in the hallways are old, concrete lined without being panelled. On the first floor vinyl panelling is installed

**The room** for the prisoners, the hygienists in the building, is spacious, ventilated and well taken care of; there are four beds, two tables, four chairs and the TV.

Regarding the space, **dormitories** are hardly standardized for the residence of the prisoners. There are 17 rooms with 3 people (besides one with 4) and another 10 rooms with 2 people that can be locked. There is a parquet floor. The beds are old, with the three metal bunk beds. The mattresses are seemingly in a much worse state than beds. The bedding is old. There is one locker for all three prisoners. At the moment there are 84 prisoners. At the moment there are 81 prisoners two of which are food conveyers, and two are responsible for keeping the common rooms clean. They are placed in the open cells.

The sanitary system is in the room, the squat toilet and the tap are separated from the room by a one meter high wall without any doors. In order to be, at least visually, separated from the sanitary system the plastic tube handles attached to the ceiling and meant for plastic drapes have been placed in 13 cells above the toilets. The plastic drapes seem like shower curtains. There is a drape only in one cell. In the rest of the 14 cells there are neither handles nor drapes. The pass water system is consisted of shower bath and a washing room. The floor in a pass water system is in a good condition, the shower-bath and the taps are functional and there is a new washing machine. There isn't any hot water in the cells. However, each cell gets a bucket of hot water in the evening if it is requested. The prisoners take a shower once a week. The laundry is washed and dried in the cells so that there is much more damp. This is due to the fact that once purchased washing machine has been out of order and therefore useless. In the basement there aren't any shower rooms due to the improper electrical installation. In the basement, the shower system is not working. The hygiene is good.

**The cells for solitary confinement** are in the basement. The cells were renovated a few months ago but they are in the same bad condition as they were before the renovation due to the high level of damp which is apparent on all walls and the ceiling. In first part of the basement there are nine solitary confinement cells. The two are renovated, the third one being renovated. The oil strainer varnish is orange as well as the bars. In entirely 17 solitary confinements there are 38 prisoners who are not sentenced to the solitary confinement according to the disciplinary measure but their status is the same as of the other prisoners placed in the cells upstairs being a part of the Increased Supervision Department. This is due to the overload capacity of the whole penitentiary. In this part there are 7 prisoners. Going down the long narrow hole there is a second

part of the basement where another 6 solitary confinement cells are located. Two of them are bigger and designed for two people. (It is concluded that the prisoner who is convicted to the solitary confinement cell shouldn't be alone). In the three of the cells the floor is renovated, one half with teraco paneling and the other with the old ship floor. These are the cells for two people.

There is central heating and it is very cozy during the winter, as the prisoners say. The ventilation is natural but the airing is not very good, though the guards try to make things better by opening the less accessible windows as well as small windows on the doors. There is enough daylight due to the good size of the windows. The artificial lighting is central, controlled from the outside. There are bars on the windows.

The halls between cells are old but hygienically clean. There is not enough hygiene in the cells due to the fact that three prisoners spend 23-24 hours in a small space.

## **1.2. The Department "C"**

This is a closed type building. Outward, the plaster fell off on certain parts of the wall, the lime is ruined, the waterspouts are partially out of order, the windows are old and with bars. The dormitory "C" is going to be renovated next year (2009) when financial resources are provided by a new budget

Inside the building there is the ground floor and the two floors. In the stairway (teraco) there is treatment officers' room. This part is separated from the section where the prisoners are by bar-doors that can be closed. On each of the floors there is vinas paneling which is in a very bad condition. The walls in the hallways are up to 1.2 m oil strainer varnished and painted up to the ceiling. These hallways are at the same time the space which the prisoners use for daily routines, although there is a smaller room for daily activities with the TV on each floor. There are also closets, benches, chairs, tables.

In the whole building there are 14 dormitories: 4 on the ground floor, 5 on the first and 5 on the second floor, with 20 beds each. The beds are made of metal and two are bunk beds. There are bars on the windows.

The ventilation is natural; the windows are reachable and can be opened. There is a district heating system.

There is enough daylight; there is a central electric lighting which is controlled from the outside.

Hygiene: there aren't enough shower baths, sanitary systems, there is a harsh and unpleasant scent but the prisoners themselves pour water into the sanitary system. There is an impression that the overall hygiene is not satisfactory. On the ground floor of the dormitory "C" the toilet boilers are out of order and there is sometimes hot water. On the first and the second floor of the dormitory "C" new functional toilet boilers have been placed. According to the statements of the prisoners themselves there is nonstop hot water.

The impression is that the overall hygiene is on the considerable level.

The House rules (being in a plastic foil) are displayed on the ground floor as well as the explanations of certain prisoners' rights and procedures for achieving those rights. On the first and the second floor the House rules are not displayed but the procedures for achieving prisoners' rights are.

On 05/05/2008, the visitation day, there were 213 imprisoned. On the three floors there were no beds in bedrooms. The number of people in the bedrooms was from 9 to 18.

## **1.3. The Hospital (stationary) and the Ambulance**

Outward, it is an old building with a renovated façade. Inward, the walls are painted and in a good condition. A part of the hospital ward which has been renovated since the last year is adapted for the purpose of a lab which is moved from the upstairs of the hospital to the ground floor. The two wards for infectious and psychiatric patients have been adapted as well. This new part is situated on the ground floor of the building. The inward walls are badly painted and quite scaled off. One part of the hospital ward is being renovated.

The ambulance is consisted of a number of rooms such as: card file, consulting-room, interventions - rooms for diagnostic, sterilization rooms with autoclave, dentist and surgery which is not always in function. There is also a pharmacy and a lab. Medical instruments and equipment needed for sanitary service are part of the ambulance segment in the ground floor. The instruments are of various date.

The hospital is upstairs. The prisoners-patients are put away in the three rooms (two smaller and one big room). There are also the TV room, the dining room, the toilet and the bathroom.

The walls and the floors are in the same condition on both of the storeys. The floors are vinas panelled and kept wet. On one part of the walls there is vinas panelling or oil strainer varnish. They are painted up to the ceiling. Both walls and floors are partially damaged. Natural and artificial lighting are relatively good, the artificial lighting inside of the rooms is controlled from the outside due to the regimen. The TV room is open till 1 am. There are benches, a table, chairs and the TV. In the hospital there are metal beds with mattresses, the bedclothes and the blankets which are in a bad condition. Regarding the furniture, there are wooden tables, chairs and cabinets. Toilets and a bathroom: there are more faucets in the bathroom. The toilet is in function. The hygiene is satisfactory.

There is central heating. The ventilation is natural and adequate. The bars are placed on all of the windows.

Health Care Department in Penitentiary Niš is organized as an ambulance with out-patient aid station. All regular checkups are defined by a weekly schedule for the pavilions; individual checkups of prisoners, as well as complete distribution of parenteral and peroral therapy are carried out in the premises of central ambulance building, in doctor's office or interventions. Each checkup and medical-technical intervention, diagnostic and therapy, is promptly written in medical documentation- health care files, individually, for each prisoner and it was given to us for overview. .

Dental service is well equipped with contemporary devices (for sterilization, tooth filling making and device for helium tooth fillings). The following services are provided to the prisoners:

- Teeth healing with endodony,
- Paradentology,
- Oral surgical interventions (tooth extractions and minor surgical interventions) while, for some more complicated conditions, the prisoners are sent to Dental Clinic,
- Prosthetics, mobile prosthetics are made

A dentist (specialist) is employed as well as an assistant to the dentist, who can, should there be no adequate staff, perform the work of a dental technician.

It is interesting that the device for helium tooth fillings was bought in 1985 when it was really rare in dental practice

Dental service has a practice where they perform check-ups and interventions as well as special root for dental technique.

There is a special dental Roentgen (x-ray) device.

In the period January- September 2007 there were 1327 check-ups.

Extremely professional and skilled approach to the medical staff to prisoners (patients) can be seen and we detected that during several check-ups that we saw, both in Dental care department as well as in other practices of Penitentiary Health Care Department.

In other wing if the central ambulance building there are: dispensary, card-file, interventions, where there are standard medical devices of different age: EKG; Oxygen tank, inhalator.

There is a special room for dental Roentgen device as well as Standard Ro device.

Room with Ultra Sound devices with probes for trans-abdominal inspection of abdomen and special linear ultra-sound probe for the inspection of thyroid gland.

Sterilization room with autoclave, distillatory as well as a device for dry sterilization of medical instruments.

Room for minor surgical interventions with the adequate medical equipment, device for total anesthesia, a monitor, aspirator, thermo-cauter, necessary surgical instruments.

The lab is equipped with the devices for complete blood screening as well as with the analyzer for complete bio-chemical analyses.

Pharmacy- Adequate storing of sanitary materialy, necessary supply of per oral and parenteral medicaments. There are also urine-test strips for the identification of abuse of 10 different psycho-active substances

After detailed visit to Health Care service, existence and functioning of standard medical equipment does not exclude, but on the contrary, imposes the need for the existence and procurement of necessary medical equipment and devices for urgent medical conditions (which are standard for other primary and secondary public health systems in Serbia). These are ambulance kit for reanimation, as well as a device called defibrillator.

Also, there is not any ambulance vehicle equipped with standard medical devices like re-animobile for transportation of patients as well as those whose life is endangered, from the Penitentiary to the Clinical center Niš.

#### **1.4. The Kitchen and the Dining room**

**The dining room** with 450 m<sup>2</sup> is nice and pleasant, there are many flowers and the light is natural which is due to a number of windows. The coziness of the ambient is due to the flowers which are placed along the glazed wall from the face side. The outward façade is all glassed while the backside of the dining room is half in parapet and the rest are big windows.

The furniture is consisted of linked (clipped) green wooden tables (two tables with six chairs). The chairs are old, being replaced occasionally. The dishes: the prisoners use knives, forks and spoons which are always put back after use - after meal. The meals are served in plastic plates and glasses.

Near the dining room there are urinal areas (rooms) with two squat toilets and four washstands.

**The kitchen** extends to 2500 m<sup>2</sup>. There are 21 rooms. The first and the biggest is a thermal block with 185 m<sup>2</sup>. Both walls and floors are paneled and they are in a good condition. The lighting is natural and artificial being controlled inside the kitchen. There is no need for heating due to the electrical kettles for food preparing. The kettles as well as the working surface are made of prochrome. The hygiene is good.

The other rooms are: the room for vegetable preparing, the room for white dish cleaning (there is a damaged ceiling due to the evaporation), the room for black dish cleaning, the room with a boiler for water heating, the butcher, the storage, the instructor office, the chef office, the cold store (plus and minus), a compression room, a bakery (sour resistant paneling is in a bad shape and needs to be changed), the flour-mill room, the sanitary storage, the food storage, the archive, the wardrobe and bakers' wardrobe, the sanitary installation and a bath.

In each and every room the floors are in a good condition, the lighting is also good. There is a central heating. The size of the rooms is satisfying, the furniture is in a good condition, too. There are bars on all of the windows. Na svim prozorima su rešetke.



The menu is weekly prepared but every day the content is different. The quality, the quantity, the variety of the content is satisfactory. There are all four types of meat, there is some fruit two times at least, as well as ...products. A dish/meal is from 350 to 400 g. Daily calories input is 12500 J. Limitations in eating certain food due to the religious reasons are respected. There are also festive meals. The specific food is prepared for sick prisoners. The space between meals is appropriate, and the groups of prisoners having meals together change on daily basis according to the schedule.

There is a daily control of food validity. Every three months the bacteriological analysis from working surfaces and dining tables is carried out both by the staff from the Health Care Institute and the penitentiary section itself. The last analysis has been done on February 26th, 2008. The cooks and the personnel are required to undertake the sanitary control and they all have the sanitary record. During the visitation, one person was on cure.

The prisoners are engaged in washing the dishes, hygiene chore, cleaning the food for its preparing. The cooks are professionals

In 2006, 36.000.000 dinars were used up for food. 1.159.952 meals were made, it is to say one meal was 31 dinars, 93 dinars a day per prisoner.

### **1.5. Admission ward**

Admission ward was renovated three years ago when the facade was renewed and inward rooms painted. Now, one part of the facade scales off due to the moisture from the the sanitary instalation.

Inward, the walls are painted and up to 1,2 metres high there is an oil strainer varnish being in sound condition. The painted area near the ceiling and on the ceiling is scaled off. The floors are with plastic panelling. The floor in the bedrooms is partially damaged and it needs to be changed. The woodwork is clean and in a fairly good condition

There is no artificial ventilation. The lighting is natural and there is enough artificial light. There is a good central heating, the ward being next to the boiler room.

The ward consists of three bedrooms, with 18 to 20 beds in each. There are bunk beds made of metal, in sound condition. The bed cloth is old but clean being washed in 15 days period. The blankets are washed after the prisoner's leaving. The mattresses are quite old. In the bedrooms there are cabinets for each of the prisoners. The prisoners use benches rather than chairs due to the safety reasons. In the hallway there is a bed cloth closet.

The prisoners eat and spend their free time in a dining room. There are tables and benches. There is also a tea-room where smoking is allowed. The tea-room should be painted once in a while.

The bathroom and the shower baths are in a bad condition with much moisture. The tiles are clean. The shower baths and taps are functional.

There are also two offices (10 m<sup>2</sup> each) for department for personality examination officers. The floors are plastic, covered with rug. There are worktables, chairs, a cabinet and computers.

After a big water pipe cracking in front of the Admission department, the damaged walls were repaired in february 2008.

### **1.6. The Department for prisoners work**

The buildings in the workhouse were built in 1934 and they do not differ from the similar workhouses in Industry of Machinery in Niš.

Manufacturing consists of the sectors such as: welding, metallic, tool house - servicing, warehouse, woodwork sector (produces chess boards per purchase order and for blind people) and the turnery.

The workhouse consists of: the sector for boilers and cookers, the printing office, tailor office (sewing and repairing uniforms for penitentiary needs), plumbing, strainer house, galvanizing, enameling (the only one in the city), maintenance room, fire department, and a small printing office (letter collating)

All working rooms are with over 9.000 m<sup>2</sup>. Work safety is quite satisfactory. There is a safety equipment. The welders have got glasses, a safety mask, an apron and gloves.

It is one working shift due to the lack of qualified workers and the lack of material expenses for purchasing of the auxiliary goods. Years ago inside the penitentiary there was a metallic school where the prisoners during their servitude could gain certain skills and high school certificate of technical ability. Today the workers can be only the ones who have gained the required skills before their arrival in the penitentiary.

The roof of the galvanizing room is ruined and it hasn't been repaired yet. Therefore, there are no adequate working conditions during rainy and snowy days.

The windows are with bars, the lighting is both natural and artificial. There is no heating at the working department.

Warehouses: There are two warehouses. One for storing finished goods and the other for raw materials. The outward of the warehouses is very bad. The walls are not painted, it is just like the manufacturing sector.

Boiler rooms: There are two boiler rooms. The one works properly and keeps warm A, B and C wards and the school. It is 50m<sup>2</sup>. There is a clean concrete floor, walls are painted. There is also sanitary instalation with shower baths. The shower baths are functional and this section is hygenically clean.

There are two working shifts in the boiler room, 3 workers during the winter and 2 workers during the summer period. Although the building is just as old as the others, it is in much better condition due to the concern of the people who work there and keep the rooms clean.

The other boiler room keeps warm the rest of the buildings. There are three new boilers. The walls are in a sound condition with panelling. There is a concrete floor being washed with water. It is not kept so clean as the first one.

The laundry: there are eight rooms with sanitary instalation. There, the bedding, blankets, the prisoners' uniforms are washed except for the clothes which the prisoners wash by themselves. There are washing rooms (two washing and drying machines; for manual ironing and a big electric flatiron), the store room, the office, the room for putting the blankets away, the room for wornout uniforms, the sanitary room, the shower baths. There are two working shifts, the three prisoners in each.

The department for shoe making has been established in terms of the cooperation with the corresponding private trade. A 1000 pairs of shoes are made in a week and 21 workers have been employed.

There is a water supllly system, technical and city water. There are three working shifts. There is also a power supply transmitter with the three working shifts.

## **1.7. The Department B**

The accomodation capacity of the dormitory B, which has been recently renovated, is 252. On the day of the visit (05.05.08.) there were 236 acommodated people. In the dormitory "B" there are three wards: I, II, III. At each ward there are 10 rooms, the first and the secound being of the capacity for 6 and the rest of the capacity for 10 prisoners. There are two windows in each of the rooms. There are 6-10 beds. It has been lately luminously painted and dyed (walls, radiators, beds...). There is a cable TV in the rooms. There is a bathroom with a toilet and a shower bath in each of the rooms.

There is blue panelling in the toilets and there are shower baths.

Near the entrance of each of the rooms there is a shoe cabinet.

A big TV room is about 60m<sup>2</sup> and there are 7 windows. From there it is possible to go to the barber's room, the bathroom and the toilet (two sinks and two squat toilets), the tea kitchen. The kitchen is equipped with high quality dishes.

The dormitory B was moved into between our two visits (09/07/07 – 10/08/07).

On the ground floor at dormitory "B" there are two telephone booths.

### **1.8. The Department for unemployable prisoners (B4)**

The ward which is used to be called "Holiday" no longer exists. Now this is the ward for the unemployable prisoners. During the residence in the admitting ward the skill personell determines and labels the residence in this ward for the unemployable prisoners. A certain number of imprisoned have been moved by the penitentiary governance from the dormitory B4, being in a bad condition, to a new C4 dormitory, adapted with a TV room, three bedrooms, a new bathroom, the toilets and sanitary facilities. At the moment there are 36 people. The Niš penitentiary governance is going to move the prisoners to another building due to the very bad conditions.

The ward is situated in a small ground floor building, with a little space for walking in front of the building. The facade of the building is quite ruined.

Inward there are three bedrooms with 50 beds in total (at the moment there are 32 prisoners), the TV room, the bathroom and the toilet.

There are bunk beds of metal construction being in a very bad condition. The bedding and the blankets are old and don't seem clean.

In the TV room there are benches, tables, few chairs and the TV. The room is spacious, about 40m<sup>2</sup>. The walls haven't been painted lately and they are in a very bad condition, rusty. The floors are old, worn, partially peeled and dirty. There are bars on the windows. There is not enough natural and artificial lighting. There is natural ventilation and the heating is central.

There are metal cabinets in the hallway that can be locked. The hallway is unattended as well as the bedrooms. The bathrooms, the showerbaths and the toilets are in the worst, dirty, with with more functional valves (one of 6 is out of order). The hygiene is very bad. In the bathrooms there is hot water nonstop available to the prisoners.

At B4 dormitory there isn't any telephone booth so that the prisoners from this dormitory make calls at dormitory C4 according to the arranged schedule.

### **1.9. The School and the Library**

The library and the school are situated in the former school centre building. The outward fasade is destroyed by fire during the riots in 2000.

The library is a former demurely equipped classroom. The walls have been recently painted, the woodwork is old but this year painted. The floor is plastic, covered with a rug.

The library consists of 2500 headings, 3300 books including laws, in serbian, english and hungarian. The prisoners are not allowed to go to the library but only the dormitory librarian followed by the treatment officer.

The school has being rebuilt for the past two years. At the very entrance of the object there is a guard room, recently painted, neat, equipped with the office furniture and the TV. On the ground floor there is the dormitory C4. Across, there is a "no drugs" department.

The base of the building is 50x12 m. The hallway on the first floor is plastic panelled. The floor in the library and in the staff office is covered with a rug. On the first floor there are 10 rooms: the library, the store room, the staff room, 7 rooms are former classrooms with boards, desks and some of the study material which is not used because there is no education. Two of the former classrooms have been cleaned and fitted for the art and engraving sections.

The woodwork is old and recently painted from the inside. All hallways are recently painted and one classroom as well. There are no bars on the windows except on the ground floor where C4 prisoners are placed. The walls in the classrooms were painted years ago, the ceilings are splitted and in a very bad condition.

The toilets are being renovated, there is a new panelling both on the floor and the walls. Everything is recently painted, the partition walls and the shower bath are being installed (two shower baths and two toilets).

#### **1.10. The Department "C4" - freed of labour prisoners**

In this dormitory there are freed of labour prisoners. There are 36 of them in total, and the capacity 41. There are 3 rooms with 12-13 prisoners and with 15 beds in each. The dormitory C4 is on the ground floor along with the library and the school (upstairs).

This ward was built just before the "no drugs ward". There is a new heating and a sanitary system. It is next to (on the left), "no drugs ward" on the ground floor of the building.

Since December, 2007 the freed of labour prisoners have been moved from dormitory C4 to dormitory B4.

#### **1.11. Cultural centre**

The cultural centre was destroyed by fire during the riots in 2000. All that is left are outwalls and concrete ground now used as a court by the prisoners from the II dormitory. The superficial dimension of the building is 250 m<sup>2</sup>.

#### **1.12. Drug Free Ward**

During the second half of 2006 OSCE supported both in expert and in material way a pilot program "Drug Free Ward" so that they reconstructed the existing building of Pavilion C in Penitentiary Niš. Construction works started on July 24<sup>th</sup> and they were completed on October 15<sup>th</sup>. The Ward was opened in January 2007 and it is intended for motivated persons deprived of liberty, users of psycho-active substances, who want to live in their environment without drug abuse as well as to continue with that life style even after the end of the sentence and to turn to a healthier life style.

Rule Book on the work of Drug Free Ward and regulations in it define the conditions of prisoners' stay in it, criteria for their selection, duration of stay, obligations, suitability, advantages, reclassification of sentenced prisoners as well as reasons for discontinuity of the stay.

Stay in the Ward is voluntary based and possible only based on mutual agreement between the prisoners and professional staff, when the prisoner accepts, in written form, Rules of Stay, in the period from 6-12 months, with which he is acquainted.

Treatment program is conducted as a team work, so that the treatment and all the activities are under supervision of an expert committee consisting of: health care workers (a doctor and medical technician-lab technician), officers from treatment service (psychologist and/or pedagogue, sociologist and/or social worker and/or special pedagogue), security officers (guard and guard supervisor).

Urine testing, which is conducted periodically, according to specific indications, proves or precludes the existence of psycho-active substances with sentenced persons.

Drug Free Ward takes up the space of 250 m<sup>2</sup> where there are:

- Three dormitories, with the capacity of, around 25 beds
- Spacious sitting room with a TV hall, tea-kitchen, dining room, computer center, table for table tennis
- Sanitary facilities with toilets, lavatories and shower booths

- Room for occupational therapy- carving
- Guard's room
- Hall with shoe racks and a telephone booth
- Walk with eaves

At the moment, there are 11 sentenced prisoners, under the treatment in a Drug Free Ward, out of which 7 belong to B2 category. From a short conversation with them we got an impression that general atmosphere of interpersonal relations is good as well as with the staff. They are extremely satisfied with the facilities they spend their time in. They also state that the use of the phone booth is liberal enough and that they can use the phone everyday till 9 o'clock p.m.

The existence of Drug Free Ward, together with all the reconstructions of power supply network, sanitary facilities with new ceramics, taps and shower booths, central heating system, laminate floors in every room, new furniture, beds, mattresses, beddings, painted walls, new grids on the windows, new net on the walk with new eaves, medical treatments and work with a target group, fulfills the criteria of a high-standard stay of the prisoners in Penitentiary.

### **1.13. The Department III**

Outward, the building was painted a long time ago but is quite well plastered. There are no bars on the windows. Both the waterspouts and part of the roof were replaced a month ago and are in a good condition.

Inward, the walls are painted every year and they seem quite clean. The walls are old (the plaster). The floors are with vinas panelling, old but clean. At the TV room the vinas panelling has been changed and tiles placed so that the TV room is now appropriate. The windows are of a standard size, clean and without bars. The woodwork is slightly old and clean.

The hallways with are painted as well as the bedrooms, there is an oil strainer varnish up to the certain level. There is vinas paneling on the floor, old and clean. The sitting room consists of two rooms, 30x15 m in size with vinas paneling on the floor. The bathroom, the shower baths and the toilets are in a satisfactory condition as well as the walls. There is vinas paneling but in a bad condition. The shower baths and the faucets are good. There is nonstop hot water. There aren't any boilers but faucets instead There is a harsh scent.

There are big and small bedrooms. In the big ones there are 20 beds and in small ones there are about 5 beds. The beds are in a good condition but they are old.

The bedding is quite old but in a good condition. During winter it is changed in the two weeks period and weekly in summer.

In the hallways there are lockers where prisoners' personal things are kept. They are old but nice and can be locked.

There are chairs, tables and the TVs in the sitting room. The furniture is old but tidy.

There is no artificial ventilation. There is a good central heating. There is enough natural lighting as well as the artificial controlled from one place. The hygiene is better than in dormitory "C".

On the ground floor as well as on the first floor there are no House rules displayed but there are some abstracts explaining certain prisoners' rights.

On the day of the visit 05.05.2008. at the third dormitory there were 120 imprisoned on the list of sentenced prisoners.

### **1.14. Economy**

Outward, the building is about 70 years old, not painted, with the plaster falling off. The window pane glass is good with protective nets against insects, without bars. Both the waterspouts and the roof are in a good condition.

There are 4 bedrooms with about 15 bunk beds but being out of use. The bedding is not so old and is in a good condition. During winter it is changed in a fortnight period and weekly in summer.

Most of the prisoners sleep in the bedrooms (29) and ten of them sleep in their workplace.

The inward walls are painted every year and during the visit they seemed clean. There is a vinas paneling on the floor, it is old but in a good condition. The window pane glass is good with installed protective nets against insects, without bars. The windows are removed due to the airing. The hallways are much badly painted than the bedrooms. There is also an oil strainer varnish up to the certain level. At the dining room on the walls and the ceiling there is an oil strained varnish for the sake of easier maintaining. The floors are with ordinary tiles but in a bad condition. It is difficult to determine its age due to the kind of work that is being done. There are only lockers for personal things which can be padlocked

There are chairs, tables, a heater and a TV in the sitting room. There is a vinas paneling. The walls are yellowish due to the smoking but also they are in a bad condition. The hygiene is not bad but it is much worse than it is in dormitory III. There are chairs, tables, a heater and a TV in the sitting room. There are vinas paneling. The walls are yellowish due to the smoking but also they are in a bad condition. The hygiene is not bad but it is much worse than it is in dormitory III. There is a firewood and coal heating. There is no central heating.

The bathrooms and the shower baths: there are 3 toilets and 2 shower baths which are in a quite bad condition. The shower baths and the faucets work properly. The hygiene is not satisfactory. The unpleasant smell spreads around.

There is nonstop hot water. The toilet boilers are good.

On May 5th, 2008 there were 37 prisoners at the Economy department.

### **1.15. The Visiting Rooms**

The visitation rooms are consisted of two rooms situated between the administration building, the prison entrance and the ten separated houses for family visits. The outward appearance: the facade inside a group visitation room is in a good condition and it is not damaged. The front side is glazed and with bars.

The inward appearance: The painted walls are in a good condition. There are vinas paneling. The hygiene is good. There are 24 tables (big and small) with 4-6 chairs. There is a refresh room (juice and coffee) with popular prizes.

The room is spacious. There is enough natural and artificial lighting.

There is a central heating. The ventilation is natural.

From the hallway there is an entrance on the right to another visitation room. This is for those prisoners who have egress but for some reason they reject to do so. They are not many.

The inward appearance: the floor is tiled and quite clean. There are nine benches, 8 wooden and 1 upholster. From this room there is an entrance to the sanitary system where the hygiene is very bad. The unpleasant smell is spreads around and the tiles are dirty. The visitors can only use this sanitary area.

The houses for family visits: there are ten houses, 4 recently built and 6 rebuilt. Their facade is in a good condition. The walls inside the houses are quite good.

There are bars on both doors and windows.

The new houses consist of: the hallway, the toilet and the bedroom. The floor is laminated. In the hallway there is a hanger and a mirror. There is a fourposter and a suite of

furniture in the bedroom. There is also a curtain rail with two curtains. Underneath it is white and above is a dusky one that can be pulled on. The bedding is new.

The toilet is tiled, immaculately clean with an air freshener.

Out of 6 rebuilt buildings the 4 are identical to the new ones. In another 2 houses there are two bedrooms in each with a joint hallway and the toilet. Everything else is exactly the same as in all other houses.

The governance is going to build a bathroom in each of the houses so that several separate segments can be made.

## **2. Treatment**

### **2.1.**

#### **2.1.1. Torture and ill-treatment**

**(physical violence exposure, tracks, mental violence, the relations between the prisoners and the staff, relations among the prisoners themselves)**

#### **2.1.2. Solitary confinement**

**(the possible solitary confinement period, who is responsible for solitary confinement, whether the prisoners in solitary confinement are able to get 1 hour of recreation in fresh air, medical services/how often and on personal request)**

#### **2.1.3. Means of restraints**

**(in which cases means of restraints are possible, whether all cases has been recorded, whether the prisoners are able to get medical services, how long means of restraints have been applied)**

#### **2.2.1. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter**



### 2.1.1.

The project was realized after the riots at the penitentiary at Niš on November, 2005. so that the cases of physical violence of the prisoners from that period, and which the prisoners state about, have not been indicated.

Regarding the interview carried out with the prisoners, the team members came into the conclusion that only a small number of interviewed prisoners is of the opinion of being exposed to the physical violence by the officers of the penitentiary even in those situations which were officially recorded as applied restraint measures.

Only one of the interviewed prisoners stated during the visit "6" in the period of realization of the project that he was exposed to the physical violence by the members of the security service which was recorded in the medical documentation in compliance with the rules and ethics of the service.

There are some discordance about the means used in injuring between the statement of the interviewed person and the medical documentation. The discordance appears due to the position in which the interviewed was when being injured (he states he was on the floor with the hands on his head) so that he was unable to confirm about the means being used in the injuring.

During the interview with the examinees being lately injured by the officers in applying the restraint measures and according to the documentation of the medical service, it is concluded that they reject to talk about that particular event. It implies to either avoiding renewing trauma by speaking about it or they are afraid of the consequences they would have due to the reporting. On the other hand, what become relative are the optimistic answers of the prisoners about the quantity of restraint measures applied and about the small number of recorded cases of applied measures of constraint consequently being injured.

The problem of psychological violence is slightly expressed partially due to the fact that the prisoners were not directly exposed to the violence or within the given answers they were unable to recognize a certain behavior as psychological violence since this kind of "communication" is considered normal and usual for the penitentiary conditions. The victim of any violence, especially psychological, continues to act according to the same model storing the frustration till becoming revolted and the people from the surrounding suffer or he imitates the behavior of the tyrant towards available victims in the surrounding.

It is interesting fact not usually occurred that one of the interviewed was able to recognize his exposure to the psychological violence by the officials of the penitentiary. The recognizable aspect of the psychological violence is abrupt attitude with dispraise of the security service members towards the examinee which was the case when he refused to be an informant about the possible other prisoners' rules violations.

Besides a small number of the interviewed prisoners (at the time of the visits) recognizing the act of being exposed to the psychological violence, is not an indisputable proof that they weren't exposed. The answers to other questions confirm that the most prisoners are not able to recognize the situations of psychological violence partially considering it normal and usual for penitentiary conditions. However, to a less "difficult" questions considering the relation between the prisoners and the officials of the penitentiary they are able to give an answer. The overall opinion of the interviewed is that the relation between the officials of the penitentiary and the prisoners are not good being different only in the estimation how bad they are. In that case the answers go from middling to agonizing and unbearable.

The relations between the prisoners and the officials are still under the influence of the riots which took place in 2006. They are defined as tolerable but there is the possibility for their improvement. Probably one of the causes is a decreased mutual trust.

At the same time, from the gained statistical data it can be concluded that in the second half of the year 2007, there were less disciplinary procedures against the imprisoned than it was the case in the first half of the year which implies that the situation is getting better.

Regarding the behavior of the members of certain services the opinion is that the security service officers are unqualified for their practice meaning that they can handle everything by applying force and without showing any interest for dealing with the problems using some other means. As far as the warden is concerned the ones who met him consider he is correct and strict, but the overall opinion is that he is not always informed about the complaints and with the treatment officers eventually revenging themselves upon the prisoners by depriving them of the advancement and certain rights.

This doubt is, probably, the result of the opinion of the most of the prisoners that submitting complaints to the director, the governance and other authorities is only an act of formality and the main reason for not making the decision to do that.

A number of the interviewed prisoners state that there are prisoners with certain additional privileges given by the officials of the penitentiary at Niš. This privilege is reflected in: unrestricted making of phone calls (which certainly implies the more frequent possibility of making phone calls than it is provided); the eased transfer to the B2 dormitory; an abrupt going to the canteen; holding the queue in the canteen which unables the other prisoners to buy what is needed within the same short period of time provided for a walk; "The privileged" are enabled to receive the packages more frequently and without restriction in terms of the type and the quality of food which is considered for the other penitentiary population.

Among the privileged are "the tippers" and "the tipping" is paid with the privileges. The other group of the privileged/preffered are the wealthy ones (they communicate with the guards through their relatives and, according to the statement of the prisoners, pay for their transfer to a better dormitory), as well as the prisoners being the main dealers of the forbidden goods at the penitentiary.

Regarding the relations among the prisoners themselves almost all of the interviewed consider them indifferent or bad. The verbal conflicts often turn into violence and physical conflict. The physical conflicts with the usage of certain physical means are quite frequent and according to the interviewed the main cause is drug i.e. the debts which is the result of the drug trades at the penitentiary.

The drug can indirectly be the cause of the conflict, as it is in the case stated by the two interviewed prisoners. They state that the conflicts they are engaged in results in the fact that they are the only one in the room not being drug addicts during the servitude. According to their opinion they are in the position on one hand to be exposed to the danger of physical violence, drug addicts and drug dealers and on the other hand causes further danger of putting under the forbidden good in order to be compromised and eliminated from the close surrounding.

Regarding the interrealtion among the prisoners themselves the power results not only in money but also in goods possession..

The relation between the prisoners - members of the various ethnical and religious groups depends on their numerical quantity: when the number of majority group members is equal to the number of other existing groups the relationship is good.

The majority of the Romas is poor so that they are consequentially discriminated since they are required to work for others. Being additionally employed at the penitentiary they are engaged in duties nobody wants to do, which is the same for the Romas out of the penitentiary. The opinions of the interviewed prisoners about the attitude towards Romas is that it is the worst at the dormitory "C", have been recorded by the team.

Regarding the existence of the racket within the informal groups the overall opinion of the prisoners is that it is mainly represented at the "C" dormitory later resulting in conflicts and injuring. Almost all of them is of the opinion that the stuff is extremely corrupted and that everything is for sale at the penitentiary. It is stated that the existed corruption fosters the importations of drug and mobile phones into the penitentiary, and the work positions being on a sort of illegal trade.

According to the interviewed the informal groups exist without being organized by sectors but the type of "extra activities" put illegally in practice. The overall opinion is that they are absolutely allowed to do everything being under the full protection of the penitentiary staff.

#### **a)The violence in general**

In the EC progress report for Serbia in 2007. (p. 12) it is especially emphasized the existence of a serious problem of violence at the penitentiaries in Serbia. We tried to determine the position of the penitentiary at Niš as far as the violence is concerned during our visit having another preferred aim.

Regarding the analyses, the violence was distinguished into sectors: the violence of the prisoners against the guards, the violence of the guards against the prisoners (the possible cases of torture), the violence among the imprisoned population and the violence of the prisoners towards themselves. The sources being used: the statistical data gained from the penitentiary (the violence prisoners - guards; medically treated injuries of the prisoners caused by the other prisoners) and the interviews with the prisoners regarding our free choice. Recognizing the possible cases of ill-treatment of the prisoners is consisted in the project. The violence the prisoners apply towards themselves (self injuring being with different outcomes), has not been included yet.

#### The prisoner - guard violence

Out of six recorded prisoners' assaults against the members of the security service during 2007. the three cases were defined as an attempt. One of the attempted assaults was the syringe assault filled with a blood of the prisoner being intravenous heroin addict infected by the hepatitis C virus against the member of the security service and the practitioners. The officials were in danger of being infected not only by direct injection into the skin but also by sputtering the blood in the face (eyes, nose, mouth).

#### The prisoner - prisoner violence

According to the recorded injuries in 2007. it can be concluded that the frequency of conflicts among the prisoners was at the reasonable intensity. During the first three months there were 6 injuries recorded followed by the three month period without any incident. Since the end of June the conflict escalated so that till the end of December there were 31 recorded injuries.

In regard to the statistical data it is obvious that the intensity of a violent behavior was especially increased during the summer period as well as in November. During the last year hot summer period the penitentiary was frequently without water (it was impossible to take a shower, water in bottles was used for washing and cleaning the toilets) which contributed to the tension. In November there was an abrupt transfer of a great number of prisoners from the penitentiary at

Sremska Mitrovica and at the same time this is a period of the year with the most cases of sum up crisis.

Few number of injuries were caused by using the side-arm weapons and to them similar means whereas in the most of the cases those were standard fights. As a result there were three filed criminal charges by the officials at the penitentiary Niš.

Most of the injuries are the head and face injuries (33 out of 38) one being a heavy bodily injure - a jaw fracture being operated on. It should be mentioned that this analyses was carried out only according to the medical records of injuries treated so that the objective number of violent behavior among the prisoners as well as injuries is certainly higher.

The opinions of the prisoners about the prisoner - prisoner violence:

Almost all of the interviewed prisoners pointed out that the main cause of the violence escalation is the fact that the prisoners with a less financial status are being involved in dept at the other prisoners not only in order to purchase allowed goods but also for purchasing forbidden goods, mainly narcotics. The expounded type of violence is psychological violence in terms of threats eventually turning into the physical violence resulting in slaying and stitching. The individuals as well as groups are equally mentioned as the participants of the violent behavior.

The prisoners are of the opinion that the violent act is a power demonstration and maintenance of the group power. This message sent by the act of violence is not only directed to the immediate victim but it also bears a wider, warning notice to the rest of the prisoners.

- The violence of the prisoners toward themselves

(The source: the written response gained from the governance regarding the issue about the number and the type of self injuring in 2007).

According to the injuries recorded in 2007. it can be stated that the number of these cases is quite small (21) compared to the overall imprisoned population (about 1.100) and particularly if it is taken into account that almost in the half of the registered cases (9) are the people without the status of imprisoned but being in custody. Regarding the compiled answers containing the medical treated cases it can not be concluded whether there were some self injuring cases with a fatal outcome or all of them were relatively trivial. In 2007. there were no suicide cases (considered as the self violence with a fatal outcome).

From the medical point of view the most cases consist of injuries like cuts and grazes caused by a sharp object (razor) usually in the region of extremities and stomach.

The self injuring is an act with the autodestructive feature so that always being an appeal referred to others.

The measures for restriction of the violence:

According to the opinion of the interviewed prisoners the measures for restriction of the violence are carried out partially.

The prisoners being the victims of the violence have been transfered to the Department for Special Surveillance due to the safety measures, whereas the ones applying violence have not been isolated. This approach seems illogical and it can be "justified" only due to the lack of the capacity. It shouldn't be accepted as a standard in approaching the problem.

### **2.1.2.**

It is legislated by The Law on Execusion of Penal Sanctions that the maximum period of time the prisoners should stay in solitary confinement is 15 days, being confirmed by some of the imprisoned. However, few of the prisoners mention that this legislated period of time is not

always obeyed so that the solitary confinement period can even last for a month. The prisoners are of the opinion that the disciplinary commission is responsible for directing into the solitary confinement whereas few of them consider it is the director's decision. Before being sent to the solitary confinement the prisoners go through the health check, then once a day, being more frequent if it is needed.

The interviewed prisoners during the later visits were quite informed with the maximal period of time provided for the staying at solitary confinement as well as about who is responsible about the procedure. They all agree that their right for staying outside for an hour a day is obeyed during the period of solitary confinement. They confirmed about the regular medical check before being sent to the solitary confinement but a few of the interviewed state that the health check during the solitary confinement is carried out only occasionally by the request of the prisoner even then being optional. None of the interviewed mentioned that they were visited by the treatment officers during the solitary confinement even if it is legislated by the Law on Execution of Penal Sanctions that the treatment officers are obliged to visit the prisoner being at the solitary confinement at least once in a week.

The interviewed officers confirmed that applying of the solitary confinement measures is always in accordance with the Law on Execution of Penal Sanctions.

### **2.1.3.**

The means of restriction are allowed in the following cases: in directing the imprisoned out of the penitentiary, in order to prevent prisonbreaking or repression active or passive resistance, preventing the attempt of self injuring or further provoking of physical damage.

The prisoners are not informed enough not only about the conditions for applying the means of restriction but also what they are consisted of.

The most of the interviewed have, directly or indirectly, faced the means of restriction during their servitude at the penitentiary. They are generally able to recognize the situations when the applying of these measures is allowed, but they are not quite aware only of the fact what measures of restriction actually stand for but also that each and every individual being treated by the measures of restriction is obliged to go through medical check after being treated by applying those measures.

## 2.2. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter

### TREATMENT

\* *European Prison Rules*

\*\* *Commentary to Recommendation Rec (2006) 2 of the Committee of Ministers to Member States on the European Prison Rules*

\*\*\* *Law on Execution of Prison Sanctions*

#### Torture and ill-treatment

##### 64.1

- \* Prison staff shall not use force against prisoners except in self-defence or in cases of attempted escape or active or passive physical resistance to a lawful order and always as a last resort.

##### 64.2

- \* The amount of force used shall be the minimum necessary and shall be imposed for the shortest necessary time.
- \*\* Rule 64 reinforces the principle that staff may only use force within clearly defined limits and in response to a specific threat to security or good order.  
As a general rule prevention of a violent incident is always better than having to deal with it. Alert staff who know their prisoners, will be able to identify the disruptive elements and to prevent violent acts.  
Good professional relationships between staff and prisoners are an essential element of dynamic security in de-escalating potential incidents or in restoring good order through a process of dialogue and negotiation. Only when these methods fail or are considered inappropriate should physical methods of restoring order be considered. When force has to be used against prisoners by staff it should be controlled and should be at the minimum level necessary to restore order.

##### 65.

- \* There shall be detailed procedures about the use of force including stipulations about:
  - a. the various types of force that may be used;
  - b. the circumstances in which each type of force may be used;
  - c. the members of staff who are entitled to use different types of force;
  - d. the level of authority required before any force is used; and
  - e. the reports that must be completed once force has been used.

##### \*\*Rule 65

This Rule lists the main issues to be dealt with in the procedures which should be in place defining the use of force, (when it may be used, who is entitled to use it, who is entitled to authorise its use and the reporting mechanisms to be observed after any use of force).

##### 66.

- \* Staff who deal directly with prisoners shall be trained in techniques that enable the minimal use of force in the restraint of prisoners who are aggressive.

**\*\*Rule 66**

This Rule makes it clear that staff should not have to rely on simply overpowering troublesome prisoners by a show of superior physical force. There is a variety of control and restraint techniques in which staff can be trained which will allow them to gain control without injuring either themselves or the prisoners involved. Management should be aware of what these are and should ensure that all staff are competent in the basic skills and that sufficient staff are trained in advanced techniques.

**67.1**

- \* Staff of other law enforcement agencies shall only be involved in dealing with prisoners inside prisons in exceptional circumstances.

**67.2**

- \* There shall be a formal agreement between the prison authorities and any such other law enforcement agencies unless the relationship is already regulated by domestic law.

**67.3**

- \* Such agreement shall stipulate:
  - a. the circumstances in which members of other law enforcement agencies may enter a prison to deal with any conflict;
  - b. the extent of the authority which such other law enforcement agencies shall have while they are in the prison and their relationship with the director of the prison;
  - c. the various types of force that members of such agencies may use;
  - d. the circumstances in which each type of force may be used;
  - e. the level of authority required before any force is used; and
  - f. the reports that must be completed once force has been used.

**\*\*Rule 67**

This Rule deals with the intervention in prison of law enforcement agencies. In exceptional circumstances it may be that the level of prisoner violence is so great that prison staff cannot themselves contain it and will need to call on another law enforcement agency, such as the police. Such a course of action needs to be handled with great care. In dealing with violence prison staff will always be conscious that they will have to deal with prisoners after the incident has been resolved and life has returned to normal. This means that they will usually try to avoid using force and in any event will be reluctant to use inordinate or indiscriminate force. This may not be a consideration for other law enforcement officials who do not normally work in the prison setting and who come in only to resolve a violent incident. In order to prevent excessive use of force in these circumstances it is recommended that the prison authorities should agree a standing protocol with the senior management of any other agency that may be called on to help resolve a violent incident. All staff likely to be involved should be made aware of the contents of this protocol before entering the prison.

**25.4**

- \* Particular attention shall be paid to the needs of prisoners who have experienced physical, mental or sexual abuse.

**\*\*Rule 25** underlines that the prison authorities should not concentrate only on specific rules, such as those relating to work, education and exercise, but should review the overall prison regime of all prisoners to see that it meets basic requirements of human dignity. Such activities should cover the period of a normal working day. It is unacceptable to keep prisoners in their cells for 23 hours out of 24, for example. The

CPT has emphasised that the aim shall be that the various activities undertaken by prisoners should take them out of their cells for at least eight hours a day [see CPT's 2nd General Report (CPT/Inf (92) para. 47)].

Particular attention should be paid to ensure that prisoners that are not in work, such as prisoners who have passed the retirement age, are kept active in other ways.

This Rule also makes specific reference to the welfare needs of prisoners and thereby provides the impulse for the prison authorities to see that the multiple welfare needs of prisoners are catered for, either by the prison service or welfare agencies within other parts of the state system. Specific reference is made to the need to provide support to prisoners, both male and female, who may have been physically, mentally or sexually abused.

Note also that Rule 101 allows untried prisoners to request access to the regimes for sentenced prisoners.

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### **Article 127**

During execution of prison sentence, the prisoner is ought to behave in line with law and regulations brought based on the Law, as well as orders of the authorities, except for the case when the execution of the order is an illicit action.

With an aim to maintain good order and safety in the prison, the prisoner can be a subject of only those measures for maintaining good order and safety, which are defined by this Law and regulations brought based on this Law and only in the amount which is needed.

While implementing measures for maintaining good order and safety, no stricter measure than necessary needed can be implemented, bearing in mind the nature if the measure, its implementation and contents of the measure.

Measures for maintaining good order and safety are compulsory measures and special measures.

### **Article 128**

Compulsory measures can be implemented on the prisoner only when it is necessary to prevent:

- 1) Prisoner's escape
- 2) Physical attack on other person
- 3) Injuring of other person
- 4) Self-injuring
- 5) Causing of material damage
- 6) Active and passive resistance of the prisoner

Compulsory measure can be also implemented on the person that illegally frees the prisoner or illegally enters the premises of the prison. This person is detained until the arrival of the authorized internal affairs officers.



## **Article 129**

Compulsory measures are:

- 1) Use of physical force;
- 2) restraints;
- 3) isolation;
- 4) use of rubber nightstick;
- 5) use of water hoses (snuffs);
- 6) use of chemical means and
- 7) use of fire-arms

When implementing a compulsory measure, the measure that the least endangers life and health of the person on which it is applied is implemented, but with which the resistance is put down successfully and it is proportional to the threatening danger.

## **Article 130**

The person on whom the compulsory measure will be implemented is orally and clearly warned, unless it is the case of simultaneous or immediate forthcoming illicit attack.

Use of water hoses (snuffs) and chemical means can be ordered only by the Penitentiary Warden.

After the implementation of the measure, medical check of the prisoner on which the measure is implemented, is mandatory. In next 24 hours, medical check is repeated for two times, in equal time intervals.

Written report on the implementation of compulsory measure and done medical check from the Paragraph 3 of this Article is submitted to the governor of the prison

## **Article 133**

The member of Security service takes up the actions in order to prevent the prisoner from escaping, without delay.

The member of Security service immediately informs the Penitentiary Warden about the escape attempt and escape of the prisoner. The governor is obliged to inform the Director of the Directorate.

In case of prisoner's escape, the Penitentiary Warden informs the organ of internal affairs which is in charge, orders the issuing of warrant and takes up other actions necessary to apprehend escaped prisoner.

During the period of escape, the carrying out of the sentence is stopped.

## Solitary confinement

### **60.5**

- \* Solitary confinement shall be imposed as a punishment only in exceptional cases and for a specified period of time, which shall be as short as possible.
- \*\* Solitary confinement, mentioned in Rule 60.5, refers to all forms of removing prisoners from association with other prisoners by placing them alone in a cell or a room. It should not be considered an appropriate punishment other than in most exceptional

circumstances. This Rule is confirmed by Principle 7 of the United Nations Basic Principles for the Treatment of Prisoners. There are various forms of solitary confinement. The most extreme occurs when an individual is held entirely on his or her own and is subject to sensory deprivation by lack of access to light, sound or fresh air in what are often called —dark cells“. This form of isolation should never be imposed as a punishment. Another form of solitary confinement occurs when a prisoner is held in a single cell with access to normal light and air and can hear prisoners moving in adjacent areas. This type of punishment should only be used in exceptional circumstances for short periods of time. During this period, prison staff shall make regular and reasonably frequent contact with these prisoners. (See the commentary on Rule 42). The CPT pays particular attention to the use of solitary confinement, or any conditions similar to it. It has noted that —Solitary confinement can, in certain circumstances, amount to inhuman and degrading treatment; in any event, all forms of solitary confinement should be as short as possible“ (CPT, 2General Report on the CPT’s Activities, para 56).

It must be stressed that the requirement of one hour of daily outdoor exercise for prisoners (Rule 27.1) applies equally to inmates placed in solitary confinement as a punishment. Such prisoners should also be provided with reading material. The same applies to prisoners under special high security (Rule 53).

#### **27.1**

- \* Every prisoner shall be provided with the opportunity of at least one hour of exercise every day in the open air, if the weather permits.

#### **27.2**

- \* When the weather is inclement alternative arrangements shall be made to allow prisoners to exercise.

#### **27.3**

- \* Properly organised activities to promote physical fitness and provide for adequate exercise and recreational opportunities shall form an integral part of prison regimes.

#### **27.4**

- \* Prison authorities shall facilitate such activities by providing appropriate installations and equipment.

#### **27.5**

- \* Prison authorities shall make arrangements to organise special activities for those prisoners who need them.

#### **27.6**

- \* Recreational opportunities, which include sport, games, cultural activities, hobbies and other leisure pursuits, shall be provided and, as far as possible, prisoners shall be allowed to organise them.

#### **27.7**

- \* Prisoners shall be allowed to associate with each other during exercise and in order to take part in recreational activities.
- \* Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

#### **\*\* Rule 27**

It is important to emphasise, as the placement of Rule 27 does, that all prisoners, including those subject to disciplinary punishment, need exercise and recreation although these activities should not be compulsory. Opportunities for exercise and recreation must be made available to all prisoners rather than only as part of a treatment and training programme for sentenced prisoners. This is in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners, which deal with exercise and

sport in Rule 24 of its general part. The importance of exercise for all prisoners is underlined by the CPT in its 2<sup>nd</sup> General Report [CPT/Inf (92)3] para. 47. The one-hour a day period of physical exercise is a minimum that should be applied to all prisoners who do not get sufficient exercise through their work. Facilities for outdoor exercise should be sufficient to permit prisoners to exert themselves physically.

Provision for physical exercise should be complemented by recreational opportunities to make prison life as normal as possible. The organisation of sport and recreation provide an ideal opportunity for involving prisoners in an important aspect of prison life and for developing their social and interpersonal skills. It is also an occasion on which prisoners can exercise their right of association. This right is protected article 11 of the ECHR and, while it is severely limited in the prison context by the requirements of good order, it is not abolished entirely: see also the comment on Rule 52.3 in part IV.

Rule 27.5. provides for prisoners who have a need for physical exercise of a specialised nature: for example, a prisoner who has been injured may require additional exercises to build up wasted muscles.

#### 41.2

- \* Arrangements shall be made to ensure at all times that a qualified medical practitioner is available without delay in cases of urgency

##### \*\*Rule 41

A basic requirement to ensure that prisoners do have access to health care whenever required is that there should be a medical practitioner appointed to every prison. The medical practitioner referred to should be a fully qualified medical doctor. In large prisons a sufficient number of doctors should be appointed on a full-time basis. In any event a doctor should always be available to deal with urgent health matters. This requirement is confirmed in Recommendation N° R (98) 7 of the Committee of Ministers.

In addition to doctors, there should be other suitably qualified health care personnel. In some Eastern European countries para-medicals (sometimes called —feldshers“) reporting to a doctor also deliver medical assistance and care. Other important group will be properly trained nurses. In 1998 the International Council of Nurses published a statement which says, among other things, that national nursing associations should provide access to confidential advice, counsel and support for prison nurses. [The Nurse’s Role in the Care of Prisoners and Detainees, International Council of Nurses, 1998].

In dealing with prisoners, doctors should apply the same professional principles and standards that they would apply in working outside prisons. This principle was confirmed by the International Council of Prison Medical Services when it agreed the Oath of Athens:

—We, the health professionals who are working in prison settings, meeting in Athens on September 10, 1979, hereby pledge, in keeping with the spirit of the Oath of Hippocrates, that we shall endeavour to provide the best possible health care for those who are incarcerated in prisons for whatever reasons, without prejudice and within our respective professional ethics“.

This is also required by the first of the UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

#### 43.2

- \* The medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to the health of prisoners held under conditions of

solitary confinement, shall visit such prisoners daily, and shall provide them with prompt medical assistance and treatment at the request of such prisoners or the prison staff.

**\*\*Rule 43**

This Rule implies that individual prisoners are entitled to regular, confidential access to appropriate levels of medical consultation which is at least the equivalent to that available in civil society. The conditions under which prisoners are interviewed about their health should be the equivalent of those that apply in civil medical practice. Wherever possible they should take place in appropriately equipped consulting rooms. It is unacceptable for consultation to take place with groups of prisoners or in the presence of other prisoners or non-medical staff. During medical examinations prisoners shall not be handcuffed or physically separated from the medical practitioner.

Under no circumstances should they be required to disclose their reasons for seeking a consultation to other staff if they have to submit their request for access to a doctor to them. The arrangements for seeking a medical consultation should be made clear to prisoners on admission to the prison.

The medical records of individual prisoners should remain under the control of the medical practitioner and should not be disclosed without the prior written authorisation of the prisoner. In some countries prison health care services come under the jurisdiction of civilian health care provision. In addition to the benefits discussed in 'The right to healthcare' above such arrangements also help to establish clearly that medical records are not part of general prison records.

The treatment provided as a result of consultation and diagnosis should be that which is in the best interests of the individual prisoner. Medical judgments and treatments should be based on the needs of the individual prisoner and not on the needs of the prison administration. Recommendation N° R (98) 7 of the Committee of Ministers emphasises that prisoners should give informed consent before any physical examination or treatment, as does the CPT's 3<sup>rd</sup> General Report.

Recommendation N° R (98) 7 of the Committee of Ministers notes the need to pay special attention to the needs of prisoners with physical handicaps and to provide facilities to assist them on lines similar to those in the outside environment. In a judgment in July 2001 [Price v. United Kingdom (33394/96)] the European Court of Human Rights found a violation of article 3 of the ECHR in respect of the treatment of a severely handicapped person in prison despite the fact that it found no evidence of any positive intention on the part of the prison authorities to humiliate or debase the applicant.

One consequence of the increase in the length of sentences in some jurisdictions is that prison administration has to respond to the needs of growing numbers of elderly prisoners. In some countries the recent trend towards mandatory life or long sentences has led to a significant increase in prisoners who will become old in prison. Prison administrations will need to give particular consideration to the different problems, both social and medical, of this group of prisoners. This may require the provision of a range of specialist facilities to deal with the problems arising from a loss of mobility or the onset of mental deterioration.

Special considerations will apply to prisoners who become terminally ill and a decision may have to be made as to whether such prisoners should be released early from their sentences. Any diagnosis made or advice offered by prison medical staff should be based on professional judgment and in the best interests of the prisoner. Recommendation N° R (98) 7 of the Committee of Ministers indicates that the decision as to when such patients should be transferred to outside hospital units should be taken on medical grounds. In a judgment in November 2002 [Mouisel v. France (appl. nr. 67263/01 & 14/11/2002)] the

European Court of Human Rights found a violation of Article 3 of the ECHR in respect of the medical treatment of a terminally ill prisoner. It noted a positive obligation on the state to offer adequate medical treatment and criticised the fact that the prisoner had been handcuffed to a hospital bed. In another case in October 2003 [Hénaf v. France (55524/00)] the Court found a violation of Article 3 of the ECHR in the treatment of a sick prisoner who had been chained to a hospital bed.

Recommendation No. R (98) 7 of the Committee of Ministers makes reference to the treatment of prisoners who are on hunger strike. It stresses that clinical assessment of a hunger striker should only take place with the express permission of the patient unless there is a severe mental disorder, which requires transfer to a psychiatric service. Such patients should be given a full explanation of the possible harmful effects of their action on their long-term well-being. Any action that the medical practitioner (doctor) takes must be in accordance with national law and professional standards.

Medical practitioners or qualified nurses should not be obliged to pronounce prisoners fit for punishment but may advise prison authorities of the risks that certain measures may pose to the health of prisoners. They would have a particular duty to prisoners who are held in conditions of solitary confinement for whatever reason: for disciplinary purposes; as a result of their — dangerousness“ or their — troublesome“ behaviour; in the interests of a criminal investigation; at their own request. Following established practice, (see for example Rule 32.3 of the UN Standard Minimum Rules for the Treatment of Prisoners) such prisoners should be visited daily. Such visits can in no way be considered as condoning or legitimising a decision to put or to keep a prisoner in solitary confinement. Moreover, medical practitioners or qualified nurses should respond promptly to request for treatment by prisoners held in such conditions or by prison staff as required by para. 66 of Recommendation N° R (98) 7 on ethical and organisational aspects of health care in prison.

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### **Article 68**

Prisoner has a right to spend at least two hours outdoor, in their free time.

Prisoner, whose age and physical abilities allow it, has a right to perform, in his free time, organized physical activity, including right to use sport terrains, devices and equipment, together with other prisoners.

### **Article 150**

Disciplinary measure of sending to a solitary confinement is declared exclusively, only for serious disciplinary offences and can last no longer than 15 days.

Disciplinary measure of sending to a solitary confinement for the period up to 30 days is possible to be declared only for concatenation of disciplinary offences.

### **Article 151**

Disciplinary measure of sending to a solitary confinement represents the exclusion of the prisoner from joint activities with other prisoners, in his free time, during whole day or night. Before the execution of sending to a solitary confinement, a medical check of the prisoner is mandatory.

## **Article 156**

Procedure for serious disciplinary offences is led and decided upon by the Disciplinary Commission and for less serious disciplinary offences by the Penitentiary Warden or a person appointed by him, bearing in mind that that person cannot be the proponent.

Proposal for the initiation of disciplinary procedure is submitted by the administrator of the organizational unit in the Penitentiary or a person appointed by him.

Proposal for the initiation of disciplinary procedure from the Paragraph 2 of this Article is submitted within 24 hours from the cognition of the committed offence.

Disciplinary Commission from the Paragraph 1 of this Article is appointed by the Director of Directorate, based on the proposal of the Penitentiary Warden.

### Means of restraints

#### **68.1**

- \* The use of chains and irons shall be prohibited.

#### **68.2**

- \* Handcuffs, restraint jackets and other body restraints shall not be used except:
  - a. if necessary, as a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority unless that authority decides otherwise; or
  - b. by order of the director, if other methods of control fail, in order to protect a prisoner from self-injury, injury to others or to prevent serious damage to property, provided that in such instances the director shall immediately inform the medical practitioner and report to the higher prison authority.

#### **68.3**

- \* Instruments of restraint shall not be applied for any longer time than is strictly necessary.

#### **68.4**

- \* The manner of use of instruments of restraint shall be specified in national law.

#### **\*\*Rule 68**

This Rule is largely identical to Rule 39 in the previous Rules. Since the 1987 Rules were published there has been a much greater use of restraints on prisoners in a variety of circumstances in a number of member states. However, the principles to be applied to the use of instruments of restraint have not changed in the intervening years. It is worth repeating the relevant section of the Explanatory Memorandum to the 1987 Rules. —The use of such apparatus in coercive circumstances rightly bears implications that are morally repugnant to civilised conduct. Their use must, therefore, be strictly controlled and avoided wherever possible. There are, however, inevitably occasions on which physical restraint will need to be applied with the additional help of specially designed equipment or instruments in order to prevent physical injury to the prisoners concerned or to staff, escape or unacceptable damage. These rules are designed to set acceptable limits within which such restraint may be employed“.

Routine use of instruments of restraint is not acceptable, e.g. to escort prisoners to the prison.

The former Rule 39.b has been deleted. This allowed the use of instruments of restraint on medical grounds, by direction and under the supervision of the medical practitioner. The circumstances covered by the new Rule 68.2.b (formerly Rule 39.c) still permit the exceptional use of restraint on the basis of the need to protect the prisoner or others.

Rule 68.4 provides for the ultimate authority for the use of instruments of restraint to be vested in law or regulation and not depend on the discretion of the prison administration.

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### **Article 128**

Compulsory measures can be implemented on the prisoner only when it is necessary to prevent:

- 7) Prisoner's escape
- 8) Physical attack on other person
- 9) Injuring of other person
- 10) Self-injuring
- 11) Causing of material damage
- 12) Active and passive resistance of the prisoner

Compulsory measure can be also implemented on the person that illegally frees the prisoner or illegally enters the premises of the prison. This person is detained until the arrival of the authorized internal affairs officers.

### **Article 129**

Compulsory measures are:

- 8) Use of physical force;
- 9) restraints;
- 10) isolation;
- 11) use of rubber nightstick;
- 12) use of water hoses (snuffs);
- 13) use of chemical means and
- 14) use of fire-arms

When implementing a compulsory measure, the measure that the least endangers life and health of the person on which it is applied is implemented, but with which the resistance is put down successfully and it is proportional to the threatening danger.

### **3. Protection measures**

#### **3.1.**

##### **3.1.1. Informing the persons deprived of liberty**

**(The kind of information they get at admission, in which form, the languages the prisoners speak, the house rules/in which place and in what way it is exposed, whether it is easily consulted; whether the content of the House rules comply with the essential ascribed standards, whether it is clearly defined)**

##### **3.1.2. Inspection**

**(Independent inspection, whether the prisoners have access to it)**

##### **3.1.3. Disciplinary procedures**

**(Which acts and omissions are punishable; the authority competent to impose such punishment; whether the detainee is allowed to defend himself; whether the detainee is informed of the nature of the accusations; the types and duration of punishment that may be imposed; what is the mechanism of the appellate process; whether there is any appellate process with a positive outcome; how many detainees have been punished during a certain period in regard to the overall number of prisoners).**

##### **3.1.4. Complaints procedures**

**(What kind of complaints the detainees can submit; what is the nature of the complaints - administrative/judicial; what the complaints procedure look like; whether the complaints procedure is easily available; whether there is a possibility of external complaints submitted against the institution; how long the settlement of complaints lasts; how many complaints have been made for the last 6 months in regard to the approximate number of detainees; how many complaints have been settled in favor of the complainant)**

##### **3.1.5. Registers**

**(The register of the punished prisoners; whether all incidents are registered)**

##### **3.1.6. Separation of categories of detainees**

**(Whether the sensitive categories of detainees are separately situated; who is responsible for accommodation and what is taken into account; whether the detainees can ask for change of accommodation; if they can, what is taken into account; what are the measures for prevention of ill-treatment and sexual violence)**

#### **3.2. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter**



### **3.1.1.**

Informing persons deprived of liberty: Prisoners should get introduced with the Rule book of House Rules at the admission in the Penitentiary. Answers of interviewees differ, no matter whether it was orally done or the text was made available to them in written form.

During several visits we found out from interviewees that almost none of them was given any information at the admission in the Penitentiary or their rights were retold in short, and in order to introduce with it in more details they were directed to House Rules that are supposed to be in every department. However, they say that House Rules are not posed on visible place, except for the Admission Department and that is why they became aware of the fact that something is forbidden only when the violation of some rule is already done (without going into more details who and why destroys House Rules after they are posed).

The following question comes up- it is informing of illiterate prisoners, whether they are paid enough time and efforts in order to understand what is presented, so that they could equally realize their right to information and not to be discriminated in comparison to literate prisoners

Information received from interviewed literate prisoners about informing illiterate ones that were just admitted, is that illiterate prisoners are directed to literate ones of whose good will and mood depends when and if they will read them out a certain rule or write a request or complaint. We also found out from interviewees that illiterate prisoners were forced to pay in material goods (cigarettes and similar) to literate ones, for writing different applications or reading of House Rules and similar. In this way, illiterate prisoners are discriminated in comparison to those literate. At the moment (April 2008) there are 29 illiterate prisoners in Penitentiary Niš, which is not a great number. It would be preferable to provide additional assistance to illiterate prisoners that should be regularly available, in respect of writing of different applications and introduction with House Rules contents and other texts relevant for them.

House rules are visibly posed as long as it is torn by prisoners. Contents of House rules are in line with valid laws. Formulation is too specialized, arid non-understandable and unadjusted to capabilities of a greater number of prisoners (and in general population that does not deal with legal matters). From the conversation with the prisoners it is clear that even those prisoners who know the procedure and further key elements of the procedure, either don't know the rules or they are introduced with them by more experienced prisoners.

### **3.1.2.**

Only one of all interviewed prisoners had met with representatives of some NGO, before our visit. It was Helsinki Committee for Human rights which had visited Penitentiary Niš before. Others, in smaller number know that Red Cross visits Penitentiary, although some of them think that that was in previous period and only because of foreign prisoners. One of interviewees said that during Red Cross' visit he requested to talk to them, but it was prohibited by a member of Security Service (the officer told him that he was not allowed)

### **3.1.3.**

Disciplinary procedures: Offences that are subject to disciplinary procedures are contained in the Rule Book of disciplinary measures. Disciplinary commission brings a decision

on a procedure based on the written request issued by a warden, who acts upon a notification of an officer. From the prisoners interviewed so far only one explicitly stated that he was deprived of the right to defend himself, that he was read out a report by which he was accused of disciplinary offence, and when he tried to reply he was interrupted and said that he would be informed in half an hour.

Based on the Report received from the Penitentiary Niš it could be concluded that in last six months (information required on 09.07.07.) for minor disciplinary offences, in greatest number of cases, the most minor measure was declared- reproof, while for more than a half of the cases the most severe disciplinary measure was declared- sending to a solitary confinement. Only in one case a person was freed from responsibility for a severe disciplinary offence.

In the period of 6 months, on which the data received from the Penitentiary is based, there were 262 disciplinary procedures were conducted, which, in comparison to total number of prisoners, represents 1/4.

Prisoners interviewed during implementation of the project know which behavior is punishable and is a subject of initiation of Disciplinary procedure, but none of the prisoners is able to list all punishable behaviors. Most often, as punishable behavior, they specify the refusal of order, import of forbidden things and attack on officer.

These prisoners less understand their rights during disciplinary procedures and without exception consider that disciplinary measure is brought by Disciplinary Commission, not by a Warden. They think that the presence of a lawyer, before and during disciplinary procedure, is useless because in any case the decision brought would be to disadvantage of a person against whom the procedure is conducted. To the additional question related to the engagement of a defender, all interviewees replied that a reason for not engaging a defender out of the Penitentiary was that they would have to cover the costs of a lawyer and that that was too much for them.

Impression is that interviewees are pretty discouraged in respect of their chances in eventual disciplinary procedure against them and that on the other hand they are almost completely uninterested in getting introduced with the way in which they could protect their rights in appellate procedure as well as in the process of lodging complaints to a treatment by Penitentiary officers.

#### **3.1.4.**

Prisoners have a weak understanding of the procedures and reasons for a complaint, and almost without exceptions, don't use expert legal assistance. It is probably the reason why only one prisoner's complaint was adopted.

From conversation with some of the prisoners it can be concluded that all the complaints do not reach the person they are intended to, i.e. the Warden. In monitored period of six months (information required on 09.07.07.), total number of lodged complaints to officers' work is 18, while only one was solved in favor of a prisoner. It is, maybe, the best indicator of certain prisoners' unconcern for lodging complaints and their belief that lodging complaints will not improve their position.

Interviewees were introduced, without exception, with the possibility to lodge complaints to the Warden. They are not much interested in lodging complaints to the Department in charge of supervision because they don't believe in efficacy of that action.

The prisoners have insufficient knowledge of the procedure of lodging complaints to treatment by officers and especially the rights they have in disciplinary procedure.

Smaller number of the prisoners know that they have right to a legal assistance by expert (lawyer), employed in Penitentiary Niš.

### Giving legal assistance:

System of giving legal assistance is organized in line with law, but there are certain lacks that can have significant consequences to legitimacy of disciplinary procedure. There is impression that officers in charge of giving legal assistance are capable of giving it but their number is too small in comparison to large prison population, they are loaded with other daily duties that they regularly perform. This most probably leads to insufficient interest among the prisoners regarding the accomplishment of this very important right during their stay in Penitentiary. Innovation in giving legal assistance (03.2008.) is that Penitentiary lawyer is on duty, once a week, in one of the dormitories and gives oral advice or draws up written submissions for the prisoners.

Insufficient number of employees on these duties can be seen in the fact that one person is a deputy in Disciplinary Commission, and at the same time he gives legal advice to prisoners, which brings to factual and involuntary conflict of interests. no matter the fact that in cases, when involved in Disciplinary Commission work, he or she can avoid giving legal advice to a prisoner against whom the procedure is conducted.

It may turn out to be useful to remind of statistical data that show that almost in 100% of the cases, the person against whom the disciplinary procedure was conducted were declared guilty.

Team members took insight in number of random selected disciplinary procedures that were conducted against prisoners in last year. Main aim of taking insight in these matters is determination of eventual lacks in a part that is related to giving legal assistance to prisoners by Penitentiary Service in charge. According to Team Members' opinion the only lack noticed during that insight lays in the fact that the way of keeping record in disciplinary procedure is not precise enough, bearing in mind that there is a form already in which the data is manually written in. Lack of legal procedure conducting in this way is reflected in the fact that only in one of the procedures, in which the team had insight, it was precisely written in that the person against whom the procedure is conducted is not interested for offered legal assistance and/or eventual engagement of a lawyer out of Penitentiary. In the remaining part, these procedures satisfy certain legal standards.

### **3.1.5.**

The following evidence is kept in line with the Law on Execution of Prison Sanctions:

- a) Record book
- b) Alphabetical registry
- c) Personal paper
- d) Card Registry of the Prisoners in Penitentiary
- e) Supporting evidence
  - \* Book on number of persons who service prison sentence
  - \* Sentence expiration journal
  - \* Book of passers by
  - \* Book of made escapes
  - \* Book of disciplinary penalties
  - \* Disciplinary notification
  - \* Book on medical inspections
  - \* Medical file
  - \* Book on control and quality of food

- \* Book of injuries at work
- \* Book of requests and complaints
- \* Book of submissions that prisoners submit to other organs and that are time-bounded
- \* Book of records on confiscated things
- \* Book of confiscated things
- \* Card of prisoner's personal possessions that are with him
- \* Book of use of continual vacation outside the Penitentiary
- \* Book of giving assistance in the institution
- \* Book of assistance given by other organs
- \* Book of persons released on probation
- \* Book of done by-passing in the Penitentiary
- \* Book of other changes during sentence serving
- \* Employment card
- \* Evidence card on parcels and visits
- \* Card of entrusted prisoners' equipment
- \* Card of financial deposit
- \* Evidence on sport activities
- \* Book of evidence about educative work
- \* Book on visits to prisoners in solitary confinement and isolation
- \* Evidence on cultural and educational work.

Team from the Center has taken insight in a number of evidence, which is not sufficiently detailed and systematic, due to the lack of time, so that we could comment them here.

We had insight in imprisonment evidence by which the following categories are comprised:

-Register books represent main comprehensive way of keeping evidence of all most important data on every person that services the sentence in Penitentiary. Besides personal data about the prisoners they also comprise the data about the sentence upon which the prisoner was sent to sentence serving, about the time and way of admission in Penitentiary, anticipated/expected moment of sentence completion with adequate amendments as well as information whether it is remand prisoner.

- Alphabetical register is a kind of evidence that practically represents shorter version of Register book in sense that only few key data related to prisoners stay in Penitentiary are written in Register.

- Special evidence of prisoners who escaped, moved off Penitentiary or died during sentence serving, is kept.

- The evidence of number of prisoners is also kept. It is in form of book of daily number of prisoners as well as evidence of prisoners that are engaged at work,

-Besides these kinds of evidence that has been kept in the same way for several decades, there is evidence in e-form that is used almost every day.

Prisoners with whom we talked know what is considered to be an incident among the prisoners, but they don't know whether the evidence of every incident is kept and in what way. Most common incidents recognized by interviewed prisoners are fights and quarrels among prisoners, physical injuring and similar, bearing in mind that they don't know that keeping evidence of each of these incidents is mandatory. On the other hand they are familiar with the

obligation of Medical Service to keep evidence of medical check-up if the prisoner addresses the doctor immediately after the incident.

### **3.1.6.**

Prisoners can require change of accommodation for security and family reasons, i.e. brothers can be together. Those incapable of working are separated in a special department.

All interviewees know who decides upon the change of accommodation but they are doubtful in respect of equal criteria based on which the accommodation is changed or regarding the criteria for the advancement through categories. Out of that it comes that general conclusion is that change of accommodation is one of main potential resources for corruption spreading in Penitentiary.

Prisoners unwillingly talk about the cases of sexual abuse although a small number of them said that they had heard of it. Based on prisoners' statements, allegedly only one case of sexual abuse happened, in the time of rebel.

### 3.2. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter

#### PROTECTION MEASURES

\* *European Prison Rules*

\*\* *Commentary to Recommendation Rec (2006) 2 of the Committee of Ministers to Member States on the European Prison Rules*

\*\*\* *Law on Execution of Prison Sanctions*

##### Informing the persons deprived of liberty

###### 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.

###### 30.2

- \* Prisoners shall be allowed to keep in their possession a written version of the information they are given.

###### 30.3

- \* Prisoners shall be informed about any legal proceedings in which they are involved and, if they are sentenced, the time to be served and the possibilities of early release.

###### \*\* Rule 30

This Rule underlines the importance of informing prisoners in a language which they can understand of their rights and duties. Steps also need to be taken to ensure that they remain properly informed. Prisoners will not only be interested in the material and formal conditions of their detention but also in the progress of their case and, insofar as they are sentenced, in how much time has still to be served and in their eligibility for early release. For this reason it is important that the prison administration keeps a file on these matters for prisoners to consult. For a better understanding of the treatment of prisoners their families should have access to the rules and regulations that determine the treatment of their next of kin.

###### 38.1

- \* Special arrangements shall be made to meet the needs of prisoners who belong to ethnic or linguistic minorities.

###### 38.2

- \* As far as practicable the cultural practices of different groups shall be allowed to continue in prison.

###### 38.3

- \* Linguistic needs shall be met by using competent interpreters and by providing written material in the range of languages used in a particular prison.

\*\* Rule 38

The increasingly diverse prison population of Europe means that a new Rule is required to ensure that particular attention is paid to the needs of ethnic and linguistic minorities. Rule 38 states this proposition in general terms. Prison staff need to be sensitised to the cultural practices of various groups in order to avoid misunderstandings.

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### Article 60

At the admission in the Penitentiary, first of all the identity of the prisoner is confirmed, a medical check is done and medical file is opened.

At the admission at the Penitentiary the prisoner is introduced with rights and obligations that he has during the service of the sentence.

Text of this Law and enactment of House rules in the Penitentiary are available to the prisoner all the time, during service of the sentence, in language which is in use, in line with the Law on official use of language and script.

Illiterate prisoner, the one that cannot read or is deaf-mute, or does not know the language, will be introduced with rights and obligations orally or with the help of the translator (interpreter)

### Inspection

92.

- \* Prisons shall be inspected regularly by a governmental agency in order to assess whether they are administered in accordance with the requirements of national and international law, and the provisions of these rules.

\*\* Rule 92

This Rule uses the neutral term 'governmental agency'. This agency can be part of one ministry, e.g. the Ministry of Justice or the Ministry of the Interior, or can be an agency under the control of more than one ministry. The essential point is that such an agency or inspectorate is established by, and reports to, the highest authorities.

The ways in which governmental inspection is organised will vary from mere checking of the book keeping of prisons to in depth and on the spot audits, which take into account all aspects of prison administration and of the treatment of prisoners. What is important is that the results of these inspections are reported to the competent authorities and made accessible to other interested parties without undue delay.

These rules do not specify how planning and control systems and audits should be organized, as this is for the governmental authorities to decide.

93.1

- \* The conditions of detention and the treatment of prisoners shall be monitored by an independent body or bodies whose findings shall be made public.

93.2

- \* Such independent monitoring body or bodies shall be encouraged to co-operate with those international agencies that are legally entitled to visit prisons.

**\*\* Rule 93**

In the member-states of the Council of Europe different models of independent monitoring of conditions of imprisonment can be found. In some countries an ombudsman has powers in this respect; in other states this task is entrusted to judicial authorities, often combined with the power to receive and handle complaints of prisoners. This Rule does not intend to prescribe one single form of monitoring but underlines the need for a high quality of such independent supervision. This presupposes that these monitoring bodies are supported by a qualified staff and have access to independent experts.

It is important that the findings of these bodies, together with any observations that may have been submitted by the management of the prison concerned, are open to the public. Reports of the monitoring bodies may contain proposals and observations concerning existing or draft legislation.

Independent monitoring bodies should be encouraged to forward copies of their reports and the responses of the governments concerned to international bodies, authorised to monitor or inspect the prisons such as the European Committee for the Prevention of Torture. This would assist these international bodies to plan their visits and allow them to keep their finger on the pulse of the national penitentiary systems. Because of their limited financial resources and the increase of the number of states to be visited, international bodies must rely increasingly on communication with independent national monitoring bodies.

In many penitentiary systems individual prisons are being monitored in some way or another by boards of visitors, consisting of (professionally) interested volunteers recruited from the community. A common approach of these boards is that its members take turns to visit the prison, talk to prisoners about their worries and complaints and, in most cases, try to mediate between the prison management and the prisoners to find solutions for perceived problems.

Though it is self evident that the existence of local boards of visitors can be a guarantee for a more intensive and involved monitoring, in small countries with only a few prisons and a small prison population independent monitoring by a national authority could be sufficient.

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**Article 29**

The work of Directorate is public.

Minister in charge of justice and Director of Directorate, directly or via the Penitentiary Warden, inform the public about the execution of sanctions, on condition that professional secrecy is not harmed and that the security and good order maintaining in the Penitentiary in which the sanction is executed are not endangered.

More detailed regulations on professional secrecy and the way how it is preserved is brought by the Minister in charge of justice.

**Article 30**

Individual and group visits in the Penitentiary can be allowed by the Director of Directorate. Special care will be given in order to enable the visit of national and international institutions and associations that deal with the protection of human rights, representatives of media, scientific workers that deal with criminality researches, as well as students of adequate faculties.



Director of Directorate can allow visitors to have conversations with prisoners or particular prisoner, with or without the presence of authorized officer.

### **Article 270**

The work of the Penitentiary is supervised by the Directorate, via authorized persons. The Directorate supervises implementation of the regulations and expert work in the execution of prison sanctions and especially: organization and work of the penitentiary, legal and adequate dealing with prisoners, the process of prisoners' treatment, organization of prisoners' work, condition and implementation of the measures for securing good order and security, work of the security service, implementation of health and hygiene measures, nutrition and clothes of the prisoners and their accommodation. For the supervision of expert work both scientific and expert institutions can be engaged.

### **Article 278**

With an aim to control the execution of prison sanctions defined by this Law, National Parliament of the Republic of Serbia forms, at the proposal of the Board for justice and Directorate, a 5 members commission. Commission from the Paragraph 1 of this Article consists of the persons who know about the problems of prison sanctions execution but who are not employed in the Directorate. Commission is independent in its work and the Directorate is obliged to provide the Commission with all necessary data important for its work. Commission has all the competences as an authorized person from Articles 270 and 271 of this Law. Commission from Paragraph 1 of this Article submits the report on the condition of prison sanctions execution defined by this law, for at least once a year and it submits it to the National Parliament of Serbia and the Minister in charge of Justice.

### Disciplinary procedures

#### **57.2**

- \* National law shall determine:
  - a. the acts or omissions by prisoners that constitute disciplinary offences;
  - b. the procedures to be followed at disciplinary hearings;
  - c. the types and duration of punishment that may be imposed;
  - d. the authority competent to impose such punishment; and
  - e. access to and the authority of the appellate process.

#### **\*\*Rule 57**

makes it clear that disciplinary offences should be precisely defined and procedures should respect the principles of justice and fairness. This means that all prisons should have a set of regulations which clearly lists the acts or omissions that constitute a breach of prison discipline and that are liable to lead to formal disciplinary action. Hence all prisoners should know in advance what are the rules and regulations of the prison. The legal status of these regulations should be clear. In many countries they will require parliamentary approval. Rule 57.2 lists the elements that should be included in the regulations.

#### **59.**

- \* Prisoners charged with disciplinary offences shall:
  - b. be informed promptly, in a language which they understand and in detail, of the nature of the accusations against them;
  - c. have adequate time and facilities for the preparation of their defence;
  - d. be allowed to defend themselves in person or through legal assistance when the interests of justice so require;
  - e. be allowed to request the attendance of witnesses and to examine them or to have them examined on their behalf; and
  - f. have the free assistance of an interpreter if they cannot understand or speak the language used at the hearing.

**\*\*Rule 59**

In line with this Rule any prisoner who is to be charged under a disciplinary proceeding has the right to know details of the charge in advance and should be given sufficient time to prepare a proper defence. In case a prisoner is held in isolation pending the hearing the procedure should not be delayed unjustifiably, namely due to internal or external investigation. In all cases the accused prisoner should be present at the hearing of the case.

The CPT has endorsed several of the elements of Rule 59 in a number of its reports (for example, CPT/Inf (2003) 1 Report to the Government of Cyprus on the visit to Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 22 to 30 May 2000. Strasbourg, 15 January 2003; CPT/Inf (2001)27 Report to the Latvian Government on the visit to Latvia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 24 January to 3 February 1999. Strasbourg, 22 November 2001; CPT/Inf (2002) 16 Report to the Maltese Government on the visit to Malta carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 18 May 2001. Strasbourg, 27 August 2002).

The right of an accused prisoner to have legal representation when facing a serious charge has been confirmed by the European Court of Human Rights (Case of Ezeh and Connors v. the United Kingdom: Application numbers 39665/98 and 40086/98).

**60.1**

- \* Any punishment imposed after conviction of a disciplinary offence shall be in accordance with national law.

**60.2**

- \* The severity of any punishment shall be proportionate to the offence.

**60.3**

- \* Collective punishments and corporal punishment, punishment by placing in a dark cell, and all other forms of inhuman or degrading punishment shall be prohibited.

**60.4**

- \* Punishment shall not include a total prohibition on family contact.

**60.5**

- \* Solitary confinement shall be imposed as a punishment only in exceptional cases and for a specified period of time, which shall be as short as possible.

**60.6**

- \* Instruments of restraint shall never be applied as a punishment.

**\*\* Rule 60**

This Rule implies that the clearly defined and published list of disciplinary offences should be accompanied by a complete list of punishments which may be imposed on any

prisoner who commits one of these offences. These punishments should always be just and proportionate to the offence committed. The list of punishments should be set down in a legal act approved by the appropriate authority. Staff shall not have a separate informal system of punishments that bypasses the official procedures.

In the case of Ezech and Connors mentioned above the European Court of Human Rights found that the right of prison governors in England and Wales to add up to 42 days to the time a prisoner spent in prison was a breach of Article 6 (Right to a fair trial) of the European Convention on Human Rights.

Punishments may include a formal recorded warning, exclusion from work, forfeiture of wages (where these are paid for prison work), restriction on involvement in recreational activities, restriction on use of certain personal possessions, restriction on movement in the prison. Restrictions on family contact but not a total prohibition, may also be used as a punishment. Such punishment should be used only where the offence relates to such family contacts or staff are assaulted in the context of a visit.

All disciplinary hearings should be conducted on an individual basis. If, for example, there has been a mass refusal to obey a rule or an assault involving a number of prisoners, the case of each must be heard and punishments imposed on an individual basis.

There are specific prohibitions against all forms of corporal punishment, punishment by placing in a dark cell, and all other inhuman or degrading punishments. The European Court of Human Rights has found that shaving the head of a prisoner as a disciplinary measure is a breach of Article 3 (Prohibition of torture) of the European Convention on Human Rights (Case of Yankov v. Bulgaria: Application number 39084/97). It is now widely held that a reduction of diet is a form of corporal punishment and constitutes inhuman treatment; this reflects professional opinion that has developed in recent years.

Solitary confinement, mentioned in Rule 60.5, refers to all forms of removing prisoners from association with other prisoners by placing them alone in a cell or a room. It should not be considered an appropriate punishment other than in most exceptional circumstances. This Rule is confirmed by Principle 7 of the United Nations Basic Principles for the Treatment of Prisoners. There are various forms of solitary confinement. The most extreme occurs when an individual is held entirely on his or her own and is subject to sensory deprivation by lack of access to light, sound or fresh air in what are often called —dark cells“. This form of isolation should never be imposed as a punishment. Another form of solitary confinement occurs when a prisoner is held in a single cell with access to normal light and air and can hear prisoners moving in adjacent areas. This type of punishment should only be used in exceptional circumstances for short periods of time. During this period, prison staff shall make regular and reasonably frequent contact with these prisoners. (See the commentary on Rule 42). The CPT pays particular attention to the use of solitary confinement, or any conditions similar to it. It has noted that —Solitary confinement can, in certain circumstances, amount to inhuman and degrading treatment; in any event, all forms of solitary confinement should be as short as possible“ (CPT, 2General Report on the CPT’s Activities, para 56).

It must be stressed that the requirement of one hour of daily outdoor exercise for prisoners (Rule 27.1) applies equally to inmates placed in solitary confinement as a punishment. Such prisoners should also be provided with reading material. The same applies to prisoners under special high security (Rule 53).

Rule 60.6 relates to the use of instruments of restraint as means of security or to prevent injury. These must never be used as a form of punishment. Instruments of restraint may include handcuffs, chains, irons, straitjackets and any form of electronic control of the person.

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### **Article 144**

Disciplinary offences are serious and light violations of good order and security rules as well as violations of other rules of prisoner's behavior defined by this Law and enactment of House rules in the Penitentiary.

More serious disciplinary offences are defined by this Law and lighter ones by the enactment of House rules in the Penitentiary.

The prisoner is the subject of disciplinary measure as well, if during the service of the sentence he commits a felony for which the following are laid down: fine, prison sentence up to one year or prison sentence up to one year and fine.

The prisoner cannot be a subject of disciplinary measure for several times for the same disciplinary offence act.

### **Article 145.**

Serious offences are:

- 1) Escape or attempt of the escape from the Penitentiary
- 2) Rebel or escape abetment;
- 3) Preparation of rebel or abetment;
- 4) Unauthorized leaving of prison;
- 5) Violence towards other person;
- 6) Making, possession or use of dangerous matters;
- 7) Making or bringing into the Penitentiary means adequate for the attack, escape or felony;
- 8) Obstructing officers or a person who is authorized to be in the prison or to enter it to access in any part of the Penitentiary.
- 9) Menace, damage or destruction of the property, in greater amount;
- 10) Refusal to execute officers' lawful order due to which appear or could have appeared more serious harmful effect;
- 11) Jeopardizing other person's health deliberately or by being harsh careless;
- 12) Production, possession or use of opiate or psychoactive substances;
- 13) Harsh negligence of personal hygiene;
- 14) Playing hazardous games;
- 15) Deliberate personal health jeopardizing in order to disable oneself for performing duties;
- 16) Giving resistance to medical check-up or measures for preventing danger of disease;
- 17) Abetment of a person deprived of liberty to commit more serious disciplinary offence;
- 18) Negligence of work duty that caused or could have caused serious harmful effect;

- 19) Training oneself or other person about the way of committing felony based on personal or other people's experience;
- 20) Serious abuse of acquired special rights from Article 115, Paragraph 1 of this Law;
- 21) Repeating lighter disciplinary offences.

#### **Article 146**

Disciplinary measures are declared for disciplinary offences.

Disciplinary measures are:

- 1) reproof;
- 2) restriction or ban on receiving parcels for the period up to three months;
- 3) withdrawal of granted special rights from Article 115, Paragraph 1 of this Law;
- 4) restriction or ban on money handling in the Penitentiary in the period of up to three months;
- 5) Sending to a solitary confinement in free time or during the whole day or night.

Measure of sending to a solitary confinement and restriction or ban on money handling in the Penitentiary can be declared only for serious disciplinary offences.

Withdrawal of granted special rights from Article 115, Paragraph 1 sending to a solitary confinement can be declared cumulatively.

#### **Article 158**

Prisoner against whom disciplinary procedure is led is obligatorily heard and his statements are checked and other pieces of evidence are produced as well.

Record on the course of disciplinary procedure is made.

#### **Article 161**

Prisoner against whom disciplinary procedure is led has a right to expert legal aid.

The prisoner must be informed of the right from the Paragraph 1 of this Article before the establishment of the facts in the procedure.

#### **Article 162**

Disciplinary procedure is finalized by the decision.

Prisoner can lodge a complaint against the decision within three days from the receiving of the decision and the complaint must be decided upon within three days.

The complaint does not delay the execution of the decision.

Director of Directorate decides upon the complaint.

## Complaints procedures

### 70.1

- \* Prisoners, individually or as a group, shall have ample opportunity to make requests or complaints to the director of the prison or to any other competent authority.

### 70.2

- \* If mediation seems appropriate this should be tried first.

### 70.3

- \* If a request is denied or a complaint is rejected, reasons shall be provided to the prisoner and the prisoner shall have the right to appeal to an independent authority.

### 70.4

- \* Prisoners shall not be punished because of having made a request or lodged a complaint.

### 70.5

- \* The competent authority shall take into account any written complaints from relatives of a prisoner when they have reason to believe that a prisoner's rights have been violated.

### 70.6

- \* No complaint by a legal representative or organisation concerned with the welfare of prisoners may be brought on behalf of a prisoner if the prisoner concerned does not consent to it being brought.

### 70.7

- \* Prisoners are entitled to seek legal advice about complaints and appeals procedures and to legal assistance when the interests of justice require.

#### \*\* Rule 70

This Rule makes a distinction between making requests and lodging complaints. Prisoners must have ample opportunity to make requests and must have avenues of complaint open to them both within and outside the prison system. The prison authorities shall not obstruct or punish the making of requests or complaints but shall facilitate the effective exercise of the rights embedded in this rule. This does not preclude the introduction of legal mechanisms to deal summarily with minor issues.

Requests of prisoners concern favours or facilities that they are not entitled to by right, but which may be granted by the prison management or other competent authorities. For instance, in some penitentiary systems extra visits may be allowed, though prisoners have no right to them. The same applies to requests for permission to leave the prison to attend the funeral of a relative and requests for transfer to a specific prison or prison unit. In most cases the director will be entitled to decide, but in some jurisdictions specific requests can only be granted by judicial authorities or must be decided at ministerial level.

Complaints are formal objections against decisions, actions or lack of action of the prison administration or other competent authorities. In some jurisdictions the appropriate penitentiary remedy is called an "objection" or an "appeal". The term appeal in this Rule however is reserved for legal action against a denial of a request or the rejection of a complaint.

Provision may also be made for specialised complaints procedures. Ideally, national law should allow prisoners also to complain against decisions, conduct or inactivity of medical personnel to existing national medical disciplinary bodies.

This Rule does not require that requests or complaints should be submitted in writing. Given the illiteracy of quite a number of prisoners, a prisoner should be able to ask to meet the civil servant or the competent agency in order to transmit the request or the complaint orally (CPT/Inf (96) 18 ¶ Visit in Slovenia in 1995), and the authorities have

the obligation to put it in a written form.

The competent authorities should deal promptly with requests and complaints and should accompany this with reasons making it clear whether action will be taken and if so, what action. This also applies to requests or complaints from prisoners' relatives or organisations referred to in Rule 70.6.

Complaints can lead to antagonistic attitudes of the parties involved, which can harm the relations between prisoners and staff. Therefore it seems sensible to try mediation first. This calls for a mediation mechanism to be inserted in the penitentiary legislation. This task could be entrusted for example to a member of a local supervisory committee or a judicial authority. If the conflict cannot be resolved by mediation, the prisoner must still have the right to lodge a formal complaint. National law can state that complaints about trivial matters can be declared inadmissible.

The requests are submitted to the prison administration or another authority empowered to decide on the matter. Prisoners must have the opportunity to convey complaints to any authority inspecting or supervising the prison regardless of previous or simultaneous complaints. When this authority is not empowered to handle the complaint itself it should send it on to the competent body.

Complainants shall be allowed to communicate on a confidential basis with the independent authorities entrusted with the handling of complaints and appeals. Decisions of these authorities shall be made accessible to prisoners.

Requests and complaints should be registered for the benefit of the prison administration itself and for inspection by visiting bodies. (CPT/Inf (2002) 1 -Visit to Bulgaria in 1999 and CPT/Inf (2001) 20 œ Visit to The Former Yugoslav Republic of Macedonia in 1998). Analysis of the substance of requests and complaints can contribute to a better management of the institution.

The right to make requests and complaints is primarily granted to prisoners but national law may allow third parties to act on behalf of a prisoner, for instance when a prisoner's mental or physical condition prevents him from acting himself and he does not have a lawyer to act on his behalf. Relatives of a prisoner are entitled to complain where the prisoner's rights may be infringed while organisations that have the interests of prisoners at heart may also be allowed by the director to bring such complaints. However, Rule 70.6 allows the prisoner to oppose the complaint being made in this way.

When, after an internal appeal has failed, a complaint is successfully made to an independent authority complainants must have confidence that the decision of that authority will be executed fully and promptly by the prison administration.

To ensure an effective exercise of the right to lodge complaints forms, stationery and, if necessary, stamps should be provided to prisoners. The complaint forms should be freely available to prisoners at some specified place (e.g. the library), thereby avoiding a prisoner having to ask for them specifically. A system of transmission should be devised that avoids prisoners having to hand the confidential access envelope to prison staff. (CPT/Inf

(91) 15 œ visit to the United Kingdom: England/Wales 1990).

Confidential communication with national and international bodies authorized to receive complaints is essential. This Rule does not attempt to prescribe an exclusive model of a complaints procedure but sets out the basic requirements such procedures should comply with lest they be considered to represent effective remedies in terms of art. 13 of the ECHR (see: Van der Ven v. The Netherlands (appl. nr. 50901/99 œ 04/02/2003)). What is important is that the complaint procedure ends with a final binding decision taken by an independent authority. The member states are free to designate the independent authority that has the power to handle complaints.

This can be an ombudsman or a judge (enforcement magistrate or executing or

supervisory judge), supervising prosecutor, court, or a Public Defender (CPT/Inf (2002) 14 œ Visit to Georgia in 2001).

Authorities involved in handling complaints should exchange views and experiences on a regular basis, the aim being to harmonise as far as possible their practice. (CPT/Inf (96) 9 œ visit to Spain 1991).

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#### **Article 114**

Prisoner has a right to lodge a complaint to the Penitentiary Warden for the breach of right or other irregularities done to him.

Penitentiary Warden, or a person authorized for that by him, is obliged to carefully examine the complaint and bring a decision about it, within 15 days.

The prisoner who does not get the answer to a complaint or who is not satisfied with the decision has right to submit an appeal to a Director of Directorate, who is obliged to decide upon it within 15 days from the appeal receiving.

Prisoner has a right to, without the presence of employed and appointed persons in the Penitentiary, complain to an authorized person who supervises the work of the Penitentiary.

The contents of the complaint and appeal represent a secret.

#### Registers

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#### **Article 10**

Adequate evidence of the persons on which sanctions and restraint are executed is kept. More detailed regulations on evidence are brought by the Minister in charge of justice.

**Note: THERE ARE NO PROVISIONS RELATED TO THE EVIDENCE OF ALL THE INCIDENTS AMONG THE PRISONERS IN THE PENITENTIARY FOR THE EXECUTION OF PRISON SANCTIONS.**

**Provisions that regulate this are given in the bylaw on House rules.**

**Evidence of these incidents is kept indirectly through disciplinary measures, when the disciplinary procedure is started because of the incidents among the prisoners.**

#### Separation of categories of detainees

#### 4.

- \* Prison conditions that infringe prisoners' human rights are not justified by lack of resources.

#### \*\*Rule 4

It sometimes happens that governments are accused of treating their prisoners better than other members of society. Although this accusation is rarely true in practice, Rule 4 is designed to make it clear that the lack of resources cannot justify a member state allowing prison conditions to develop that infringe the human rights of prisoners. Nor are policies and practices that routinely allow such infringements acceptable.



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### **Article 37**

The prisoner is allocated to a service of a sentence pursuant to allocation enactment of the Minister in charge of justice.

Exclusively, based on prisoner's request, Director of Directorate can, for justified reasons, departure from the allocation enactment and change the place of service of a sentence.

### **Article 66**

Prisoner has a right to accommodation that fulfills contemporary hygienic conditions and local climate conditions.

Classification of a prisoner in the premises for collective stay and dormitories will be conducted with careful estimation of all the circumstances and data for which the evidence is made in the Admission Service, especially bearing in mind age, personal nature and tendency, as well as other characteristics upon which positive mutual influence and lack of danger of mutual physical and mental menace depend.

Disabled prisoner has a right to accommodation compatible to type and level of his disability.

## **4.Regime and activities**

### **4.1.**

#### **4.1.1. Contacts with the outside world**

**(letter writing: is there a mail censorship, what are the criteria for censorship and are they recognized by the prisoners, what are the conditions for package receiving; communication with family and other persons: how often are visits allowed, what is the duration of visits, are there any limitations of visits for some categories of prisoners and on which basis, in what way are families admitted, what are the material conditions of visits, what is the level of visits monitoring, are there any social measures provided regarding persons who have never had any visits; access to other forms of communication: newspapers, TV, are there any limitations, based on which criteria)**

#### **4.1.2. Education**

#### **4.1.3. Outdoor exercise**

#### **4.1.4. Leisure activities**

#### **4.1.5. Religion**

#### **4.1.6. Work**

### **4.2. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter**

#### 4.1.1.

The prisoners are aware of the fact that the letters can be sent on daily basis. They hand over an open mail in order to be checked if there is anything else except for the written paper. This is something the prisoners are informed about. All of the interviewed are aware of the fact that the letters are read before being sent (the ones at the admission period or at the beginning of their servitude are not informed about that). One of the interviewed prisoners states out from his own experience that the treatment officer does not open nor read mail addressed to the ministry of law. They think that the mail control is done by the treatment officers but they don't know whether there are any criteria for censorship.

They are informed about the conditions for receiving regular and external packages, received according to the category classification.

Keeping family and other social relations is enabled according to the law. With the exception of one interviewed prisoner, all the others are well informed about the possibility of visits from the outside world. Certain number of prisoners had some extra family visits approved by the warden. They are informed about the duration of the visits and limitations compared to the certain categories of prisoners.

The searching of the visitors is performed due to the need. Depending on the type of the visit the executives walk around a little further away or they are in the next-door room. The families are not allowed to bring home made food.

There is not recognized the need by the penitentiary staff for some additional care (compared with the prisoners who have regular visits) for the prisoners being without any visits nor is recognized the reason for doing so.

The access to the information from outside world is through TV and newspaper, it is free but without much variety and in insufficient number compared to the number of prisoners per newspaper. During the realization of our project the number of newspapers available to the prisoners has been increased from 24 to 108 (five times).

#### 4.1.2.

The institution has not offered any possibility for education since the school was burnt in the year 2000 during the riots. At the same time the prisoners are interested in gaining additional education.

A small number of interviewed prisoners has an adequate motivation for education related to the objective insight into the type of education as well as to the latter applying of the knowledge gained. That is a good thing meaning that there is an insight of the prisoners into the connection between the education and the life of the higher quality during the servitude in the penitentiary as well as after release.

Younger interviewed prisoners mainly show the interest for education whereas the older ones are satisfied with the accomplished level explaining it is too late for further education.

The prisoners have access to the library by not simple enough procedure that will encourage them to reading and self learning. The functioning of the library is renovated but there is still dissatisfaction present among the interviewed regarding the stack and waiting for the certain title. A certain number of the interviewed regularly take books for reading besides the additional ones they get from their homes the selection being rather small.

There are no (physical) conditions for cinema and theatre performances which are part of the culture and indirectly the education. Multi-functional sport auditory would serve the need.

#### **4.1.3.**

##### **Outdoor activities**

All of the interviewed prisoners claim that their daily outdoor activities last less than an hour. At the same time, this period of time is actually more shorter due to the fact that is the only period of time for making telephone calls or shopping in the canteen. Therefore, the time they can spend for outdoor activities or staying in the fresh air is too short and insufficient and lasts for only 30-40 minutes. This is far beyond the standard and besides it has not been caused by the illegal act of the officials it is a serious deficiency.

The explanation for this deficiency can be seen in the fact that the Niš penitentiary, which has been functioning with upper limit capacity regarding the number of employees and available accommodation abilities, is additionally loaded with about a hundred prisoners transferred from the penitentiary in Sremska Mitrovica. The additional difficulties arouse due to the still present consequences of the riots as well as the uttered hostility between imprisoned groups located in different dormitories.

This kind of treatment of the prisoners is the potential producer of dissatisfaction and together with always popular aspects of amnesty represent the potential risk for escalation of dissatisfaction and is certainly not the way for prevention of violent acts. Something that is considered to be a prevention may become a cause.

##### **Exercise and recreation**

Exercise and recreation leads to sublimation of negative energy, enables the qualitative configuring of the leisure time, enables keeping the adequate level of health of people living in these specific conditions, enables making good interpersonal relations (making them able to distance themselves from the authority of informal groups and leaders), the failure tolerance is developed and according to that the persistency in accomplishing the determined aim is strengthen.

The prisoners are able to do exercises an hour a day at the gym or outside in the open air where the courses for group sports are situated.

Currently existing outdoor courts are not adequate to the number of the prisoners and at the Supervision department they are not big enough.

The former workshops are adapted and turned into a small sport hall (April, 2008) where the prisoners will be able to do exercises in groups of 50 (for safety reasons) two to three hours a day aside from the time period provided for a walk.

#### **4.1.4.**

At the beginning of the project (July, 2007) there were no leisure activities. Later on (October, 2007) the art (engraving) and painting courses started. At the moment the music section is being prepared (April, 2008).

The interviewed prisoners give interesting ideas about possible hobbies they can take up and which can be conveyed by purchasing computers and accompanying equipment (hardware and software), which enables music composing and open other possibilities of multimedia which depends on and stimulates as well the creativity of the prisoners.

One of the interviewed would like to take up a dover hobby.

### **The prisoners' participation:**

The prisoners has been recently (04/08) re-involved in the functioning of the penitentiary in terms of dealing with everyday problems enabling them to advance through the following system:

``**The winged conference**`` is a starting point - the basis for the participation of the prisoners within a treatment group. The winged conference is assembled by the group treatment officer. All prisoners besides the treatment officer and the Head of the department participate at the conference.

``**The winged council**``: The prisoners make suggestions regarding the candidates for the president of the winged council, the secretary and 9 members of the council. The members (the representatives of the prisoners) representing their interests in communication with the penitentiary authorities are elected by the prisoners. .

#### **Commissions:**

On the basis of the treatment group - wing, the 3 members of the commissions are elected from the prisoners' order.

The commission for discipline and human relations

The commission for the hygiene and the protection of the environment

The commission for supplying, nutrition and the function of the canteen

The commission for culture and recreation

### **The Department council:**

After the election of the entities and self participating organs per wings, the automatic representatives of the dormitory council are:

The president of the Winged council

The president of the commission for discipline and human relations

The president of the commission for supplying, nutrition and the function of the canteen

The Department council deals with the issues and the problems regarding the department.

**The penitentiary community assembly** is the highest self participating entity of the prisoners. It is consisted of the 2 wing representatives - from the treatment groups.

The bodies are:

- The President

- The Vicepresident

- The executive committee (4 members) and commissions:

The commission for discipline and human relations

The commission for the hygiene and the protection of the environment

The commission for supplying, nutrition and the function of the canteen

The functioning of the commissions is coordinated by the organizer of the cultural-entertaining and recreational activities who assembles certain commissions according to the need and valuation of the members of the commissions so as to deal with certain problems and the improvement of the life quality at the penitentiary. The commissions submit a report to the executive committee about their work. The executive committee submits the compiled report about their work and the work of the commissions to the Assembly being assembled at least 2 times a year, being more frequent if it is needed.

The original reports about the work of the winged council, the winged department council, the commissions and the penitentiary community assembly are submitted to the warden of the penitentiary.

#### **4.1.5.**

The orthodox church has been renovated whereas other religious entities do not exist. Generally, the religious ceremonies of other faith can be performed.

The interviewed prisoners who belongs to some of generally accepted religious communities in Serbia (orthodox, catholic and Islamic faith) make no complaints on respecting their religious rights regarding the fact that those religious rights, except for the occasional fasting, are not followed. On the other hand one of the interviewed, the member of a small religious community (an Adventist) states that due to his faith he is not only often exposed to insults ("sectarian" and other) but also to physical violence by other prisoners that was the answer to the question about the bruise under his eye. Even if it is not clearly mentioned, the impression of the team member is that the prisoner is also of the opinion that some availabilities related to other prisoners are for him denied.

The interviewed claim that the prisoners of orthodox faith are able to have visits made by the priest but they are of the opinion that those visits must be more often and more usual. The interviewed prisoners of other religious faith did not give particular comments on the subject.

It is praiseworthy to mention that the governance of the penitentiary has enabled for the prisoners of Islamic faith to have meals between sunset and sunrise during the fastive (2007.) which is not the time scheduled for meals. Those prisoners are enabled to make non-restrictive phone calls during Bairam.

The impression of the members of the monitoring team is that the prisoners do not consider the availability of religious service as a priority. It is probably due to the life conditions imposing other priorities or it partially shows the attitude towards religion as not being in a daily political function.

#### **4.1.6.**

Some of the interviewed prisoners are not interested for any kind of work during their servitude whereas the ones who are interested state that there is not enough work for all.

Actually there aren't any working opportunities (in terms of sufficient number of available jobs) for which the interest is showed. There were 333 (October, 2007) employed prisoners in eight departments and two services. Besides, there are not enough trained prisoners for the jobs being needed (they used to be trained in the penitentiary). The work is on voluntary basis and the salaries are from 1200 to 2000 dinars; at the third dormitory to 3000 dinars (the amounts are based upon the decision on prisoners' wage rate). The working hour is from 8:00 am to 3 pm.

The prisoners who are employed as welders work in extremely bad conditions. They don't have any safety equipment nor glasses for welding.

Some of the prisoners state that the injuries made at work are neglected. (The time The team members were unable to check those statements due to the limited time of the project, the only thing we are certain of and that was being checked is that in the injuries record book which is the part of the medical service documentation the injuries made at work were also recorded). In spite of all that the prisoners agree to work even if the conditions are extremely bad in order not to lose their job and their salary even if it is being too small.

Generally, the facilities/conveniences for the employed are missing which would contribute to the idea of work being an occupational choice that should be made and that work is worth while compared to those unemployed.

**Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter**

**REGIME AND ACTIVITIES**

*\* European Prison Rules*

*\*\* Commentary to Recommendation Rec (2006) 2 of the Committee of Ministers to Member States on the European Prison Rules*

*\*\*\* Law on Execution of Prison Sanctions*

Contact with the outside world

**24.1**

- \* 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.

**24.2**

- \* 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 offences 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.

**24.3**

- \* National law shall specify national and international bodies and officials with whom communication by prisoners shall not be restricted.

**24.4**

- \* The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible.

**\*\*Rule 24**

Loss of liberty should not entail loss of contact with the outside world. On the contrary, all prisoners are entitled to some such contact and prison authorities should strive to create the circumstances to allow them to maintain it as best as possible. Traditionally such contact has been by way of letters, telephone calls and visits, but prison authorities should be alert to the fact that modern technology offers new ways of communicating electronically. As these develop, new techniques of controlling them are emerging too and it may be possible to use them in ways that do not threaten safety or security. Contact with the outside world is vital for counteracting the potentially damaging effects of imprisonment (See further §§ 22 and 23 of Rec (2003) 23 on the management by prison administrations of life-sentence and other long-term prisoners.). Rule 99 makes it clear that untried prisoners should also be allowed to keep in contact with the outside



world, and that restrictions, if any, on such contact should be particularly carefully limited.

The reference to families should be interpreted liberally to include contact with a person with whom the prisoner has established a relationship comparable to that of a family member even if the relationship has not been formalised.

Article 8 of the ECHR recognises that everyone has a right to respect for their private and family life and correspondence and Rule 24 can be read as setting out the duties that the prison authorities have to ensure that these rights are respected in the inherently restrictive conditions of the prison. This includes visits too, as they are a particularly important form of communication.

To come within the limits set by Article 8.2 of the ECHR on interference with the exercise this right by a public authority, restrictions on communication should be kept to the minimum. At the same time Rule 24.2 recognises that communication of all kinds can be restricted and monitored for purposes of internal good order, safety and security of the prison (See the general discussion of these concepts in Part IV.) It may also be necessary to limit communication in order to meet the needs of continuing criminal investigations, to prevent the commission of further crime and protect victims of crime. Restrictions on these grounds should be imposed with particular caution, as they require decisions about matters often outside the knowledge of the normal operations of the prison authorities. It may be good policy to require court orders before making restrictions on these grounds. Monitoring too should be proportionate to the threat posed by a particular form of communication and should not be used as an indirect way of restricting of communication. Care should be taken to minimise particular difficulties and delays encountered by prisoners who need to communicate in a foreign language.

The rules according to which restrictions are imposed are important too: they must be spelt out clearly, —in accordance with law“ as required by Article 8.2 of the ECHR and not be left to the discretion of the prison administration. (See *Labita v Italy* appl. nr. 26772/95 œ 06/04/2000). The restriction must be the least intrusive justified by the threat. Thus, for example correspondence can be checked to see that it does not contain illegal articles but needs only to be read if there is a specific indication that its contents would be illegal. Visits, for example, should not be forbidden if they pose a threat to security but a proportionate increase in their supervision should be applied. Moreover, in order to justify a restriction, the threat must be demonstrable; an indefinite period of censorship, for example is not acceptable. In practical terms the restrictions will vary depending on the type of communication involved. Letters, and with modern technology, telephone calls are easily checked. Electronic communications such as emails still pose a higher security risk and may be limited to a small category of prisoners. The security risks may change and therefore the Rules do not lay down specific guidelines on this.

An additional, a specific limit on restrictions is contained in Rule 24.2, which is intended to ensure that even prisoners who are subjected to restrictions are still allowed some contact with the outside world. It may be good policy for national law to lay down a minimum number of visits, letters and telephone calls that must always be allowed.

The reference to —specific restrictions ordered by a judicial authority“ in Rule 24.2 is designed to deal with the cases where additional restrictions that are necessary for the investigation which is being carried out may be imposed on remand prisoners. Even in these instances, however, they may not be totally isolated.

Some types of communication may not be prohibited at all. Not surprisingly, the ECtHR has taken particular exception to attempts to limit correspondence with European Human Rights organs (See, for example, *Campbell v United Kingdom* appl. nr. 13590/88 œ 25/03/1992.) and Rule 24.3 specifies that national law should lay down that such communication will be allowed as well as communication with, for example, a national

ombudsman and the national courts.

The particular significance of visits not only for prisoners but also for their families is emphasized in Rule 24.4. It is important that where possible intimate family visits should extend over a long period, 72 hours for example as is the case in many Eastern European countries. Such long visits allow inmates to have intimate relations with their partners. Shorter —conjugal visits“ for this purpose can be demeaning to both partners.

#### 24.10

- \* Prisoners shall be allowed to keep themselves informed regularly of public affairs by subscribing to and reading newspapers, periodicals and other publications and by listening to radio or television transmissions unless there is a specific prohibition for a specified period by a judicial authority in an individual case.

\*\*Rule 24.10 deals with an aspect of contact with the outside world which is related to the ability to receive information, which is part of the right to freedom of expression guaranteed by article 10 of the ECHR.

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#### Article 75

The prisoner has a right to unlimited correspondence at his own expense.

The contents of the letters are monitored in the closed-type Penitentiary with special security, closed-type Penitentiary and closed department of the Penitentiary.

Correspondence can be withheld by the Penitentiary Warden for the prisoner who services a sentence in the Penitentiary, from the Paragraph 2 of this Article, for security reasons, about which he informs the prisoner.

The prisoner has right to complain against the decision of the Prison Governor from Paragraph 3 of this Article,

The prisoner has a right to unmonitored correspondence with his advocate, competent organs and international organizations for the protection of human rights.

#### Article 76

The prisoner has a right to a phone conversation in line with the provisions of House rules enactment, at his own expense.

For security reasons, prisoner’s phone conversations can be supervised in the closed-type Penitentiary with special security, closed-type Penitentiary and closed department of the Penitentiary.

Supervision of phone conversation is ordered by a Penitentiary Warden and is done by the person appointed by him.

#### Article 109

Prisoner has a right to use daily and periodical newspapers as well as other means of public informing.

The prisoner can read books form the Penitentiary library as well as books that he gets himself.

#### Education

#### 28.1

- \* Every prison shall seek to provide all prisoners with access to educational programmes which are as comprehensive as possible and which meet their individual needs while taking into account their aspirations.

**28.2**

- \* Priority shall be given to prisoners with literacy and numeracy needs and those who lack basic or vocational education.

**28.3**

- \* Particular attention shall be paid to the education of young prisoners and those with special needs.

**28.4**

- \* Education shall have no less a status than work within the prison regime and prisoners shall not be disadvantaged financially or otherwise by taking part in education.

**28.5**

- \* Every institution shall have a library for the use of all prisoners, adequately stocked with a wide range of both recreational and educational resources, books and other media.

**28.6**

- \* Wherever possible, the prison library should be organised in co-operation with community library services.

**28.7**

- \* As far as practicable, the education of prisoners shall:
  - a. be integrated with the educational and vocational training system of the country so that after their release they may continue their education and vocational training without difficulty; and
  - b. take place under the auspices of external educational institutions.

**\*\*Rule 28**

This Rule makes general provision for the education of all prisoners. Additional aspects of education for sentenced prisoners are considered in Rule 106. Prison authorities should pay special attention to the education of young prisoners and those with special educational needs such as prisoners of foreign origin, disabled prisoners and others. This is in line with Recommendation N° R (89) 12 of the Committee of Ministers on Education in Prison, which refers specifically to the education needs of all prisoners. The Rule emphasises the importance of the prison authorities providing for prisoners who have particular educational needs and of integrating the provision of education into the educational system in the community. It is also important that where prisoners obtain formal qualifications while in prison the certificates recording these qualifications should not indicate where they were obtained.

The library should be seen as a facility for all prisoners and as an important recreational resource. It also has a key place in the provision of education in prison. The adequately stocked library should contain books in the various languages that prisoners read. It should also comprise legal materials including copies of the European Prison Rules and similar instruments as well as the regulations applicable to the prison for prisoners to consult. Other materials that may be held in the library include electronically stored information.

**6.**

- \* All detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty.

**\*\*Rule 6**

Rule 6 recognises that prisoners, both untried and sentenced, will eventually return to the community and that prison life has to be organised with this in mind. Prisoners have to

be kept physically and mentally healthy and provided with opportunities to work and to educate themselves. Where it is known that prisoners are going to serve long terms, these have to be carefully planned to minimise damaging effects and make the best possible use of their time.

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### **Article 110**

Prisoner has a right to basic and high education, which are organized in the Penitentiary in line with general regulations.

The Penitentiary organizes other types of prisoners' education, as well.

### **Article 111**

Penitentiary Warden can allow extraordinary schooling to a prisoner.

The expenses of extraordinary schooling are to be covered by the prisoner.

### **Article 112**

It must not be seen from the document on acquired education that the prisoner's education was acquired during the service of the sentence.

## Outdoor exercise

### **27.1**

- \* Every prisoner shall be provided with the opportunity of at least one hour of exercise every day in the open air, if the weather permits.

### **27.2**

- \* When the weather is inclement alternative arrangements shall be made to allow prisoners to exercise.

### **27.3**

- \* Properly organised activities to promote physical fitness and provide for adequate exercise and recreational opportunities shall form an integral part of prison regimes.

### **27.4**

- \* Prison authorities shall facilitate such activities by providing appropriate installations and equipment.

### **27.5**

- \* Prison authorities shall make arrangements to organise special activities for those prisoners who need them.

### **27.6**

- \* Recreational opportunities, which include sport, games, cultural activities, hobbies and other leisure pursuits, shall be provided and, as far as possible, prisoners shall be allowed to organise them.

### **27.7**

- \* Prisoners shall be allowed to associate with each other during exercise and in order to take part in recreational activities.

#### **\*\*Rule 27**

It is important to emphasise, as the placement of Rule 27 does, that all prisoners, including those subject to disciplinary punishment, need exercise and recreation although these activities should not be compulsory. Opportunities for exercise and recreation must

be made available to all prisoners rather than only as part of a treatment and training programme for sentenced prisoners. This is in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners, which deal with exercise and sport in Rule 24 of its general part. The importance of exercise for all prisoners is underlined by the CPT in its 2<sup>nd</sup> General Report [CPT/Inf (92)3] para. 47. The one-hour a day period of physical exercise is a minimum that should be applied to all prisoners who do not get sufficient exercise through their work. Facilities for outdoor exercise should be sufficient to permit prisoners to exert themselves physically.

Provision for physical exercise should be complemented by recreational opportunities to make prison life as normal as possible. The organisation of sport and recreation provide an ideal opportunity for involving prisoners in an important aspect of prison life and for developing their social and interpersonal skills. It is also an occasion on which prisoners can exercise their right of association. This right is protected article 11 of the ECHR and, while it is severely limited in the prison context by the requirements of good order, it is not abolished entirely: see also the comment on Rule 52.3 in part IV.

Rule 27.5. provides for prisoners who have a need for physical exercise of a specialised nature: for example, a prisoner who has been injured may require additional exercises to build up wasted muscles.

## 25.2

\* This regime shall allow all prisoners to spend as many hours a day outside their cells as are necessary for an adequate level of human and social interaction.

\*\*Rule 25 underlines that the prison authorities should not concentrate only on specific rules, such as those relating to work, education and exercise, but should review the overall prison regime of all prisoners to see that it meets basic requirements of human dignity. Such activities should cover the period of a normal working day. It is unacceptable to keep prisoners in their cells for 23 hours out of 24, for example. The CPT has emphasised that the aim shall be that the various activities undertaken by prisoners should take them out of their cells for at least eight hours a day [see CPT's 2<sup>nd</sup> General Report (CPT/Inf (92) para. 47)].

Particular attention should be paid to ensure that prisoners that are not in work, such as prisoners who have passed the retirement age, are kept active in other ways.

This Rule also makes specific reference to the welfare needs of prisoners and thereby provides the impulse for the prison authorities to see that the multiple welfare needs of prisoners are catered for, either by the prison service or welfare agencies within other parts of the state system. Specific reference is made to the need to provide support to prisoners, both male and female, who may have been physically, mentally or sexually abused.

Note also that Rule 101 allows untried prisoners to request access to the regimes for sentenced prisoners.

\*\*\*

### Article 68

Prisoner has a right to spend at least two hours outdoor, in his free time.

Prisoner, whose age and physical abilities allow it, has a right to perform, in his free time, organized physical activity, including right to use sport terrains, devices and equipment, together with other prisoners.

#### Leisure activities

## 27.6

- \* Recreational opportunities, which include sport, games, cultural activities, hobbies and other leisure pursuits, shall be provided and, as far as possible, prisoners shall be allowed to organise them.

## 27.7

- \* Prisoners shall be allowed to associate with each other during exercise and in order to take part in recreational activities.

### \*\*Rule 27

It is important to emphasise, as the placement of Rule 27 does, that all prisoners, including those subject to disciplinary punishment, need exercise and recreation although these activities should not be compulsory. Opportunities for exercise and recreation must be made available to all prisoners rather than only as part of a treatment and training programme for sentenced prisoners. This is in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners, which deal with exercise and sport in Rule 24 of its general part. The importance of exercise for all prisoners is underlined by the CPT in its 2<sup>nd</sup> General Report [CPT/Inf (92)3] para. 47. The one-hour a day period of physical exercise is a minimum that should be applied to all prisoners who do not get sufficient exercise through their work. Facilities for outdoor exercise should be sufficient to permit prisoners to exert themselves physically.

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Rule 27.5. provides for prisoners who have a need for physical exercise of a specialised nature: for example, a prisoner who has been injured may require additional exercises to build up wasted muscles.

## Religion

## 29.1

- \* Prisoners' freedom of thought, conscience and religion shall be respected.

## 29.2

- \* The prison regime shall be organised so far as is practicable to allow prisoners to practise their religion and follow their beliefs, to attend services or meetings led by approved representatives of such religion or beliefs, to receive visits in private from such representatives of their religion or beliefs and to have in their possession books or literature relating to their religion or beliefs.

## 29.3

- \* Prisoners may not be compelled to practise a religion or belief, to attend religious services or meetings, to take part in religious practices or to accept a visit from a representative of any religion or belief.

### \*\*Rule 29

Prison rules have hitherto regarded the place of religion in prison as unproblematic and limited themselves to positive provision on how best to organise religious life in prison. However, the increase in some countries of prisoners with strong religious views requires a more principled approach as well as a positive requirement.

Rule 29.1 seeks to recognise religious freedom as well as freedom of thought and conscience as required by article 9 of the ECHR.

Rule 29.2 adds a positive requirement on prison authorities to assist in respect of religious observance as well as the observance of beliefs. There are various steps that should be taken in this regard. Rule 22 already requires that religious preferences be taken into account when prisoners' diets are determined. So far as is practicable, places of worship and assembly shall be provided at every prison for prisoners of all religious denominations and persuasions. If a prison contains a sufficient number of prisoners of the same religion, an approved representative of that religion should be appointed. If the number of prisoners justifies it and conditions permit, such appointment should be on a full-time basis. Such approved representatives should be allowed to hold regular services and activities and to pay pastoral visits in private to prisoners of their religion. Access to an approved representative of a religion should not be refused to any prisoner.

Rule 29.3 provides safeguards to ensure that prisoners are not subject to pressure in the religious sphere. The fact that these matters are dealt with in the general section underlines the requirement that religious observance should not be seen primarily as part of a prison programme but as a matter of general concern to all prisoners.

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### **Article 113**

Prisoner has a right to:

- 1) ordinance;
- 2) to keep and read religious literature;
- 3) to be visited by a representative of religion.

If a Penitentiary contains a sufficient number of prisoners of the same religion, based on their request, the Penitentiary Warden will allow the representative of that religion to visit them regularly or to have regular service and lectures in the Penitentiary.

The prisoner cannot be pressured to be present at ordinance or to be visited by the representative of the religion.

Ordinance is held in a special, adequate room in the Penitentiary.

Time, duration and way of using rights from this Article are more precisely defined by the enactment on House rules.

### Work

#### **26.1**

- \* Prison work shall be approached as a positive element of the prison regime and shall never be used as a punishment.

#### **26.2**

- \* Prison authorities shall strive to provide sufficient work of a useful nature.

#### **26.3**

- \* As far as possible, the work provided shall be such as will maintain or increase prisoners' ability to earn a living after release.

#### **26.4**

- \* In conformity with Rule 13 there shall be no discrimination on the basis of gender in the type of work provided.

**26.5**

- \* Work that encompasses vocational training shall be provided for prisoners able to benefit from it and especially for young prisoners.

**26.6**

- \* Prisoners may choose the type of employment in which they wish to participate, within the limits of what is available, proper vocational selection and the requirements of good order and discipline.

**26.7**

- \* The organisation and methods of work in the institutions shall resemble as closely as possible those of similar work in the community in order to prepare prisoners for the conditions of normal occupational life.

**26.8**

- \* Although the pursuit of financial profit from industries in the institutions can be valuable in raising standards and improving the quality and relevance of training, the interests of the prisoners should not be subordinated to that purpose.

**26.9**

- \* Work for prisoners shall be provided by the prison authorities, either on their own or in co-operation with private contractors, inside or outside prison.

**26.10**

- \* In all instances there shall be equitable remuneration of the work of prisoners.

**26.11**

- \* Prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to allocate a part of their earnings to their families.

**26.12**

- \* Prisoners may be encouraged to save part of their earnings, which shall be handed over to them on release or be used for other approved purposes.

**26.13**

- \* Health and safety precautions for prisoners shall protect them adequately and shall not be less rigorous than those that apply to workers outside.

**26.14**

- \* Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by national law to workers outside.

**26.15**

- \* The maximum daily and weekly working hours of the prisoners shall be fixed in conformity with local rules or custom regulating the employment of free workers.

**26.16**

- \* Prisoners shall have at least one rest day a week and sufficient time for education and other activities.

**26.17**

- \* As far as possible, prisoners who work shall be included in national social security systems.

**\*\* Rule 26**

Note that work by untried prisoners is dealt with in Rule 100 and work by convicted prisoners in Rule 105. The positioning of Rule 26 in the general section represents a major departure from previous practice, for work has historically been conceived as something that is available to (and compulsory for) sentenced prisoners only. There is now widespread recognition that untried prisoners are entitled to work too. The



provisions in Rule 26 apply to all types of work performed by prisoners, whether they are untried prisoners who elect to do so or sentenced prisoners who may be compelled to work.

Rule 26.1 emphasises anew that no work performed by a prisoner should be punishment. This is designed to combat an obvious potential abuse. Instead, the positive aspect should be emphasised. Work opportunities offered to prisoners should be relevant to contemporary working standards and techniques and organised to function within modern management systems and production processes. It is important, as Rule 26.4 indicates in general terms, that women have access to employment of all kinds and are not limited to forms of work traditionally regarded as the province of women. Work should have a broadly developmental function for all prisoners: the requirement that it should if possible enable them to increase their earning capacity serves the same function.

The principle of normalisation, inherent in Rule 5, underpins much of the detail on work in Rule 26. Thus, for example, provisions for health and safety, working hours and even involvement in national social security systems should mirror that for workers on the outside. This approach builds on that adopted by the Resolution N° R (75) 25 of the Committee of Ministers on Prison Labour. The same approach should inform the level of remuneration for prisoners. All prisoners should ideally be paid wages, which are related to those in society as a whole.

Rule 26 also contains provisions designed to prevent the exploitation of prison labour. Thus Rule 26.8 is designed to ensure that the profit motive does not lead to the positive contribution that work is supposed to make toward the training of prisoners and the normalisation of their lives in prison being ignored.

Rule 26.17 recognises that while work may form a key part of the daily routine of prisoners, it should not be required to the exclusion of other activities. Of these, education is specifically mentioned but contact with others, such as welfare agencies, for example, may be an essential part of the regime of a particular prisoner.

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#### **Article 86.**

Prisoner capable of work has a right and obligation to work.

Purpose of that work is that the prisoner acquires, maintain and increase his working capabilities, working habits and expert knowledge.

#### **Article 87**

Prisoners' work has to be purposeful and must not be humiliating.

Obtaining of material interest from prisoners' work must not endanger the accomplishment of that work purpose.

#### **Article 88**

Type of work is defined according to mental and physical abilities, professional qualifications, expressed preferences of the prisoner and according to the potentials in the prison.

Prisoners' mental and physical abilities for work are estimated by expert team of the Penitentiary.

#### **Article 89**

The prisoner is employed in the Penitentiary or out of the Penitentiary.  
Regime and way of work in the Penitentiary have to be as much similar as possible to the regime and way of work out of the Penitentiary.  
Market allowance for the work of the prisoners out of the Penitentiary belongs to the Penitentiary.

#### **Article 90**

Based on the request of the person who is for the first time sentenced to a prison sentence for the period of six months, Director of Directorate can allow that, during the duration of the sentence, he can continue with the work he was employed at, in time of sentence order receipt, if there are justified reasons for that and that the felony for which he is sentenced is not related to his work..

#### **Article 91**

Working hours of the prisoner can last up to 40 hours a week, and exclusively working hours can last longer, under the conditions defined by Law.  
Prisoner who attends lectures of general or skill education works proportionally shorter working hours.  
After working hours, the prisoner can be employed for maximum two hours a day, on maintaining hygiene and other ongoing works in the Penitentiary.

#### **Article 92**

Prisoner's work is not included in years of working service.  
When, according to general rules, even time spent at work is recognized for acquiring professional qualifications, time spent on the same type of work during serving sentence is recognized for that qualification.

#### **Article 93**

Prisoner has a right to remuneration for work which is paid once a month.  
Remuneration for work is at least 20 % of the lowest cost of labor in the Republic of Serbia, therewith the work longer than regular working hours is increased for 50%.

#### **Article 94**

The Penitentiary Warden can award the prisoner in money for his work success. The highest amount of remuneration and award is defined by the Director of Directorate.

#### **Article 95**

The prisoner can freely handle 70% of remuneration and award for work, while the rest is left for his savings.  
The Penitentiary Warden can allow the prisoner to spend the means from his savings if the money is necessary for the prisoner or his family.

#### **Article 96**

The prisoner enjoys occupational safety, according to general rules.  
The prisoner who is temporary disabled for work, not at his fault, has a right to remuneration, according to general rules.

The Penitentiary covers most basic needs of the prisoner who does not work and who does not have his own means.

**Article 97**

Prisoner has a right to a daily, weekly and annual vacation, according to general rules. Annual vacation is used in special premises of the Penitentiary. During annual vacation the prisoner receives remuneration as if he worked.

**Article 99**

For deeds from the area of intellectual property created during servicing the sentence, the prisoner has all the rights according to general rules.

**Article 100**

More detailed provisions about the prisoner's work and his rights based on work are systemized by a rule book, brought by the Minister in charge of justice.

## **5. Medical services**

### **5.1.1. Access to medical care**

**(in what way they can gain access a) on their request, what is the procedure b) by medical staff c)by guard, what are their criteria; is there and practitioner available during day and night; procedure for urgent evacuation; in what way they can gain access to the psychologist/psychiatrist)**

### **5.1.2. Medical staff**

## **5.2. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter**

### **5.1.1.**

The prisoners have access to the medical service in any time on the request given to the security staff or the treatment officer who escort them to the medical ward to receive a medical care.

The employers in medical service in the penitentiary at Niš is open to 10 pm seven days a week. After 10 pm the prisoners are in the care of the emergency ward that is engaged on call.

There is a certain established procedure for urgent medical evacuations during day and night.

The medical service consists of a certain number of practitioners and medical technicians with a full time job in penitentiary at Niš, and medical consultants engaged according to the schedule.

There is a weekly schedule according to which the practitioners visit each of the dormitories.

### **5.1.2. See 7.1.4.**

## 5.2. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter

### MEDICAL SERVICES

\* *European Prison Rules*

\*\* *Commentary to Recommendation Rec (2006) 2 of the Committee of Ministers to Member States on the European Prison Rules*

\*\*\* *Law on Execution of Prison Sanctions*

#### Access to medical care

#### 40.3

\* Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

\*\* Rule 40

The most effective way of implementing Rule 40 is that the national health authority should also be responsible for providing health care in prison, as is the case in a number of European countries. If this is not the case, then there should be the closest possible links between the prison health care providers and health service providers outside the prison. This will not only allow for a continuity of treatment but will also enable prisoners and staff to benefit from wider developments in treatments, in professional standards and in training.

Recommendation N° R (98) 7 of the Committee of Ministers requires that —Health policy in custody should be integrated into, and compatible with, national health policy—. As well as being in the interest of prisoners, this is in the interest of the health of the population at large, especially in respect of policies relating to infectious diseases that can spread from prisons to the wider community.

The right of prisoners to have full access to the health services available in the country at large is confirmed by Principle 9 of the UN Basic Principles for the Treatment of Prisoners. The CPT's 3<sup>rd</sup> General Report also lays great emphasis on the right of prisoners to equivalence of health care. It is also an important principle that prisoners should have access to health care free of charge (Principle 24 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment). A number of countries experience great difficulty in providing healthcare of a high standard to the population at large. Even in these circumstances prisoners are entitled to the best possible healthcare arrangements and without charge. The CPT has stated that even in times of grave economic difficulty nothing can relieve the State of its responsibility to

provide the necessities of life to those whom it has deprived of liberty. It has made clear that the necessities of life include sufficient and appropriate medical supplies. (See for example, Report on Moldova [CPT/Inf (2002) 11]).

Nothing in these Rules prevents a state from allowing prisoners to consult their own doctor at their own expense.

#### 41.2

- \* Arrangements shall be made to ensure at all times that a qualified medical practitioner is available without delay in cases of urgency.

#### \*\*Rule 41

A basic requirement to ensure that prisoners do have access to health care whenever required is that there should be a medical practitioner appointed to every prison. The medical practitioner referred to should be a fully qualified medical doctor. In large prisons a sufficient number of doctors should be appointed on a full-time basis. In any event a doctor should always be available to deal with urgent health matters. This requirement is confirmed in Recommendation N° R (98) 7 of the Committee of Ministers.

In addition to doctors, there should be other suitably qualified health care personnel. In some Eastern European countries para-medicals (sometimes called —feldshers“) reporting to a doctor also deliver medical assistance and care. Other important group will be properly trained nurses. In 1998 the International Council of Nurses published a statement which says, among other things, that national nursing associations should provide access to confidential advice, counsel and support for prison nurses. [The Nurse’s Role in the Care of Prisoners and Detainees, International Council of Nurses, 1998].

In dealing with prisoners, doctors should apply the same professional principles and standards that they would apply in working outside prisons. This principle was confirmed by the International Council of Prison Medical Services when it agreed the Oath of Athens:

—We, the health professionals who are working in prison settings, meeting in Athens on September 10, 1979, hereby pledge, in keeping with the spirit of the Oath of Hippocrates, that we shall endeavour to provide the best possible health care for those who are incarcerated in prisons for whatever reasons, without prejudice and within our respective professional ethics“.

This is also required by the first of the UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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#### **Article 101**

The prisoner enjoys free health care protection.

The prisoner who cannot be given adequate health care protection is sent to a Special prison hospital or other medical institution, and pregnant woman is sent to a maternity hospital, for child birth.

Time spent on medical treatment is included in prison sentence.

### **Article 102**

Medical treatment of the prisoner is conducted on his approval.

Forced feeding of the prisoner is not allowed.

Exclusively, if by refusing medical treatment or food, the patient seriously endangers his health or life, certain medical measures defined by the doctor, according to general medical rules, will be implemented.

Medical check-up of the prisoner is done only with the presence of one medical worker, unless medical worker requests different.

The prisoner has right to be introduced with the findings about his medical condition and contents of medical file, except for the cases foreseen by general, medical rules.

The prisoner must be enabled to use the services of a dentist.

### **Article 103**

Doctor in the Penitentiary is obliged to:

- 1) Give a medical check to each prisoner, right after the admission, after the return from temporary leave and before the release from the Penitentiary;
- 2) At admission to the Penitentiary or later, whenever necessary, ascertain whether the prisoner got physically or mentally ill, as well as his working ability;;
- 3) Immediately give a medical check to a prisoner who complains that he is sick or there are signs that he is sick;
- 4) Give a daily medical check to a prisoner who is sick, refuses food or water, and to give a medical check to other prisoners in intervals not longer than three months;
- 5) Control accommodation, nutrition hygiene, sanitary and other conditions, upon which the health of the prisoners depends.
- 6) Keep special records on prisoners' injuries;
- 7) Supervise the work of the pharmacy and medical staff that keeps records, issues and distributes prescribed therapy to a prisoner.

Doctor in the Penitentiary is obliged to:

- 1) Submit periodical reports on prisoners' medical condition;
- 2) Submit a report whenever determines that physical or mental condition of the prisoner is damaged or endangered due to the extension or the way of serving sentence and to recommend the measures for treatment of that person, including possibility of sentence serving discontinuity;
- 3) Gives findings and recommendations about quantity and quality of the food for prisoners;
- 4) Gives findings and recommendations for the improvement of hygiene in the Penitentiary and with the prisoners, about the state of sanitary conditions and installations, heating, lightening and ventilation in the rooms where prisoners stay;
- 5) Gives findings and recommendations related to necessary physical activities of the prisoners.

to the Penitentiary Warden, in written form.

The Penitentiary Warden is obliged to, without delay, take up the measures from Paragraph 2 of this Article, recommended by a doctor.



## Article 104

Based on prisoner's request the Penitentiary Warden can allow specialist medical check-up, if such medical check up was not prescribed by the doctor.

The cost of medical check-up will be covered by the prisoner, if the Penitentiary Warden does not decide different.

## Article 105

The Penitentiary will immediately inform: a spouse, children, adoptees or a person with whom the prisoner lived until serving sentence, in matrimony or natural partnership or any other kind of permanent relationship, and if he does not have them, then his parents, adopters, brothers, sisters and other relatives, about his seriously endangered health or life, his transfer to prison hospital or other medical institution.

### Medical staff

#### 41.1

- \* Every prison shall have the services of at least one qualified general medical practitioner.

#### 41.2

- \* Arrangements shall be made to ensure at all times that a qualified medical practitioner is available without delay in cases of urgency.

#### 41.3

- \* Where prisons do not have a full-time medical practitioner, a part-time medical practitioner shall visit regularly.

#### 41.4

- \* Every prison shall have personnel suitably trained in health care.

#### 41.5

- \* The services of qualified dentists and opticians shall be available to every prisoner.

#### \*\*Rule 41

A basic requirement to ensure that prisoners do have access to health care whenever required is that there should be a medical practitioner appointed to every prison. The medical practitioner referred to should be a fully qualified medical doctor. In large prisons a sufficient number of doctors should be appointed on a full-time basis. In any event a doctor should always be available to deal with urgent health matters. This requirement is confirmed in Recommendation N° R (98) 7 of the Committee of Ministers.

In addition to doctors, there should be other suitably qualified health care personnel. In some Eastern European countries para-medicals (sometimes called —feldshers“) reporting to a doctor also deliver medical assistance and care. Other important group will be properly trained nurses. In 1998 the International Council of Nurses published a statement which says, among other things, that national nursing associations should provide access to confidential advice, counsel and support for prison nurses. [The Nurse's Role in the Care of Prisoners and Detainees, International Council of Nurses, 1998].

In dealing with prisoners, doctors should apply the same professional principles and standards that they would apply in working outside prisons. This principle was confirmed by the International Council of Prison Medical Services when it agreed the Oath of Athens:

—We, the health professionals who are working in prison settings, meeting in Athens on September 10, 1979, hereby pledge, in keeping with the spirit of the Oath of

Hippocrates, that we shall endeavour to provide the best possible health care for those who are incarcerated in prisons for whatever reasons, without prejudice and within our respective professional ethics“.

This is also required by the first of the UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

#### 47.1

- \* Specialised prisons or sections under medical control shall be available for the observation and treatment of prisoners suffering from mental disorder or abnormality who do not necessarily fall under the provisions of Rule 12.

#### 47.2

- \* The prison medical service shall provide for the psychiatric treatment of all prisoners who are in need of such treatment and pay special attention to suicide prevention.

#### \*\*Rule 47

This Rule addresses mental health issues. The conditions of imprisonment may have a serious impact on the mental well-being of prisoners. Prison administrations should seek to reduce the extent of that impact and should also establish procedures to monitor its effects on individual prisoners. Steps should be taken to identify those prisoners who might be at risk of self-harm or suicide. Staff should be properly trained in recognising the indicators of potential self-harm. Where prisoners are diagnosed as mentally ill they should not be held in prison but should be transferred to a suitably equipped psychiatric facility. In a judgment in April 2001 [Keenan v. United Kingdom (appl. nr. 27229/95 æ 03/04/2001)] the European Court of Human Rights found a violation of Article 3 of the ECHR in the case of a prisoner who had committed suicide in respect of a lack of medical notes, a lack of psychiatric monitoring and segregation which was incompatible with the treatment of a mentally ill person. In its 3<sup>rd</sup> General report, the CPT stated that suicide prevention is a matter falling within the purview of a prisons' health care service. It should ensure that there is an adequate awareness of this subject throughout the establishment, and that appropriate procedures are in place.

Recommendation Rec(2004)10 of the Committee of Ministers to member states concerning the protection of the human rights and dignity of persons with mental disorder says in article 35 that persons with mental disorder should not be subject to discrimination in penal institutions. In particular, the principle of equivalence of care with that outside penal institutions should be respected with regard to their health care. They should be transferred between penal institution and hospital if their health needs so require. Appropriate therapeutic options should be available for persons with mental disorder detained in penal institutions. Involuntary treatment for mental disorder should not take place in penal institutions except in hospital units or medical units suitable for the treatment of mental disorder. An independent system should monitor the treatment and care of persons with mental disorder in penal institutions.

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### Article 23

Health Care Service performs health prevention, medically treats prisoners and detainees and supervises hygiene and food and water quality.

Health Care Service has at least one doctor and one nurse, and must have at disposal services of a psychiatrist.

When hospital treatment is organized in the Penitentiary, the Penitentiary must have a doctor and hospital staff with appointed professional qualifications and must have adequate hospital premises, medical material, instruments, devices and drugs.

Medical worker who does medical check-up and treats the prisoner is guaranteed and provided full professional independence, in line with law and ethical codex.

## **6. Material conditions**

### **6.1.**

#### **6.1.1. Food**

**(the quality, the quantity and the variety of food, who is responsible for the menu; the annual and daily budget/per prisoner; the special food for sick, old, religious; the time of meals and intervals between/is it appropriate; are prisoners able to get food and drink between meals; are there any religious restriction; is there any shop; are families allowed to bring food; is food regularly inspected by the practitioner)**

**6.1.2. Lighting and ventilation; Sanitary facilities; Personal hygiene; Clothing and bedding (is there enough lighting for reading, can it be regulated by the prisoners themselves; are they able to open the windows; are there enough toilets and shower baths, what is their personal hygiene; are there any sanitary facilities provided by the governance; how often the prisoners have access to the shower baths and is it different for employed and unemployed ones; how often is the bedding changed; is it possible for them to wash the clothes by themselves)**

#### **6.1.3. Overcrowding and accommodation**

**(is there an adequate accommodation regarding: the number of prisoners per square metre; do the prisoners spend more than 24 hours in the solitary confinement; ventilation and airing in closed rooms; have the prisoners access to the sanitary facilities)**

**6.2. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter**

### 6.1.1.

All of the interviewed prisoners are generally satisfied with the quality, quantity and variety of meals. Some of them state that lunch and dinner are too early so that they usually are hungry during the night. Regarding the special nutrition for particular category of prisoners, the interviewed are informed about the possibility of having these kinds of meals but they are of the opinion that the administrative procedure is too complicated.

Taking into account the special nutrition regarding the religion some of the interviewed stated that this is actually possible whereas most of them are not informed about that possibility because they are not included within that special category. During the year 2007, the prisoners of Islamic faith were possible to have meals in accordance to their religion beliefs.

The nutrition budget in 2007 (1 Euro - aprox. 80,00 diners)

According to the law on budget of Republic of Serbia for the year 2007, for Administration for the Execution of Penitentiary Sanctions it was granted 46.000.000,00 diners out of which 20.825.000,00 diners were in plan from the centralized supplies and 27.175.000,00 diners from own supply means.

This plan was carried out with certain variation, so that the total nutrition expenses for prisoners in 2007 were 42.405.025,00 diners:

- from the centralized supplies 18.580.153,00 diners (canned food, flour, rice, oil,...)
- By own supply means 16.545.325,00 diners
- By producing food using own economy 7.279.547,00 diners

Two different menus are prepared: regular and diet-diabetic. The approximate nutrition value of the regular meals is 13 616 J, whereas of the diet-diabetic is 13 200 J. The prisoners have three meals a day. If it isn't possible to prepare hot meals the prisoners have dry ones.

### 6.1.2.

Taking into account the lighting of the rooms, the interviewed prisoners disagree about whether the lighting is good enough or not, and it is possible that it depends of the dormitory where the prisoners are situated (detailed description of buildings and rooms are given in the specific chapter). As far as ventilation is concerned there is an impression of the possibility (to open the windows themselves) that also depends of the dormitory where the prisoners are situated.

The interviewed prisoners are of the opinion that there isn't enough number of toilets and shower baths. They state that in the elderly ward there are two shower baths, two faucets and two toilets. The hygiene at the sanitary facilities is being kept by the prisoners themselves.

The prisoners at Increased Supervision Department are able to take a shower once a week in groups. At A and B dormitories they can take a shower whenever they like but at dormitory C it depends on the accuracy of facilities (if there is enough pressure in the system). They use their own hygiene supplies, shampoo, shower cream and soap. The exceptional are those needy group of prisoners who are given hygiene supplies by the penitentiary. The answers regarding the possibility of using shower baths vary between once a week to possibility of taking a shower every day during the summer.

The bedding used by the interviewed prisoners belongs to the penitentiary and it is changed in 15 days period. The bedding is washed in the laundry and is taken by the prisoners themselves. The clothes are washed by the prisoners themselves and are dried on the wire during the summer and on the radiators during the winter. The prisoners state that they wear their own

clothes besides uniforms. The prisoners themselves buy the washing powder in the canteen. The penitentiary provides sanitary facilities for the penitentiary rooms and buildings.

### **6.1.3.**

Besides the overall crowded capacity of the penitentiary the specific problem is a huge number of prisoners at the Increased Supervision Department. There are three and in some places four prisoners in consolitary confinement.

An additional cause of jeopardizing the privacy and personal dignity of the prisoners at Increased Supervision Department are the toilets at the solitary confinement being without any doors or partition walls.

It should be particularly taken into account the fact that there are prisoners at the Increased Supervision Department situated on their request in order to protect themselves from jeopardizing factors at other dormitories.

In this regard it is obvious that there is a lack of accommodation capacity needed for distinguishing different categories of prisoners.

The prisoners do not spend 24 hours or more indoors which complies with the national standards. The ventilation and amount of airing available indoors is adequate except for the Special Supervision department due to the factors previously mentioned.

The hygiene and sanitary facilities are available but only to the prisoners responsible for that job.

## 6.2. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter

### MATERIAL CONDITIONS

\* *European Prison Rules*

\*\* *Commentary to Recommendation Rec (2006) 2 of the Committee of Ministers to Member States on the European Prison Rules*

\*\*\* *Law on Execution of Prison Sanctions*

#### Food

#### 4.

\* Prison conditions that infringe prisoners' human rights are not justified by lack of resources.

#### \*\* Rule 4

It sometimes happens that governments are accused of treating their prisoners better than other members of society. Although this accusation is rarely true in practice, Rule 4 is designed to make it clear that the lack of resources cannot justify a member state allowing prison conditions to develop that infringe the human rights of prisoners. Nor are policies and practices that routinely allow such infringements acceptable.

#### 22.1

\* Prisoners shall be provided with a nutritious diet that takes into account their age, health, physical condition, religion, culture and the nature of their work.

#### 22.2

\* The requirements of a nutritious diet, including its minimum energy and protein content, shall be prescribed in national law.

#### 22.3

\* Food shall be prepared and served hygienically.

#### 22.4

\* There shall be three meals a day with reasonable intervals between them.

#### 22.5

\* Clean drinking water shall be available to prisoners at all times.

#### 22.6

\* The medical practitioner or a qualified nurse shall order a change in diet for a particular prisoner when it is needed on medical grounds.

#### \*\* Rule 22

Ensuring that prisoners receive nutritious meals is an essential function of prison authorities. The change of the heading to —nutrition“ from —food“ reflects this change of emphasis. There is no prohibition of self-catering arrangements in the Rule, but where there are such arrangements they must be implemented in a way that enables prisoners to have three meals daily. In some countries prison authorities allow prisoners to cook their own meals, as this enables them to approximate a positive aspect of life in the

community. In such cases they provide prisoners with adequate cooking facilities and enough food to be able to meet their nutritional needs.

Rule 22.2 now specifically obliges national authorities to embody the requirements for a nutritious diet in national law. These requirements would have to reflect the nutritional needs of different groups of prisoners. Once such specific standards are in place, internal inspection systems as well as national and international oversight bodies will have a basis for determining whether the nutritional needs of prisoners are being met in the way that the law demands.

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### **Article 70**

Prisoner has a right to nutrition adequate to maintain his good health and stamina, to three meals a day whose energetic value must not be less than 12.500 J

Prisoner who performs hard work, out patients, pregnant women and women who have recently given birth, have right to nutrition specified by a doctor.

The prisoner is provided nutrition, taking care of his religious beliefs, and according to the possibilities of the Penitentiary.

Doctor or other professional checks up the quality of nutrition before delivery of meals and writes his findings in adequate book.

### **Article 71**

Fresh water must be accessible to a prisoner, at any time.

Health properties of food and water in Penitentiarys are regularly monitored.

### Lighting and ventilation,...

#### **18.1**

- \* 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.

#### **18.2**

- \* In all buildings where prisoners are required to live, work or congregate:
  - b. the windows shall be large enough to enable the prisoners to read or work by natural light in normal conditions and shall allow the entrance of fresh air except where there is an adequate air conditioning system;
  - c. artificial light shall satisfy recognised technical standards; and
  - d. there shall be an alarm system that enables prisoners to contact the staff without delay.

#### **18.3**

- \* Specific minimum requirements in respect of the matters referred to in paragraphs 1 and 2 shall be set in national law
- \*\* This Rule concerns accommodation. Developments in European human rights law have meant that rules about accommodation have to be strengthened. Conditions of accommodation collectively, and overcrowding in particular, can constitute inhuman or degrading treatment or punishment and thus contravene Article 3 of the ECHR. This has now been fully recognised by the European Court of Human Rights in a number of decisions (See, for example, Kalashnikov v Russia (appl. nr. 47095/99  $\alpha$  15/072002)). Moreover, the authorities have to consider the special needs of prisoners: to



accommodate a severely disabled person in prison without providing additional facilities may amount to inhuman or degrading treatment (Price v United Kingdom -appl. nr. 33394/96 œ 10/07/2001).

Physical accommodation includes both space in cells and issues such as access to light and air. The importance of access to natural light and fresh air is reflected in the separate Rule 18.2 and underlined by the CPT in its 11th General Report [CPT/Inf (2001)16] at para. 30. Windows should not be covered or have opaque glass. It is recognized that in Northern Europe it may not always be possible to read or work by natural light in winter. Rule 18 includes some new elements. The first, in Rule 18.3, is intended to compel governments to declare by way of national law specific standards, which can be enforced. Such standards would have to meet wider considerations of human dignity as well as practical ones of health and hygiene. The CPT, by commenting on conditions and space available in prisons in various countries has begun to indicate some minimum standards. These are considered to be 4m<sup>2</sup> for prisoners in shared accommodation and 6m<sup>2</sup> for a prison cell. These minima are, related however, to wider analyses of specific prison systems, including studies of how much time prisoners actually spend in their cells. These minima should not be regarded as the norm. Although the CPT has never laid down such a norm directly, indications are that it would consider 9 to 10m<sup>2</sup> as a desirable size for a cell for one prisoner. This is an area in which the CPT could make an ongoing contribution that would build on what has already been laid down in this regard. What is required is a detailed examination of what size of cell is acceptable for the accommodation of various numbers of persons. Attention needs to be paid to the number of hours that prisoners spend locked in the cells, when determining appropriate sizes. Even for prisoners who spend a large amount of time out of their cells, there must be a clear minimum space, which meets standards of human dignity.

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### **Article 66**

Prisoner has a right to accommodation that fulfills contemporary hygienic conditions and local climate conditions

### **Article 67**

Rooms in which the prisoners live and work must be clean, dry, aerated, heated and with enough light, both natural and artificial that enables reading and work, without any sight obstructions. The dormitory must be spacious enough so that each prisoner has at least 8 cubic meters of space.

Rooms must have adequate sanitary installments and means for personal hygiene.

Every prisoner has a right to personal (separate) bed.

### Sanitary facilities

#### **19.1**

- \* All parts of every prison shall be properly maintained and kept clean at all times.

#### **19.2**

- \* When prisoners are admitted to prison the cells or other accommodation to which they are allocated shall be clean.

### 19.3

- \* Prisoners shall have ready access to sanitary facilities that are hygienic and respect privacy.

### 19.4

- \* Adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene.

### 19.5

- \* Prisoners shall keep their persons, clothing and sleeping accommodation clean and tidy.

### 19.6

- \* The prison authorities shall provide them with the means for doing so including toiletries and general cleaning implements and materials.

### 19.7

- \* Special provision shall be made for the sanitary needs of women.

#### \*\* Rule 19

Rule 19 emphasises both cleanliness of institutions and the personal hygiene of prisoners. The significance of institutional hygiene has been underlined by ECtHR which has held that unhygienic, unsanitary conditions, which are often found in combination with overcrowding, contribute to an overall judgment of degrading treatment:

Kalashnikov v Russia (appl. nr. 47095/99 æ 15/07/ 2002; Peers v Greece (appl. nr. 28524/95 æ 19/04 2001); Dougoz v Greece (appl. nr. 40907/98 æ 06/03/2001). The CPT has also noted —Ready access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a humane and environment.“ (2General Report [CPT/Inf (92)3] at para. 49).

There is a link between institutional and personal hygiene as the prison authorities must enable prisoners to keep themselves and their quarters clean by providing them, as required by Rule 19, with the means to do so. It is important that the authorities take overall responsibility for hygiene, also in the cells where prisoners sleep, and that they ensure that these cells are clean when prisoners are admitted. Conversely all prisoners can, if able to do so, be expected at least to keep themselves and their immediate environment clean and tidy. Although the Rules do not deal directly with beards, as they did in the past, personal cleanliness and tidiness include proper care of hair, including the trimming or shaving of beards, for which provision must be made by the authorities. However, heads should never be shaved as matter of routine or for disciplinary reasons, as this is inherently humiliating (see Yankov v Bulgaria (appl. nr. 39084/97 -11/12/2003).

Provision for the sanitary needs of women referred to in Rule 19.7 includes ensuring that women have access to sanitary protection as well as means of disposal. Provision also needs to be made for pregnant or breast feeding women to bath or shower more often than twice a week.

In the context of hygiene access to various facilities is of particular importance. These include sanitary facilities, and baths and showers. Such access requires the close attention of the prison authorities to ensure both that the facilities are available and that access to them is not denied.

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## Article 69

Prisoners' hygiene and hygiene in the rooms are regularly monitored in rooms.

### Clothing and bedding

**21.**

- \* 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.

**\*\*Rule 21**

Rule 21 is largely self explanatory. Beds and bedding are very important to prisoners in practice. —Bedding“ in this Rule includes a bed frame, mattress and bed linen for each prisoner.

**20.1**

- \* Prisoners who do not have adequate clothing of their own shall be provided with clothing suitable for the climate.

**20.2**

- \* Such clothing shall not be degrading or humiliating.

**20.3**

- \* All clothing shall be maintained in good condition and replaced when necessary.

**20.4**

- \* Prisoners who obtain permission to go outside prison shall not be required to wear clothing that identifies them as prisoners.

**\*\*Rule 20**

The issues of clothing and bedding are closely related to those of hygiene: inadequate clothing and unsanitary bedding can all contribute to a situation which may be held to contravene Article 3 of the ECHR. The specific provisions of Rules 20 and 21 indicate to the prison authorities what active steps must be taken to avoid such a situation. Cleanliness extends to a requirement that underclothes, for example, are changed and washed as often as hygiene may require.

Note that Rule 20 must be read with Rule 97 which explicitly gives untried prisoners the choice of wearing their own clothes. The Rules do not stipulate whether or not sentenced prisoners should be compelled to wear uniforms. They do not outlaw or encourage such a practice. However, if sentenced prisoners are compelled to wear uniforms of any kind, they must meet the requirements of Rule 20.2.

This Rule places a new emphasis on prisoner’s dignity in respect of the clothing that must be provided. As it applies to all prisoners, it means that any uniforms that may be provided to sentenced prisoners should not be degrading and humiliating: uniforms that tend towards the caricature of the ”convict“ are therefore prohibited. Protection of prisoners’ dignity also underlies the requirement that prisoners who go outside the prison should not wear clothes that identify them as prisoners. It is particularly important that when they appear in court they are provided with clothing appropriate for the occasion.

Implicit in the requirement in Rule 20.3 that clothing should be maintained in good condition, is that prisoners should have facilities for washing and drying their clothes.

**\*\*\***

**Article 67**

Every prisoner has a right to personal (separate) bed.

**Article 72**

Prisoner has a right to free underwear, clothes and shoes, which are adequate for local climate conditions.

When work that he performs requires, prisoner has a right to special work clothes, shoes and equipment.

### Article 73

Prisoners' clothes must not seem degrading or humiliating.

Director of Directorate can allow the prisoners to wear their own clothes in the open-type Penitentiary or open department of the Penitentiary.

### Overcrowding and accomodation

#### 18.1

- \* 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.

#### 18.3

- \* Specific minimum requirements in respect of the matters referred to in paragraphs 1 and 2 shall be set in national law.

#### 18.6

- \* Accommodation shall only be shared if it is suitable for this purpose and shall be occupied by prisoners suitable to associate with each other.

#### \*\*Rule 18

This Rule concerns accommodation. Developments in European human rights law have meant that rules about accommodation have to be strengthened. Conditions of accommodation collectively, and overcrowding in particular, can constitute inhuman or degrading treatment or punishment and thus contravene Article 3 of the ECHR. This has now been fully recognised by the European Court of Human Rights in a number of decisions (See, for example, Kalashnikov v Russia (appl. nr. 47095/99  $\alpha$  15/072002)). Moreover, the authorities have to consider the special needs of prisoners: to accommodate a severely disabled person in prison without providing additional facilities may amount to inhuman or degrading treatment (Price v United Kingdom -appl. nr. 33394/96  $\alpha$  10/07/2001).

Physical accommodation includes both space in cells and issues such as access to light and air. The importance of access to natural light and fresh air is reflected in the separate Rule 18.2 and underlined by the CPT in its 11th General Report [CPT/Inf (2001)16] at para. 30. Windows should not be covered or have opaque glass. It is recognized that in Northern Europe it may not always be possible to read or work by natural light in winter. Rule 18 includes some new elements. The first, in Rule 18.3, is intended to compel governments to declare by way of national law specific standards, which can be enforced. Such standards would have to meet wider considerations of human dignity as well as practical ones of health and hygiene. The CPT, by commenting on conditions and space available in prisons in various countries has begun to indicate some minimum standards. These are considered to be 4m<sup>2</sup> for prisoners in shared accommodation and 6m<sup>2</sup> for a prison cell. These minima are, related however, to wider analyses of specific prison systems, including studies of how much time prisoners actually spend in their cells. These minima should not be regarded as the norm. Although the CPT has never laid down such a norm directly, indications are that it would consider 9 to 10m<sup>2</sup> as a desirable size for a cell for one prisoner. This is an area in which the CPT could make an ongoing contribution that would build on what has already been laid down in this regard.

What is required is a detailed examination of what size of cell is acceptable for the accommodation of various numbers of persons. Attention needs to be paid to the number of hours that prisoners spend locked in the cells, when determining appropriate sizes. Even for prisoners who spend a large amount of time out of their cells, there must be a clear minimum space, which meets standards of human dignity.

Another important innovation is Rule 18.4, which provides for national strategies enshrined in law to deal with overcrowding. Prison populations are as much a product of the operation of criminal justice systems as they are of crime rates. This needs to be recognised both in general criminal justice strategies and in specific rules relating to what happens when prisons are threatened with a level of overcrowding that would result in a failure to meet the minimum norms that governments are required to set by Rule 18.3. Rule 18.4 does not stipulate how overcrowding should be reduced. In some countries for instance new admissions are restricted or even stopped when maximum capacity has been reached. Prisoners whose continued liberty does not constitute a serious danger to the public are put on a waiting list. A strategy to deal with overcrowding requires at least the establishment of clear maximum capacity levels for all prisons. Recommendation (99)22 of the Committee of Ministers on Prison Overcrowding and Prison Population Inflation should be considered both when overall strategies and when specific national rules to prevent overcrowding are developed.

Rule 18.5 retains the principle of single cells, which, especially for long term and life prisoners, constitute their homes, although it is not always followed. (Rule 96 emphasizes that the principle applies in a similar way to untried prisoners.) Some departures from this principle are merely ways of dealing with overcrowding and are unacceptable as long-term solutions. Existing prison architecture along with other factors may also make it difficult to accommodate prisoners in single cells. However, when new prisons are built the requirement of accommodation in single cells should be taken into account.

The Rule recognises that the interests of prisoners may require an exception to the principle of housing them in single cells. It is important to note that this exception is limited to instances where prisoners would benefit positively from joint accommodation. This requirement is underlined by Rule 18.6, which stipulates that only prisoners who are suitable to associate shall be accommodated together. Non-smokers should not be compelled to share accommodation with smokers, for example. Where accommodation is shared, the occurrence of any form of bullying, threat or violence between prisoners should be avoided by ensuring adequate staff supervision. The CPT has pointed out (11th General Report [CPT/Inf (2001)16] at para. 29) that large-capacity dormitories are inherently undesirable. They hold no benefits for prisoners that are not outweighed by single cells for sleeping purposes. Single cells at night do not imply a limit on association during the day. The benefit of privacy during sleeping hours needs to be balanced with the benefit of human contact at other times (see Rule 50.1).

The importance of ensuring appropriate accommodation is further strengthened in the new version of Rules by treating it in combination with issues of allocation. The allocation rules have been reinforced by stating clearly and simply the various categories of prisoners that must be separated from each other.

The requirement in Rule 18.8.c for separating older prisoners from younger prisoners should be read in combination with the Rule 11, which requires that persons under the age of 18 years should be kept out of adult prisons entirely. The separation of young prisoners from adults includes the peremptory international requirement, set by Article 37.3(c) of the United Nations Convention on the Rights of the Child, for the separation of children and adults: children in that context are defined as any person under the age of 18 years. Rule 18.8.c is intended also to provide for the additional separation of younger

prisoners, sometimes referred to as young adults, who may be older than 18 years of age, but who are not yet ready to be integrated with other adult prisoners: this is in line with the more flexible definition of a juvenile in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

It is now recognised that the separation between various categories of prisoners referred to in Rule 18.8 needs not always be rigid. However, these forms of separation were introduced to protect potentially weaker prisoners, whose vulnerability to abuse has not ceased. Rule 18.9 provides for relaxation of the strict separation requirements but limits it to cases where prisoners consent to it. In addition such relaxation must form part of a deliberate policy on the part of the authorities that is designed to benefit prisoners. It should not merely be a solution to practical problems, such as overcrowding.

Rule 18.10, which requires that the least restrictive security arrangements compatible with the risk of prisoners escaping or harming themselves or others should be used, also allows for the protection of society to be taken into consideration when deciding on appropriate accommodation.

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### **Article 66**

Prisoner has a right to accommodation that fulfills contemporary hygienic conditions and local climate conditions.

Classification of a prisoner in the premises for collective stay and dormitories will be conducted with careful estimation of all the circumstances and data for which the evidence is made in the Admission Service, especially bearing in mind age, personal nature and tendency, as well as other characteristics upon which positive mutual influence and lack of danger of mutual physical and mental menace depend.

Disabled prisoner has a right to accommodation compatible to type and level of his disability.

### **Article 67**

Rooms in which the prisoners live and work must be clean, dry, aerated, heated and with enough light, both natural and artificial that enables reading and work, without any sight obstructions.

The dormitory must be spacious enough so that each prisoner has at least 8 cubic meters of space.

Rooms must have adequate sanitary installments and means for personal hygiene.

Every prisoner has a right to personal (separate) bed.

## **7. Prison staff**

### **7.1.**

#### **7.1.1. Generalities**

**(reviewing according to services, number and correlation with a number of prisoners; the criteria for selection of prison staff - the level of education and personal profile; training after appointment; the average salary)**

#### **7.1.2. Treatment service**

#### **7.1.3. Security (service)**

#### **7.1.4. Medical service**

### **7.2. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter**

### 7.1.1.

Total number of employees is 453 (09.07.07), Categories of employees are as follows:

- Warden: 1
- Security Service: 248 employees; 1 employee: 4 prisoners

In the night shift 40 security officers are engaged, the prisoners being about 1.100 to 1.200.

- Treatment Service: 21 employees; 1 treatment officer: 45 prisoners.
- Medical Service: 17 employees; 1 employee: 55 prisoners
- General affairs department: 52 employees.; 1 employee: 18 prisoners.
- Training and employment department: 114 employees; 1 employee: 8 prisoners

Ratio between total number of employees and prisoners is 453 to 937 (= 1:2)

Average salary in April 2007 was 27.513,88 diners

Criteria for engagement/level of education are defined by a Rule book on internal arrangement and systematization of work-positions in the Department for the execution of institutional sanctions. Conclusion POV.05 No. 006/2007 from 25.01.2007.

Training after employment is done at adequate seminars i.e. courses, depending on the working position or department in the Penitentiary.

Listing of average net salary per titles/work positions. 19 different title categories were defined and average net salary varies from 14.300,07 to 79.516,01 diners. (05.2007)

### 7.1.2. **The Treatment Service**

Treatment service consists of: 14 treatment officers, assisted by 4 sociologists, volunteers from the National employment service; 1 person responsible for cultural and exercise and recreation activities; two chiefs; 1 social worker; one psychologist and one executive officer.

The Head of the department is responsible for the functioning of the service who responds to the warden of the penitentiary. The functioning of the treatment service as well as the department for personality examination are in charge of the chiefs of these services responding to the Head of the department. The treatment officers and members of the team inside the department for personality analyses response to the chiefs of the departments. The monitoring of the treatment officers' administration is performed once a month.

In their work the treatment officers keep the following records: a register, the records on the flow of the prisoners in the treatment group, records on scheduled and unscheduled interviews, records on evaluation of the influence upon the punishment for an annual and six month period, the records of opinions required by judicial authorities and ministry, weekly, monthly and annual reports and plans.

There is a dim sight that all other services should conciliate their work in regard to the treatment service as a key service in order to accomplish the basic aim of the Law on execution of penal sanctions - the treatment of the prisoners.

The restrictive cause is an insufficient number of treatment officers compared to the overall number of prisoners so that it is absolutely necessary to employ drastically more treatment officers, psychologists as being suggested, in order to improve the function of the services. In



addition, an adequate training should be performed due to enabling the group work of the treatment officers.

In order to accomplish the basic aim of the Law on execution of penal sanctions the systematic activities should be pre-arranged to assist the prisoners in returning to free society after release.

Although there is no legal act concerning this matter, it is not being distinguished as a specific, very important section in the process of resocialization and prevention of repeated offence to the penitentiary. Every change, even if it is getting much better, is a stress due to the adaptation to a new way of living which is convenient for the prisoner who spent a long period of time in penitentiary conditions being away from a family and usual surrounding.

Regarding the repeated offence to the penitentiary no particular attention is given in terms of that the repeated offence to the penitentiary is not only the total number of recommitted crimes, but the set of causally advised internal and external changes related of the imprisoned. According to this, it is considered needed for the returned prisoner to be taken over and again treated by the same treatment officer as he was during the previous servitude, considering it as a rule and not as eventuality.

### **1) Opinions of the interviewed treatment officers regarding the treatment service**

Nine out of ten treatment officers have been interviewed (22/02/08).

All treatment officers interviewed by the team members are satisfied with their work, salary as well as the payment constancy and overtime work refund.

There aren't any dissatisfied with the cooperation with other services. The cooperation with the security service is considered the best and the cooperation with the medical service is not so much efficient.

The treatment as a work aspect of the treatment officers is being labored at the moment due to a number of prisoners treated by each and every treatment officer (the workgroups treated by the interviewed treatment officers consist of 65 to 84 prisoners). The team is of the opinion that those treatment groups should be reset to 40 prisoners at the most in order to accomplish the actual work quality as well as to evaluate their work efficiency.

Working with more than 40 prisoners in a group the treatment officer is not able to respond to the requests of his job description. In addition, there aren't any technical facilities (computers) so that their work seems to be only administrative. The technical conditions have being improved since the visit carried out on 22/02/08 when in the following month period three notebook and 20 used computers have been purchased.

Approximately half of the interviewed is satisfied with the work organization and the rest is of the opinion that they would be much more engaged in their work if the following conditions are fulfilled: better communication between the services, improved technical facilities, the number of groups treated by the treatment officer is reasonable.

It recognized that the treatment service is very important for the functioning of the penitentiary.

The interpersonal relations in the service are good.

The interviewed treatment officers feel that the warden and the head officer take good care of the service. They make regular contacts with them, they are always available and they understand the difficulties the treatment officers face to.

The workday of the treatment officers starts with a meeting after which they make already scheduled half an hour interviews with 2-3 prisoners. The next regular interview with the same prisoner is made not earlier than a month. The rest of the working day is planned for giving help

to the prisoners with actual problems regarding writing submissions to the authorities in and out of the penitentiary. The number of the contacts made is 10 to 15 prisoners a day.

The individual approach of the treatment officer working with each of the prisoners is based on the personality analyses done by the Admission service.

The treatment officers were not specially trained before starting their service in the penitentiary. They attend various seminars.

The interviewed treatment officers consider that in the preparation for the release of the prisoners the interview with the prisoner should be included three days before being released from the penitentiary related to family matters and possible difficulties the prisoner may come across after the release. This also includes making contacts with the Centre for Social Work in terms of providing support in giving a certain short run financial aid. It is a pleasant acknowledgment that 7 out of 9 treatment officers meet the families of the prisoners who they work with which is one of their job demands considering it favorable for gaining some relevant information about the needs and difficulties of the prisoners.

The potential incidents between informal groups are resolved by removing in due time.

Summing up, the interviewed treatment officers do not experience their work as a high job-related stress. All of them state there haven't been any physical assault towards the treatment officers but there have been threats. They are not afraid of the assault.

One of jeopardized situations are affective states of the prisoners under the influence of drugs and shortly after the prisoner has been self-injured.

The subjective feeling of safety of the treatment officers, as stated by the interviewed, depends on the dormitory they are located in. They don't turn to superior officers in order to bring safety to the higher extent because they think it is not possible due to the circumstances.

In general, the interviewed consider that there is no evidence of corruption in their service whereas some of them think there is corruption in other services but there isn't enough evidence.

The treatment officers are of the opinion that the relationship between them and the prisoners is acceptable.

The prisoners trust the treatment officers and they ask them for help and support related to personal problems and difficulties they may have during their residence in the penitentiary.

The treatment officers consider the prisoner as a person who needs help.

The treatment officers state there is no prejudice toward the prisoners except for some minor exceptions of prejudice made toward prisoners who committed the crime against sexual freedom, but they try not to manifest it in working with them.

The treatment officers consider that there aren't, or it isn't recognizable, any privileges for certain group of prisoners.

The interviewed are of the opinion that they accomplish the aim of the treatment according to the plan and work programme of the Law on execution of penal sanctions. It is not recognizable that the law is not the frame of possible functioning regarding optimum and maximum, but minimum and the list of prohibitions. The treatment officers state that they themselves often create their work in terms of the plans given. They use the following techniques: interviews, consulting the prisoners, observation and rarely testing.

## **1) Opinions of the prisoners regarding the Treatment service**

5 prisoners have been interviewed

In regard to the existence of corruption and the way it is manifested, the interviewed give different opinions from stating there isn't any corruption, others being indirectly informed about its existence, and some of them stating that the corruption exists. On the other hand there is an overall opinion that drug dealing, mobile phones and other prohibited selling undoubtedly exist.

The prisoners say that they regularly meet with the treatment officers once in three months, being more often due to the need, on their demand and regarding the subjects not related to treatment.

The prisoners have no idea what kind of preparation they should have before the release except for being transferred to a better dormitory than the one they are located in. They think they don't have any perspective after serving their sentence and that it is not much possible for them to get a job unless they originate from a wealthy family.

Any of the treatment officers hasn't been acquainted with the families of the prisoners. One of the prisoners think it would be a good idea whereas most of them haven't thought about it.

The interviewed prisoners feel there is a lack of warmth showed by the treatment officers. They would also like to talk to them more.

To the interviewed ones a good treatment officer is the one who talks to the prisoners, a good listener and adviser, a helper and more important an honest person.

At the moment there is an opinion that the treatment officers don't know the interviewed enough and that they would show more interest for their personal problems if they work with smaller groups.

The treatment officers are considered as unbiased.

The relationship between the treatment officers and the prisoners is fairly good.

Being asked about the addressing of the treatment officers, they say they are seen like human beings. They are addressed by name although there are cases when they are addressed by registry number.

### **3)The interview with the Head of the Treatment service**

The Head officer is of the opinion that the coordination with other services is good being slightly minor with the medical service whereas being worst with Deligrad due to the lack of work. The service is highly quoted due to the coordinating work with the prisoners in terms of the treatment officers being involved in the process of making all decisions related to the prisoners. The coordination with the director is good.

There is an opinion that the current organization of the service despite the present difficult circumstances (insufficient number of treatment officers compared to the number of prisoners and the lack of technical facilities) is good. It is necessary to employ 5 more treatment officers. In these working circumstances the priority is the safety of the prisoners.

The Head of the treatment service states there is no corruption existing in the service. There are no privileged prisoners and the potential conflicts between informal groups and/or prisoners are prevented being removed to different wards.

Interesting is the opinion of the Head of the treatment service, being matched with the statements of the prisoners, that false and unreal promises given by the treatment officers without any possibility of being fulfilled are considered as a venture.

### **7.1.3. The security service**

#### **1)About security service**

At the time of the interview (09/07/08) there were 248 officers in the service which is 4 prisoners per 1 officer.

The Security service is strictly hierarchical with clearly defined duties but without precise and clearly distinguished responsibilities and their content.

In an orderly manner the upmost groups are those of prisoners and officers being at the same time in a constant daily direct contact. Therefore, it was considered that among other issues

it was important to find out about the quality of their interrelation, from both perspectives. The aim of the interviews of the prisoners was to contribute to understanding of the working environment of the officers.

The existing number of security service members implies to the confirmed lack of the employees directly affecting the safety level of the service members as well as the prisoners. Besides the insufficient number of the employees there is a lack of knowledge and skills essential for the qualitative and adequate functions service, according to the international standards. There is a lack of conceived system of continuing, timely manner and constantly available training for the employed in this service beginning at the moment of admission into the service to the retiring. Also, there is a lack of exchanging knowledge and experience among the members of the service from the various penitentiaries in the region as well as the transfer of knowledge and experience from elders to young people.

The safety of the security service employees as well as the prisoners would be at a greater extent if the whole penitentiary were under the video surveillance. The designing task for installing the video surveillance has being done since January 18th, 2008., but we are not informed about whether it is only applied to the solitary confinement, isolation rooms, or to the whole area.

There is an overall opinion of the interviewed members of the security service that the salaries are inadequate compared to the risks and heavy duty conditions. Besides, it is noted that there aren't any records about the residential and social status of the employees, and hat there isn't any possible stimulation. Due to the heavy duty conditions, the high extent of risk and the constant exposure to job-related stress, there is an opinion that the above mentioned possibilities would positively affect the members of the service and the function of the service would be greatly improved.

## **2) The opinions of the officers interviewed about the Security service**

There were altogether 14 interviewed officers chosen by the random sample method from the daily record of the security service employees with the date of the visit (January 18th, 2008.)

The relation between the prisoners and security service employees is on the whole assessed as correct and professional with certain restraints in terms of that the quality of relation depends on prisoners' behavior. The prisoners rarely confide about their personal problems they have out of the penitentiary while they more often ask advice from the security service employees about certain issues regarding their residence at the penitentiary. For example, this is related to the problems or possible conflicts of the prisoners as well as the possibilities of using certain special facilities. .

- The preview of the interviewed officers about their position at the Security service of the penitentiary, the relation between this and the other services as well as the position of the Security service at the penitentiary system:

All of the interviewed are of the opinion that the Security service is the most important one at the penitentiary system. There is a prevailing opinion that the Security service is in a good relation with the other services due to effective job organization itself. The best cooperation is with the Treatment service which they are constantly referred to. The less evident is the relation with the Medical service. Regarding the cooperation with the other services they are not constantly referred to, the relations are considered as being correct.

All of the interviewed consider the interrelations among the members of the service are good. Regarding their financial status all of them consider their salaries small and insufficient

compared to the heavy duty conditions and responsibilities and that the only vantage is the fact that the salaries are being regular.

The interviewed are of the opinion that the Head of the service takes care of the employees without stating the way of doing that. Regarding the Head of the security service the relation is considered correct and professional and that his service is constantly advisable when it is needed.

Regarding the personal safety almost none of the interviewed feel completely safe during their service. According to the opinion of the interviewed the lowest level of safety is at the "C" department not only due to the fact that there are most of the drug users but also due to the insufficient number of security service employees compared to the number of prisoners at the department. According to the opinion of the interviewed especially dangerous situations are those resulting at the moment of fight among the prisoners, during the counting as well as isolating the imprisoned and conducting them out of the penitentiary area. The drug addicts are considered to be potentially dangerous group.

The increased safety extent is related to the increased number of security service employees, less number of prisoners at a department as well as the employed prisoners.

Some of the interviewed required from the superiors taking certain measures in making the safety extent higher. According to their opinion this is possible to perform by increasing the number of Security service employees at the recognisable and potentially crucial situations, installing video surveillance, and above all purchasing the proper devices for interconnection. After submitting our report (18/01/08) in the first place related to the Security service 21 motorolas were purchased. According to the statement of the Head of the Security service this is, among with existing ones, the sufficient number for providing the safety of the employees in the security service in the circumstances in which their safety directly depends on their ability to communicate with the others employed in the service.

All of the interviewed stated that when they come into knowing of any crucial information related to the jeopardizing the safety of anyone at the penitentiary, the notice is given to the superior. Also, the superior is informed about any information gained by the members of the Security service related to informal groups.

Searching of the prisoners and dormitories in order to find potential weapons is done regularly based on certain clues and it is being recorded. The prisoners use door handles, broomsticks, spoons, radiator or bed bars, razor blades as weapons.

The interviewed asked about the possible corruption existence mainly states that they are not informed, some states that it is possible, and the others implies or states the corruption is present as it is case with any other service.

On the whole, they consider there are neither privileged individuals nor groups of prisoners whereas some of the interviewed are of the opinion there are privileged individuals but according to the team they are not aware of the fact what the privilege actually is.

A small number of the interviewed consider there is a prejudice toward the Muslims and that it is resulted in a kind of rude verbal addressing. They dislike a group of drug addicts due to the objective fear of their aggressiveness and possible spreading of some of the infective diseases. They feel no need to treat the members of those groups any differently but in compliance with law.

The searching of the security service employees is performed occasionally lately being more usual than before.

### **3) The opinion of the prisoners about the security service**

The interviewed prisoners, 5 of them, were chosen from documentation of disciplinary procedure against the imprisoned taking into account as the only criterion that the imprisoned in the disciplinary procedure were found guilty.

The imprisoned address the Security service employees with a certain respect.

The interviewed imprisoned either are not able to mention anything they like about the members of the Security service or they emphasize their correctness. Regarding what they dislike about the members of Security service they mainly agree in the opinion that often members of Security service use force without particular reason and depending on their daily mood. Although the number of examinees is negligible these opinions are taken into account because they match with the statements of the interviewed prisoners during a number of visits.

Being without almost any exception the interviewed don't have enough confidence in the officers to address them for any crucial advice.

It can be stated that the impression of the interviewed prisoners is that there is a lack of humane respect of the Security service towards the interviewed. The Security service's correct attitude toward the prisoners depends only on the extent of respecting written and unwritten rules at the penitentiary.

Regarding violence among the prisoners which the members of the security service should deal with in the context of their work, it mainly results from unsolved indebted relations in terms of forbidden issues at the penitentiary like drugs or mobile phones. The frequency of physical revenge among the prisoners is various depending on a department in which they are situated. The important cause contributing to the aggression among the prisoners is a lack of the well organized spare time

All of the interviewed are of the opinion that the corruption exists and directly influences the relationship between the staff and the prisoners as well as the functioning of the privileged groups. The privileged groups are considered to be present and that they directly result from cooperation of certain members of the Security and Treatment service with the certain members of these groups and that the used privileges are various.

There is a prevailing opinion that there are prejudices of the security officers towards the prisoners in the first place in terms of being the members of the group in the status of being sentenced for a certain crime, during their servitude. There are also prejudices towards the sort of crime committed because of which certain prisoners are at the penitentiary.

#### **4) The interview with the Head of the security service**

Taking into account the interview with the Head of the Security service it is obvious that this service is hierarchically organized in compliance with the law and relatively effectively integrated into the penitentiary system. According to the opinion of the Head of the service it is of great importance for the functioning of the penitentiary due to the fact that it is the largest and the only service engaged 24 hours a day. He is of the opinion that the functioning of the service is relatively good rated and that he is absolutely convinced that there are possibilities for a raise in pay due to the heavy duty conditions. He considers the basic problem for improvement of the service the financial aspect and, in the first place, the insufficiency of technical facilities as well as the House rules incompatibility with the Law on execution of Penal Sanctions.

#### **5) Mechanism of Security service's work control:**

The control of the Security service is performed in such a way that the officials being at the hierarchically higher position monitor those who are subordinated. The organization chart is as like:

The executive trainees are at the lowest hierarchical position, the executives are at the higher extent, then the senior executives, the supervisors, the senior supervisors, the senior official with a schedule of defense, the organizer of the security service and finally the Head of the service

During the routine of the Security service the supervisors (superintendent) control the work of the executives while the work of the supervisors (superintendent) is controlled both by the organizer and the Head of the service. The report on the employees' work in the service is submitted once a year according to which there is a possibility for advancing in the service.

In the case of work omission the supervisors (superintendent) submit official reports to the Head of the service who then determines all necessary facts gained by the others employed in the service as well as the statement of the employee who committed a work omission. If the supervisor (superintendent) is of the opinion that the disciplinary procedure is needed to be performed the Head of the penitentiary is notified about it.

Each and every punishment of the employed in the service is entirely performed through the disciplinary procedure.

According to the official report, during the year 2007 there were 16 disciplinary procedures against the employed in the Security service. Out of total 14 procedures for heavy work omission only one has been related to work omission in terms of not informing the superiors about the applied restraint measures against the imprisoned. The number is pretty small compared not only to the number of performed disciplinary procedures but also even more to the number of employees in the security service. This number is quite unreliable and is the consequence of the lack of controlling mechanisms in which someone out of the security system is included. The procedure related to this particular case was performed due to the request of our team in the case of the imprisoned Draganović which we followed till the expiry date of his sentence.

#### **7.1.4. Health care**

Health care is consisted of a dentistry and medical services. The dentistry includes a dentist and a dental technician. The medical service consists of three general medical practitioners, a specialist for sport medicine, a general medical specialist, a part time practitioner, and nine technicians whereof six are general medical technicians, one sanitary technician and one pharmaceutical technician. There are also practitioners out of the penitentiary employed on call as specialists such as: an internist, twice a month, a surgeon, once a week, an optician, once a week, a radiologist, once in two weeks, biochemical specialist, once in two weeks, and a psychiatrist employed from Monday to Friday, due to the recommendation given during the visitation on February 22, 2008, on establishing the cooperation with the Mental Hospital in Toponica.

The team is of the opinion that the health policy in the penitentiary is necessary to be integrated into the national health policy. This is the only way for the imprisoned to be treated without discrimination, compared with other citizens, in regard to receiving basic medical care.

The weakness of the system is not possible to overcome even if there is maximum demand set up of the practitioners and the highest work quality.

The personnel in this service are not given enough opportunities for professional training and advancing in their practice or specialization, which is their need. This would surely contribute to improvement of medical services and higher health care quality of the imprisoned.

There is no analyst technician who is currently part-time engaged twice a week. There is a need for one general medical practitioner and one full-time engaged psychiatrist.

The medical service is currently disposed of technical conditions needed for cases of urgency. There is no dispensary and resuscitation set as well as the ambulance car fully equipped with previously mentioned sets.

The positive act regarding this service are lectures that are going to be given by the practitioners to the prisoners about the prevention of spreading transferable infectious and sexual diseases.

## **2. Insight to medical records**

The aim of one of the visits was to examine the qualifying and organizational abilities of the medical service in the penitentiary at Niš as well as their competence for applying their knowledge on prisoners without any prejudice. The importance of this service is dual-purpose and it should be always bared in mind. This service:

- Take care of the health of the prisoners
- Records and reports any sign or indication that prisoners may have been ill-treated and tortured

The article 130/ Law on Execution of Prison Sanctions it is stated the obligation of the medical service to examine the prisoner after the restraint measures are implemented. The team members didn't have any access to these reports.

The article 103.6/ Law on Execution of Prison Sanctions/it is stated the obligation of the Medical service to keep special records about injuries of the prisoners. The team members did have access to these records. They were convinced that there was a compatibility between the patients' records of the prisoners and protocol on injuries. This protocol includes all types of injuries regardless the way they have been made. There are the following data: record number, name and surname of the prisoner, registry number of the prisoner in the penitentiary, the date-the hour and the day of the examination; the injuries are classified as slight and severe, made at work or out of work, self-injuring, or injuries caused by the official as well as the practitioner's name and injury description.

We have received records for period September-December, 2007, on numbers individually for each month according to the type and seriousness of injuries. In September there were 13, as well as in October, in November 21, in December 5. During this period there were 14 injuries made at work, out of work 31, self - injured 6, injuries caused by the official 1.

The CHR Niš team is certain that the number of injuries caused by restraint measures is at least 2 due to the fact that the injury of the ex-convict Draganović on October 22, 2007 had not been properly registered nor it was later revised. This implies to the lack of methodology in keeping records in which nobody is responsible for revising defaults made due to the non-compliance of certain members of the medical service.

The method of keeping these records does not include the monitoring of the data validity and as well as revising possible defaults beforehand.

The injury records comply with the data given in medical records. The findings in medical records should be complied with the statements of the prisoners. 16 prisoners were interviewed and they all confirmed that they received medical care after restraint measures were applied.

Assuming that the prisoner can not be sure if (and what) has been written in the medical record, the team member compared the statement of the prisoner with the medical record of the same prisoner. They were the same.

## **3. The opinion of the prisoners on medical service system**

The interviewed prisoners were chosen in the following way:

- The six prisoners whose medical records were randomly chosen from the card file
- The seven from Increased Supervision Department
- The three prisoners who were subjected of restraint measures
- One prisoner who requested an interview with CHR Niš in advance

The prisoners were interviewed on the following subjects, according to the groups of questions:

- a) Access to medical services:



In most of the cases the prisoners stated that the medical practitioners are available, ie the prisoners are examined on their request besides regular weekly examination.

b) Treatment of the medical practitioners

There is an opinion of the prisoners that the practitioners are qualified enough. They were asked if the practitioners showed any concern for their patients and some of the interviewed thought that certain practitioners were not interested enough for the patients pains. One of the prisoners complained about not receiving the adequate therapy regarding the diagnosis established before entering the penitentiary. After making an insight into the medical record of the prisoner the team confirmed that the complaint of the prisoner was not probable.

The overall opinion of the interviewed about the medical service system is favorable but the fact is that the sample of the interviewed is quite small for any conclusion on this subject.

### **3. The interview with the Head of the medical service**

The Head of the service is aware of the fact that there are certain restrictions due to the lack of interference of Ministry of Health into the system of this medical service and by using his knowledge and experience is willing to give contribution to improvement of the service.

### **4. Controlling mechanism of the Medical service system**

According to the existing law the monitoring is carried by the Head of the medical service, the Director of penitentiary by subordination - coordination. Ministry of Justice and Ministry of Health are of the higher authority. Besides these it is possible to provide an external control by different independent organizations and authorities.

There is a lack of readiness of the practitioners employed in the medical service for improvement of the quality of their own service which is possible to bring to a higher level by establishing the internal work efficiency evaluation. This is quite possible due to the small number of employers.

## 7.2. Selection of Articles of EPR and Law on Execution of Prison Sanctions related to Chapter

### PRISON STAFF

\* *European Prison Rules*

\*\* *Commentary to Recommendation Rec (2006) 2 of the Committee of Ministers to Member States on the European Prison Rules*

\*\*\* *Law on Execution of Prison Sanctions*

#### Generalities

76.

- \* Staff shall be carefully selected, properly trained, both at the outset and on a continuing basis, paid as professional workers and have a status that civil society can respect.

\*\*Rule 76

This Rule relates to the selection, training and conditions of recruitment of prison staff. Recruitment is very important. The prison administration should have a clear policy to encourage suitable individuals to apply to work in prisons and to inform them of the required ethical rules.

Many prison authorities have great difficulty in recruiting staff of a high quality. This can be for a variety of reasons. It may be due to low levels of salary. It may be because the standing of prison work in the local community is very low. It may be because of competition from other law enforcement agencies such as the police. Therefore prison administrations should have to pursue an active recruitment policy.

77.

- \* When selecting new staff the prison authorities shall place great emphasis on the need for integrity, humanity, professional capacity and personal suitability for the complex work that they will be required to do.

\*\*Rule 77

This Rule deals with the selection criteria of staff. The prison administration should introduce a clear set of procedures to test the integrity and humanity of the applicants and how they are likely to respond in the difficult situations which they may well face so that to ensure that only those applicants who are suitable are in fact selected to join the prison system.

78.

- \* 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.

\*\*Rule 78

This Rule is a consequence of Rule 71. If staff are to be committed to their work on a long-term basis they need to be secure in their employment. In jurisdictions where there are prisons that are managed by private contractors, individual members of staff employed by these contractors should be approved by the prison authority before working with prisoners. They should also be employed on a permanent basis.

**79.1**

- \* Salaries shall be adequate to attract and retain suitable staff.

**79.2**

- \* Benefits and conditions of employment shall reflect the exacting nature of the work as part of a law enforcement agency.

**\*\*Rule 79**

This Rule underlines the need to ensure attractive salaries and working conditions. The standing of a profession is measured in large part by the level of salary which it attracts. Governments should recognise that prison staff are entitled to a proper remuneration corresponding to the public service character of prison work as well as to their difficult and sometimes dangerous work, while also taking into consideration that if staff are not paid at an appropriate level this may lead to corruption.

In many countries prisons are in very isolated locations thus depriving not only staff but also their families of access to schools, to medical facilities, to shops and to other social activities. In addition, many prison staff are expected to transfer regularly from one prison to another, to uproot their families and to move them to places that are sometimes far away. In some countries prison staff were keen to continue to be part of the Ministry of the Interior in order to benefit from a higher status (access to free health care, to free education, to free housing and to free or subsidised transport and holidays). In such circumstances, other conditions of employment are as important as levels of pay and should be carefully examined.

**80.**

- \* Whenever it is necessary to employ part-time staff, these criteria shall apply to them as far as that is appropriate.

**\*\*Rule 80**

This Rule refers to part-time staff. In smaller prisons it may be necessary to recruit some staff, especially for specialist tasks on a part-time basis. They should have the same conditions of employment pro rata as full-time staff.

**81.1**

- \* Before entering into duty, staff shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.

**81.2**

- \* Management shall ensure that, throughout their career, all staff maintain and improve their knowledge and professional capacity by attending courses of in-service training and development to be organised at suitable intervals.

**81.3**

- \* Staff who are to work with specific groups of prisoners, such as foreign nationals, women, juveniles or mentally ill prisoners, etc., shall be given specific training for their specialised work.

**81.4**

- \* The training of all staff shall include instruction in the international and regional human rights instruments and standards, especially the European Convention on Human Rights

and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as in the application of the European Prison Rules.

**\*\* Rule 81**

This Rule addresses the requirements for initial training of newly selected staff. This training should be adequate and should emphasise the ethical context of their work.

Staff should then be given the necessary technical training. They need to be made aware of security requirements. They need to learn how to keep proper records and what sort of reports need to be written.

The proper training of staff is a requirement that continues from the moment of recruitment to that of final retirement. There should be a regular series of opportunities for continuing development for staff of all ages and ranks.

Their training should also extend to the wide range of international and regional human rights standards concerned with deprivation of liberty [rules emanating from the European Court of Human Rights and the Committee for the Prevention of Torture (CPT)].

\*\*\*

**Article 258**

A person can be employed as a trainee if he fulfills, besides conditions defined by law for the employment in state organs, the following conditions: that is younger than 25, that he served army service, has completed high school and that is physically and mentally capable of working in the service.

A person can be employed as a trainee if older than 25 and younger than 28 if he has higher or university degree.

**Article 259**

Before the employment in security service, both mental and physical capabilities of candidate are checked.

Trainee probation is done in the Penitentiary or within a special training for trainees.

Trainee probation program in the Security service is brought by the Minister in charge of justice.

Training of prison staff

**81.4**

- \* The training of all staff shall include instruction in the international and regional human rights instruments and standards, especially the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as in the application of the European Prison Rules.

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- \* When selecting new staff the prison authorities shall place great emphasis on the need for integrity, humanity, professional capacity and personal suitability for the complex work that they will be required to do.

\*\*Rule 77

This Rule deals with the selection criteria of staff. The prison administration should introduce a clear set of procedures to test the integrity and humanity of the applicants and how they are likely to respond in the difficult situations which they may well face so that to ensure that only those applicants who are suitable are in fact selected to join the prison system.

82.

- \* Personnel shall be selected and appointed on an equal basis, without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

\*\*Rule 82

This Rule recalls that there should be no discrimination in the selection of staff. Women should have the same opportunities as men to work in prisons and should be paid the same salaries, given the same training and have the same opportunities for promotion and for assignment to posts requiring specific abilities. These principles shall be applied to staff belonging to racial, cultural, religious or sexual minorities. In some prisons a substantial number of prisoners come from these minority groups. Where this is the case, prison authorities should make an effort to recruit sufficient proportions of staff from similar backgrounds.

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### **Article 12**

The Management takes up the measures targeted at permanent professional education and improvement of employees.

### **Article 258**

A person can be employed as a trainee if he fulfills, besides conditions defined by law for the employment in state organs, the following conditions: that is younger than 25, that he served army service, has completed high school and that is physically and mentally capable of working in the service.

A person can be employed as a trainee if older than 25 and younger than 28 if he has higher or university degree.

## 8. Improvement of the work of the services:

For complete improvement of prison functioning as a system, in line with EPR, it is necessary:

- To provide objectively better pre-conditions, like additional education and better (in every sense) conditions for the work of services and individual within each of the services;
- That the prisoner is understood and treated as a person whose penalty is restricted freedom of a movement for a certain period of time, while he/she has right to enjoy all other rights (that belong to each individual) and which cannot be withdrawn during sentence serving.
- Adequate legal framework, procedures and mechanisms of control

Our aim was to find out what is missing so that these two preconditions could be fulfilled simultaneously. That is why, in a set of questions that we asked the staff in services, we included those related to knowing of documents on human rights but as well on prison regulative.

The answers are as follows (04.04.08.)

### 1)What is needed to provide in order to accomplish that the service gives better results in long-term?

#### a) Service for general affairs

*Expert:*

##### a) Knowledge

From the area of theory and practice in execution of prison sanctions in European Union countries, by choice, let's say in Great Britain or France or Italy, i.e. a country that is the closest to our regarding economy, mentality, tradition, culture and whose experience we use in the area of prison sanctions.

##### b) Skills

From the area of getting to know basic office programs in use of computers, especially programs for writing and calculation (Word and Excel)

*Organizational (for example work planning):*

Detailed planning of budget needs based on professionally established regulations for any kind of expenses and incomes, and which should start with indirect and direct users on the lowest level, as well as organization of control of plans set in this way. Establishment of interactive relation between budget users and Ministry of Finance in respect of determination of budget users' real needs.

*Material conditions (for example, adaptations, new wings, specialized classrooms, sports hall, production section, school...)*

All prison facilities are small and they had current maintenance and urgent interventions. The priority, above all, is to fix all the roofs, both on dormitories and on economy and

management buildings. It is also necessary to do thermo-isolation of buildings, to lay on gas into the boiler room, to build a travel network in the prison.

*Technical conditions (computers...)*

Every year it is necessary to renew Computer Park and supporting apparatus, video surveillance and technical elements for security. Above all it is necessary to acquire programs (software) for the computers as well as technical, professional support for the maintenance of technique. Diversity in programs makes the work harder and increases maintenance cost.

*What are anti-stress programs like and how often are they performed?*

That name is unknown area. Relying to understanding of terminology they think that they should be organized at least twice a year.

*Different supports and cooperation:*

Continuation and improvement of started mutually useful and in technical sense significantly improved cooperation with the Ministry (introduction of internet connection via e-mail);

At least one meeting in three months – on the level of the prison and chiefs of departments, i.e. heads of services.

Occasional visits to prisons in surrounding countries

b) Health Care Service

*Expert:*

a) Knowledge

Educations;  
Expert medicinal courses and seminars;  
Specializations.

b) Skills

Courses from the field of ultra-sound  
Course from the area of urgent medicine

*Material conditions (for example, adaptations, new wings, specialized classrooms, sports hall, production section, school...)*

Adaptation of a ground building of dispensary building;  
Rehabilitation of sanitary part;  
Building of two new rooms for infectious patients for their separation from others that are staying in the hospital;  
Adaptation of two new rooms for psychiatric patients.

*Technical conditions (for example- computers...)*

Computers and special person as an administrator for input of the data in the base;  
Ambulance-kit and reanimation set;  
Ambulance vehicle- equipped;  
Re-animobile;  
Human resources- nurses- branch-laboratory, one nurse of general practice and one doctor

*Different supports and cooperation:*

Cooperation with the Clinic for infectious diseases, program *PEGAZIS*;

Clinic for the protection of mental health, Project HIV prevention among the prisoners, supported by the Ministry of Health;  
Clinical psychologist in Drug free ward;  
Cooperation and engagement of clinic psychologist

c) Treatment Service

*Expert:*

a) Knowledge

Introduction with methods and forms of work by which subjectivity of treatment officers in estimation of personality and prisoner's behavior will be avoided in greatest possible amount;

Wider expert education related to issues of prisoners, continual one, bearing in mind that unpredictable situations are always present.

Way of occupational therapy organization

Training for performance of group work

Lectures from the area of addiction diseases and social pathology

Computer courses

English language courses

b) Skills

Dialogue skills and ability to transfer that skill to prisoners.

*Organizational (for example- work planning...)*

Reduction of number of prisoners in treatment groups by employing new treatment officers or by reducing the number of prisoners in Penitentiary:

Facilitation of administrative work during work time.

*Material conditions (for example, adaptations, new wings, specialized classrooms, sports hall, production section, school...)*

Construction of new building for the needs of the department for personality examination.

Construction of universal hall for cultural, entertaining and sport activities;

Allocation of more means for the enlargement of library fund (books)

*Technical conditions (computers...)*

Provision of computer equipment and programs;

Provision of painting, music and sport requisites

*Different supports and cooperation:*

Cooperation with faculties that deal with the topics which are common to Treatment Service;

Cooperation with institutions that deal with social pathology;

Cooperation with the media.

d) Security Service

*Expert:*

a) Knowledge

Selection of cadres at recruiting;

Introduction with new technical advancements;



Good knowledge of all regulations and Law on Execution of Prison Sanctions, and acting in line with them within the Service.

b) Skills

Skills of communication with prisoners;

Special physical education (martial skills...) and possibility of permanent keeping of physical condition.

*Organizational (for example- work planning...)*

To increase the number of employees.

*Material conditions (for example, adaptations, new wings, specialized classrooms, sports hall, production section, school...)*

Special hall for physical practice of Security Service members;

Adaptation of dormitories that were not adapted.

*Technical conditions (computers...)*

Development of integral-technical protection;

Computers;

Video surveillance;

Cameras with sensors;

Metal detector door.

*What are anti-stress programs like and how often are they performed?*

Interviewees from all the services think that anti-stress programs are necessary for them, but bearing in mind that they haven't had any experience with them, so far, they are not able to suggest the type of program. The estimation of treatment frequency is from once a month to twice a year.

**2)What is (priorities) in short term needed so that each service (individually) could function better?**

e) Service for general affairs

- First of all employment of missing cadres due to empty work positions.

- Programs (software) for the computers in Register department and deposit department as well as provision of some book-keeping programs (program for fixed assets, pay accounting...);

- Air-conditions, for all the services, both due to the number of people and computers

f) Health Care Department

- Computers for staff and external collaborators.

g) Treatment Service

- Provision of computer equipment and programs as well as provision of sport requisites

- Reduction of the number of prisoners with whom one treatment officer works.

h) Security Service

- Increase of discipline, respect of the existing hierarchy;
- Material satisfaction of the staff- increase of salary.

**3)Is there openness for new approaches and contents and what would improve personal motivation for the work of each interviewee?**

There is openness but no interest and self-initiative.  
 Personal motivation for work could be improved by:

- Adequate salary
- Better human relations
- Feeling of being safe when the state is behind them.

**4)Education about international regulations (general and imprisonment)**

Interviewees are not introduced in great amount with important universal and regional international instruments (Universal declaration on Human rights, Convention of children rights, European convention on Human rights, Pact on economical, social and cultural right, Convention on elimination of all kinds of women's discrimination Convention on elimination of all kinds of discrimination...)

From the offered list of international documents from the area important for the staff in Penitentiary, all the interviewees recognize only European Prison Rules, for which they know that exist and that are available in Penitentiary.

They think that it would mean a lot to them if the greater number of Recommendations, conventions and resolutions were translated in Serbian so that they could get introduced with the contents.(As necessary they also consider: translation of laws, by-laws and procedures that regulate prison sanctions in the United States of America, FR Germany, France, Russia, China and Japan). The Head of the Service for General Affairs thinks that it would be important for her to get introduces with some European by-law about the provision of the prisoners with different goods that they can procure by their own means; in the way regulated by Law and as it functions in practice.

**5)Expectations from the ongoing reform:**

Treatment Service:

Establishment of ascribed parameters, legally determined for objective estimation of prisoners' personality, which would be implemented during the work of treatment officers with prisoners as well as in proposing change of the category in which the prisoner is (in this way subjectivity that now exists will be avoided)

Health Care Service:

Improvement of working conditions;

Improvement of status of medical staff in Penitentiary as well as integration of Health Care Service in the system of Public Health care protection;

Unification of standards and protocols at medical check of the patients.

Security Service:

Expects better working conditions

## 9. Analyses, comments.....

### NARCOTICS

Assumption, repeated at each visit, is that among the prisoners there are 70-80% of drug addicts. If the percentage is even 50%, that is a huge number of consumers everyday, even if they were not regularly provided with narcotics. It means that the prison with such a number of consumers is very »interesting« market for every drug dealer.

It can be concluded that existence and circulation of narcotics in Penitentiary is one of the major causes of violence and problematic situations in which prisoners and guards come as well as prisoners among themselves, on one side, as one of major generators of corruption. With an aim to prevent this emersion it is necessary to raise on a higher level cooperation between services in Penitentiary and in the Ministry of Internal Affairs. Until the amount of uncontrolled narcotics is brought to the lowest possible level, even the best re-socialization programs that would be implemented from the moment of prisoners' admission to Penitentiary (as well as to any other prison) would not give results, from which direct outcome is that there would be no influence on the decrease in revert, as one expressed social problem.

### PRIVILEGES, CORRUPTION

The impression of the majority of interviewed prisoners is that the corruption is much spread and in direct relation with privileges enjoyed by a smaller group of prisoners, Members of privileged groups are protected from disciplinary and other punishments. Poorer prisoners who are thus disabled to participate in chain of corruption, are being forced to either live in fear from richer but protected or to „work“ for them, and on the contrary they risk that something of forbidden things is underlain to them. This brings to disciplinary punishments when they lose privileges they are supposed to have according to Law. It is a great paradox that people who refuse to cooperate in this way are transferred to the Department under Special Surveillance where accommodation is much worse than in dormitories.

### EDUCATION

It is necessary to provide the prisoners with a possibility of education during serving sentence, no matter the fact that the school was burned down during rebellion in 2000. Education, primarily conceived through educative role, while it is not important that it is training for production employment, are an integral part of re-socialization process in sense strengthening of positive personal strength.

As well, education conceived in this way, as educative-treatment process, increases possibility of adequate integration in the society after the sentence is served,

There is a great interest for education. During our visitors we heard from the prisoners that they would like to get a chance to finish basic school (4-8 grade), to finish some professional school or craft, or to have possibility to learn foreign languages (English, German)

Service of the Department for personality examination in the Admission Service considers that a great problem is structuring of prisoners' free time because there is neither possibility for any kind of education nor enough possibilities for work of those prisoners that

would like to work. Lack of possibility to work is also important for the fact because it is one of the factors (interest for prisoners' work) that decide upon their classification or advancement to the following groups.)

This Service cannot adequately examine prisoners' interest for education because it would be necessary that there is possibility of offer of any kind of education first. Team of experts from the Admission Service considers that it is necessary to provide basic education, as well as some kind of skilled education (crafts). With an aim of post-penal re-socialization, it would be necessary to establish cooperation among Penitentiary, Center for Social work and National Employment Service, for the employment of ex-prisoners, which existed in a certain form in 80's of last century.

## OUTSIDE ACTIVITIES

According to gathered information, during day the prisoners spend 30-40 minutes in fresh air. This period is under the minimum of one hour daily intended for physical activities., which is anticipated by numerous international standards from this area- for example EPR Article 27. Additional problem for the prisoners who serve their sentence in Penitentiary Niš is that time they spend for shopping in the canteen or phone calls is included in the time for stay in fresh air, which additionally shortens this already short time. It is a paradox that the prisoners who are engaged at work, only for that reason, have less time for stay in fresh air than those who do not work or who do not want to work.

On the other hand, according to international standards from this area (EPR- Art. 25) the recommendation is to avoid stay in cells during whole day with only shorter stay in fresh air. According to EPR, for example, sentenced persons would have to spend at least eight hours out of their cells, in different activities, therewith the time spent in physical activities is included in this period. When speaking about Penitentiary Niš, regarding this, prisoners accommodated in Department under special surveillance are in the most unfavorable position, bearing in mind that they spend literally speaking, day and night with an exclusion of one stay in fresh air, never longer than one hour. This should be born in mind in the light of the fact that persons who are exposed or threatened by informal groups in dormitories are accommodated in Department under Special Surveillance. Practically, real or potential victims are accommodated in conditions which are far below the minimum anticipated by international standards,

Here, it should be added that the prisoners accommodated in dormitories out of Department under special surveillance are not in favorable position as well; their daily activities, if not engaged at work, are resumed to watching TV in joint room.

## WORK WITH PRISONERS

Staff does not recognize the need to work additionally with the prisoners who are not visited, or to pay more attention to them; these prisoners are more sensitive than others who have visits. Simply existing possibilities of acting that are not always related to the availability of financial means, are not recognized

Preparation of the prisoners for the inclusion in normal life after the completion of sentence is insufficient, is not systemized activity and should not be justified by the lack of law regulations. Limiting factor for the work of treatment service (too many prisoners per one treatment officer) does not exist here. Number of prisoners that are daily released from the prison is not huge, and if treatment officers start working with them 2 or 3 months earlier that would be a burden to a daily schedule of treatment officers. Release plan prepared in advance would be targeted at enabling prisoners adapting to the conditions out of the prison because living

conditions in the Penitentiary became normal for them. This plan should be flexible enough so that it could be individually adjustable to every prisoner's needs.

#### HOUSE RULES, PRISONERS' INFORMING

House Rules are visibly posed as long as they are torn apart by the prisoners. It is possible to protect it with a transparent foil which would prolong its duration.

From the conversation with the prisoners we learned that their introduction with rights and obligations had been conducted, but not completely, only during their stay in Admission Department. Very small number of prisoners had a chance to get introduced with the House Rules in their dormitories. The consequence of this is that the prisoners get to know the rules of House Rules either from other prisoners on periodical basis or by the officers after he violates the rule and gets punished for it.

If House Rules in written form, in the language understandable for prisoners, were available to them at any time, it would allow that everyone knows what kind of behavior is allowed or not, in which time frames and under which conditions they could advance from one category in which they are classified to a higher one... All these would bring to reduction in committing disciplinary offences and significant relaxation of both prisoners and Penitentiary staff.

#### DISCIPLINARY PROCEDURES

The importance of disciplinary procedures conducted in the case of prisoner Draganović (use of instruments of restraint which was not registered in medical documentation in appropriate way, primarily), is that, besides direct protection of prisoner's rights, it points to lacks of the system, in sense of insufficiently effective mechanism of Medical Service control. Disciplinary Commission is obviously not qualified to bring decisions related to medical practice in disciplinary procedure, but it can only consider negligence related to organization of work in different departments, in this case medical.

Based on the insight in disciplinary procedures in case of prisoner Adamović's death (the prisoner suffocated with smoke from the burning matrices while he was tied to bed in a solitary confinement), it is clear that it is necessary to include experts for certain areas (in this case medical) in the work of Disciplinary Commission, as consultants. In that way it could be undoubtedly determined whether it is procedural breach of work duties or incompetent work, both in this case and in others.

As an example, situation in which the doctor prescribes aspirin instead of insulin, at this moment would be considered as a fulfillment of work duties and would not be subjected to work of Disciplinary Commission because the procedure is satisfied/ doctor's duty-prescribed medicine, while the Disciplinary Commission is not concerned whether the prescribed medicine is adequate for given diagnosis. With proper work, and in given case, if the facts are determined in proper way, it can be concluded which one of two competent ministries will be responsible for the failure- in this case Ministry of Justice and Ministry of Health.

Regarding the work of Disciplinary Commission itself in individual cases, the impression is that circumstances of repeated offence committed by an officer against whom the procedure is conducted are not adequately estimated. The result of this is that the penalties proposed by the commission are pretty soft in comparison to the offence severity. This is specially expressed regarding person who committed violation in cases of Draganović and Adamović in a very short

period of time. In connection with that, it is totally unclear what was the logic that Disciplinary Commission used, when, for a person involved in both cases, in second disciplinary procedure, recommended minor disciplinary measure in comparison to the previous one. With an aim to avoid double standards it is necessary to characterize repeated offence committed by an officer in the same way as the repeated offence committed by the prisoner, i.e. as aggravating circumstances.

Disciplinary procedure against the member of Health Care Service, related to death of prisoner Adamović is legally finalized. We consider that declared penalty in this case (as a cut off in salary in the amount of 15% for the period of three months) is unacceptably soft in comparison to both serious consequences of the negligence itself and to the fact that person, against whom the procedure was conducted, committed serious disciplinary offence for two times in a very short period of time.

After the comparison of the results of disciplinary procedures conducted against prisoners and disciplinary procedures conducted against officers, we can say that penal policy is drastically more severe towards the prisoners. From this we can, even indirectly, draw a conclusion about why the prisoners in very small number lodge complaints to work of Penitentiary organs.

## LAW ON EXECUTION OF PRISON SANCTIONS. LAWS

Many times during visits the Team wanted to get answers to questions related to how the members of Security Service experience prisoners and how they understand Law on Execution of Prison Sanctions. We tried to determine whether the members of Security Service experience prisoners as persons to whom, by a decision of a court in charge, only the freedom of movement is restricted but not other basic human rights. Received answers to these questions do not convince us that the members of Security Service think in this way.

Interviewed members of Security Service consider Law on Execution of Prison Sanctions a law that ascribes maximum of rights that are coming to them during sentence serving. This approach probably influences the lack of need to learn more about international standards and values they lie on and disables them to affirmatively approach any situation. Sticking to law exclusively that lists what is forbidden excludes wide spectrum of possible actions that do not have to be listed down and written like law because they don't consider anything that is forbidden and they lie on values. With such understanding of Law on Execution of Prison Sanctions contents, the purpose of this Law is only partially fulfilled, given in Article 2 of this Law.

## SERVICES

An individual, while doing his/her work, represents the State and what the State considers to be, as it stated in Constitution. That representation goes through personal work which is in the structure of one service that exists and implement: the purpose of existence of the institution whose part it is; which is one of institutions through which the ministry in charge implements its own purpose of existence in the area for which it is in charge; which is one of the ministries through which the State implements planned activities (short-term, mid-term and long-term) by which the idea that gathers citizens who consider the State their own is implemented. Each of those citizens lives their identities and, if working in some institution, represents the state and when having other identity it asks the state to justify itself. That is why those employed in different services in the prison have no right to make mistakes. Prisoners represent only themselves, have right to their own choices, out of which, those wrong ones have consequences.

During visits we found that by a decision from some previous period it is defined that staff from Legal Service don't have reduced service years for retirement, although being in the

circle every day and very often have face to face conversations with the prisoners, related to the procedures that are complicated themselves and can cause stressful situations. This is very visible when taking into account that members, for example, of Registry Department have reduced service years for retirement, although, due to the nature of their work rarely or never enter the circle and directly get in contact with the prisoners

Taking into account the specificity of work in prison system, it would be necessary to introduce systematically planned anti-stress programs for the staff in all penitentiary services. It should be not longer than two months between two anti-stress treatments. Such a program would comprise individual and group conversations with an expert, breathing exercises, meditation as well as several days long relaxation program, somewhere in nature out of living place. This program is important because it prevents burning syndrome which greatly reduces working ability and productivity. If it already comes to burning, rehabilitation process is long and slow

We consider general international (UN and EU) documents on Human rights as a group of values expressed in legal language that, in some measure, guarantees that values can be protected and implemented. That is why, for introduction, we asked representatives of different services what they considered under the term values, so that we could argument whether it is enough that needed education on human rights is only theoretical or it requires previous sensibilization of those who should be taught about its contents. Under sensibilization we consider introduction of members in the process during which, by distribution of roles, they have possibility to reach certain value through their own experience.

The impression is that staff in different services does not mention that too much knowledge and skills are needed for the improvement of that service work. This is possible due to the fact that: (1) they didn't have experience so that they could be included in planning or at least discussions about what is needed so that something (service) is improved; (2) because the starting point for such thinking and proposing should be in objective estimation of current lacks in whose implementation the interviewee is involved (3) these considerations require dedication to vocation and responsibility for the results; (4) maybe they don't believe that participation in such proposing makes sense, that it is possible to improve something (service)

We think that members of different services that are in everyday contact with prisoners lack: knowledge and understanding of European prison regulative; affirmative approach in thinking; understanding that in Serbia there is a gap of 15 years during which the world developed and which has to be overcome, understood and made up for.; exchange of experiences with colleagues from other prisoners in the country, region and European countries, so that they could compare themselves and learn.

Conditions of treatment officers' work, identified during the greater part of the project course, represent a limiting factor in fulfillment of their legal obligations, not only based on the Law on execution of prison sanctions but as well from the obligations that derive from the description of this working position. Insufficient number of basic technical means and huge number of prisoners with whom every treatment officer works, brings to impossibility to perform the work adequately (14 treatment officers and mainly 1.100 prisoners)

Due to conditions in which the treatment officers are working now, and which practically disable them to do what they are supposed to, we cannot comment on expert aspect of their work. In normal circumstances that would be an important part of this Report.

It is indicative that half of interviewed treatment officers are satisfied with the organization of the service, which means acceptance of existing state of matters, which tells about the lack of vision about better possibilities and the way of the work of the service.

One of the most serious lacks observed during visits represent insufficient number of Security Service members in comparison to the number of prisoners. It directly influences the security of the guards themselves as well as the security of the prisoners. Guards, due to the feeling of insecurity can react in a hurry by what they additionally endanger their own safety, at the same time breaching prisoners' rights.

System does not anticipate additional work with newly recruited commanders in order to make up for the lack of working experience and qualification for adequate management in crisis situations (additional trainings and group work with more experienced members of the Security Service)

#### MECHANISMS OF SERVICES ' WORK CONTROL

In this moment, the only mechanisms of control of Medical Service expertise are inspections of Ministry of Health which is, most probably, insufficient. At the same time establishment of new system solutions lasts very long and is followed by the resistance of the structures to which it is related.

Competent departments in the Ministry of Health should be much more involved in following and control of the work of Medical Service in Penitentiary Niš, not in the way that inspections come in more frequent controls, but that Medical Service work expertise and ethics in dealing with prisoners are continually checked by suitable methods. With an aim to equalize the prisoners' rights to adequate protection with the rights of other citizens of the Republic of Serbia, it would be necessary to introduce Advocate of prisoners' rights, in the Penitentiary as well.

Mechanism of control of Security Service should guarantee respect and provision of conditions for the accomplishment of prisoners' rights. Control conducted only by the members of Security Service does not guarantee neutrality in relation to the service itself and would be far more efficient if someone from other service or external evaluator was involved in the work.

#### MEMBERS OF ETHNIC, NATIONAL AND RELIGIOUS MINORITIES

Relations among the prisoners who belong to different ethnic and religious groups depend on their number: when number of majority group is approximately equal to others, relations are good.

Greatest number of Roma people is poor, so, as a consequence, Roma people are discriminated because they are forced to do jobs for others. When they are engaged at work in Penitentiary, they do the worst jobs that nobody wants to do, which also stands for Roma people who are not prisoners.

Interviewees who belong to some of generally accepted religious communities in Serbia (Orthodox, Catholic and Muslim religion) have no objections regarding the respect of their religious rights, no matter they do not practice them, except for fasting. On the other hand, one of interviewees who belongs to a smaller religious group (Adventist) thinks that due to the religion he confesses, he is very often exposed to insults (sectarian or similar) and occasionally to physical violence. That was his answer to the question asked by the team member who wanted to know how the prisoner got the bruises under his eyes. Although it was not explicitly said, the impression of the team member was that the prisoner thinks that some of the possibilities available for other prisoners are not available for him. Precisely, he stated that he was rejected for the admission in Drug free ward, with no explanation.



It was determined that during 2007, Muslims were enabled to have meals between sunset and sunrise, during the fast. These prisoners were also enabled to have unlimited phone conversation for Barium.

Smaller number of interviewees, employed in Penitentiary services, think that there are prejudices towards Muslims and that it is manifested by a sort of rough verbal communication.

From answers received from the staff and prisoners, on this specimen, it can be concluded that there are less prejudices towards Albanians than towards Bosnians.

It is noticeable that Albanians from Kosovo are in less favorable position in comparison to the Albanians from the South of Serbia, which is the consequence of circumstances outside Penitentiary and is reflected in normal keeping of contacts with the family members. Personal documents of those prisoners' family members expire as the time passes and it is almost certain that they will not ask for the prolongation of them. On the other hand, personal documents issued by UNMIK are not recognized as valid ones by the competent organs in Serbia, which practically causes that the families of those prisoners from Kosovo are not able to visit them. As the time passes this number will inevitably increase. Albanian prisoners did not contribute to the situation they are in, in any way and are in objectively discriminated position in comparison to other prisoners.

Based on the data gathered during the project, it can be concluded, with certainty, that there are many areas in which it can potentially come to discrimination of different minority groups.

For example, discrimination can happen in disciplinary procedures, procedure of submitting complaints to officers' practice, informing about the rules of behavior in Penitentiary, contact with outer world, participation in joint activities, religious activities, approach to work, availability of health care protection and nutrition regime.

Here, discrimination can be induced by the system or by other person, no matter whether we speak about the prisoner or Penitentiary officer.

In procedures, problems can emerge due to language or Cyrillic script ignorance, illiteracy or some other differences that derive from national or ethnic identity, i.e. affiliation to a minor religious community.

Comprehensiveness of this problem requires detailed work in a longer period of time.

Prevailing opinion is that there are guards' prejudices towards prisoners in general, as members of a group that is in status of sentenced for crime, during their stay for sentence serving. As well, there are prejudices related to the type of crime for which some prisoners are in Penitentiary, which is particularly expressed in sexual criminal acts.

## DISABLED PERSONS

Disabled persons are not recognized as a marginal group about which other evidence, except medical, should be kept., and in this way provide adequate conditions for them. Verdicts of European Court for Human Rights in Strasbourg repeatedly point to that it is necessary to take care about special needs that certain categories have, when confining them. As an example, verdict in case Price V Great Britain from 2001, determines that to accommodate a severely disabled person in prison without providing additional facilities may amount to inhuman or degrading treatment. Law that protects disabled persons from discrimination was brought in Serbia in 2007.

After recommendation given by Monitoring team, disabled persons were accommodated on the ground floor of a dormitory, which facilitates their everyday functioning. This action represents maximal possible facilitation of disabled persons' position by the management of

Penitentiary. However, other facilities which are of great importance for these prisoners are still hardly accessible (health service, library, dining room, painting and other sections)

We think that it is necessary to architecturally adjust to disabled persons' needs at least one Penitentiary, for the beginning, in order to enable disabled prisoners to serve the sentence under the same conditions as others.

This could serve as a temporary solution only, bearing in mind that disabled persons with residence at longer distance from such an adjusted penitentiary, would be additionally brought to hard position in respect of possibilities to contact with family and thus would be discriminated again.

It could be said that there is no evidence whose only purpose is to systematically keep records about the persons with special needs and the needs that derive from that as well as for additional assistance.

The data we got is related to prisoners who are, in different ways, temporarily or permanently, not capable of working, for different medical reasons. At the same time, prisoners whose diagnostic procedure is in progress, due to possible disability, are neither recognized as persons freed from work nor as disabled persons. In that sense they are not recognized as persons who need additional assistance and other person's care during diagnostic procedure.

Since we don't know the number of disabled persons, we don't know the types of disability in each particular case, as well as needed individual assistance.

Out of this it can be concluded that there is a system lack because disabled persons are not recognized as a category that requires special accommodation and living conditions, by which they would be brought to equal position with other prisoners, i.e. they would not be discriminated.

## PRISONERS

Lack of evidence about the number of illiterate persons could be a problem to treatment officers while planning individual work with each prisoner. In work with illiterate prisoners, it is needed to spend much more time in introducing with the contents of House Rules and other rules. The existence of such records would protect illiterate prisoners from discrimination

We found out from interviewees that illiterate prisoners are forced to pay in material goods (cigarettes and similar) to literate ones, writing of different applications, reading of House Rules and similar. In this way, illiterate prisoners are discriminated in comparison to literate ones. At the moment, there are 29 (April 2008) registered illiterate prisoners in Penitentiary Niš, which is not a great number in comparison to total number of prisoners.

Prisoners have no possibilities for schooling, change of qualifications or additional qualification...they also don't have structured free time. Work of Treatment service is limited by the existing conditions. Society does not cooperate in acceptance of ex-prisoners. So, it is no wonder that percentage of repeated offence is so high (75 – 80%).

Prisoners positively react to women that work in Treatment service and describe them as compassionate and more ready to listen to their problems.

Our impression is that the prisoners consider as legal acting everything that does not fall into in direct use of force by the Security Service, no matter whether that is in line with law or not. This is, for example, related to a situation where one prisoner sleeps in the room in time when it is not foreseen by House Rules and all the others from the room get punished by distraint of going out for a walk, which is seen as ascribed by law.

Representatives of international Red Cross visited Penitentiary and Albanian prisoners with whom they talked. They expressed their satisfaction with implemented measures of additional security provided for these prisoners, which have been implemented from December 2007, after one of our team's recommendations.

During conversations with the prisoners who have been recently injured by officers (according to the files from Medical Service) while using compulsory measures, it was defined that they refuse to talk about the event. It points to: avoiding repeating the trauma through conversation about it; prisoners had consequences; or are afraid that they would have some consequences because of reporting it. On the other hand it makes relative both optimistic answers that the prisoners have and official data from Penitentiary services about the number of cases when compulsory measures were used and small number of recorded use of compulsory measures that resulted in injury.

When we asked „Is the food tasty?“ one prisoner answered that it was not expected that the food was tasty in the prison. Probably, this sentence is not adequate to be quoted in the Report of this kind, but there are two possible reasons for it to be here, One is that great number of all interviewees has no clear picture that the prisoner is a person whose freedom of movement is restricted as a penalty for committed crime, while he keeps right to enjoy all other rights. The other is the necessity of taking care about human dimension of everything- reforms, law enforcement, functioning of any system.

Poor prisoners are in less favorable position in comparison to others because it is not allowed to bring into prison »home made food« (for example, dairy products). They don't have enough money to buy in the canteen and food from the canteen is not adequate substitute for home made one. Reason for ban on bringing in the »home-made food« is potential import of narcotics. In conversations with the prisoners we found out that narcotics are imported through absolutely different channels and that there is no less narcotics in the prison after the ban of home-parcels. At the same time, parcels with home made food are the only way that prisoners of weak and bad material status can have more qualitative nutrition and in their own way of nutrition during their stay in Penitentiary.

General place in conversation with the prisoners is that the advancement through categories is not clear and that it greatly depends of something intangible which is in hands of treatment officers.

## 10. Recommendations given during the realization of the project

### Short term:

- 1) To install or fix (there where they exist) flushing through cisterns (especially in »C« Pavilion) (09.07.2007.)
- 2) Enable the prisoners to get, especially during summer months, together with daily meals, more fresh fruits and vegetables, and more frequently various dairy products (10.08.2007.)
- 3) To draw a plan on prisoners' schooling and education (10.08.2007.)
- 4) To enable prisoners to take up different creative hobbies (for example- photography, pastry making, newspapers publishing, mosaic making- shortly, to be creative) (10.08.2007.)
- 5) To separate different categories (not only risky groups, but much wider: drug consumers from those who do not consume drugs, those sentenced for war crimes from others, those willing to work, even theoretically from other) of prisoners whenever it is possible. (10.08.2007.)
- 6) To introduce the prisoners with the contents of the rules in adequate and understandable way for them. (10.08.2007.)
- 7) We suggest considering the possibility to allow homemade food to be included in the package, which is now forbidden.  
Backgrounds: Poor prisoners are in unfavorable position compared to others because homemade food is not allowed (for example- dairy products). They do not have enough money to buy it in the canteen, and food from the canteen is not adequate supplement for home made food. The reason for such a ban on »bringing in home made food) is potential delivery of drugs. From the conversation with the prisoners we found out that the drugs are delivered through absolutely different channels and that there is no less drugs due to the ban (12.10.2007. / 07.12.2007.)
- 8) To arrange that, in the procedure of giving legal assistance to a prisoner, the conversation between the prisoner and a person from legal department of Penitentiary is really confidential, so without any other, especially uniformed person from the Penitentiary. (12.10.2007.)
- 9) Working section- metal detecting gate on the entrance/exit of this section is out of order. Recommendation is to fix it (12.10.2007.)
- 10) To arrange that, among other things, every illiterate person is registered and put in evidence, at the admittance of prisoners (12.10.2007.)
- 11) It is necessary to consider the provision of ambulance-kit for reanimation, defibrillator as well as an ambulance vehicle- type re-animobile. (12.10.2007./ 07.12.2007.)
- 12) To increase internal security of Albanian prisoners in the period to come, at least for three months. (07.12.2007.)
- 13) To introduce special engagement for keeping medical documentation that would guarantee completeness and exactness of written in data (07.12.2007.)
- 14) Bearing in mind latest events it is necessary to install video monitoring of solitary cells, i.e. isolation rooms as soon as possible. This investment presents a minor investment in comparison to the benefit it will bring and problems it will prevent. (07.12.2007.)
- 15) We recommend setting a practicable mechanism of self-internal evaluation of medical service work success (auto-evaluation) (07.12.2007.)
- 16) It is necessary to set up a special evidence of disabled persons that would comprise the level of disability and special need in every single case. In order to develop a basic paper form different associations of disabled people should be consulted. (07.12.2007.)

- 17) To provide adequate accommodation for disabled prisoners who are in Penitentiary Niš at the moment, with an aim to fulfill obligations of state organs from the valid RS Law on prohibition of disabled people discrimination. (07.12.2007.)
- 18) To adjust existing facilities for unmarred access of disabled people to certain pavilions, library, dining room and other facilities to which the access of disabled people would be of a great importance and thus enable them to enjoy equal rights as others (07.12.2007.)
- 19) Representative of the Ministry for Health Care or Ethical committee of doctors association, depending on the case, should be involved in the work of disciplinary committee during the procedures led against medical staff or those related to medical staff in any other way. (07.12.2007.)
- 20) With an aim to equalize the right to a medical care of prisoners with rights of other citizens, in line with law, permanent presence of Patients' protector should be provided (07.12.2007.)
- 21) To completely integrate Health care service of Penitentiary Niš into the system of health care protection on the level of the Republic of Serbia, in sense of strengthening responsibilities of the Ministry of Health Care for the health care of prisoners in general, and in specific for the control of staff expertise and quality of giving health services. (07.12.2007.)
- 22) Bearing in mind specificity of the conditions for providing medical services in Penitentiary Niš (and we believe that is the case in other institutions of this kind), it is necessary to harmonize the work of Ministries for Justice and Health Care Protection, in the sense of clear division of engagements and competences as well as harmonized activities (Recommendation No R98) 7 of the Committee of SE Ministers that deal with ethical and organizational aspect of health care protection. (07.12.2007.)
- 23) Doctors who work in medical service should be consulted and involved in making decisions regarding the selection of the model (for example- Model of Croatia, Model of Slovenia...) for the treatment of, for example drug addiction diseases, that they will apply later. The doctors should also be provided with regular information on contemporary achievements in their branch in general, and especially in the area of providing health care to the prisoners. They should also be enabled to exchange experiences periodically with their colleagues from Serbia (engaged in prisons) and from the countries of the region. (07.12.2007.)
- 24) To consider, as soon as possible, possibility for ransack (inspection) of all those who enter the closed part as well as daily ransack (inspection) of the guards (18.01.2008.)
- 25) Number of the guards on the block should be brought to a level that guarantees higher level of guards' safety as well as prisoners'. (18.01.2008.)
- 26) To include commander's opinion on prisoners in written form, in the system of evaluation, for the purpose of the promotion through categories. Bearing in mind the fact that the commanders are in everyday contact with sentenced persons, more frequently than treatment officer; it enables them to follow up everyday work and behavior of sentenced persons (18.01.2008.)
- 27) To provide commanders with shorter years of service, with additional different trainings that will enable them to adequately act in crisis situations which they can face in their work. This is the area of interest for both the commanders and prisoners. (18.01.2008.)
- 28) To consider the possibility of introducing additional evidence keeping on housing and social status of the complete staff of Penitentiary Niš and above all, staff of security service, bearing in mind conditions and difficulty of their work. (18.01.2008.)
- 29) To ensure that all security staff is equally and adequately trained. (18.01.2008.)
- 30) To consider the possibility to make an urgent procurement of personal means of communication among the security staff (Motorola and similar) with an aim to enable basic

- communication and to raise the level of security (at the moment they have only three Motorola devices that are not reliable due to frequent break downs) (18.01.2008.)
- 31) All the security staff should be provided with (1) additional improvement which would enable them to acquire adequate knowledge and skills and (2) periodical check-ups and reviews of knowledge and skills so that there would be real insight into needs and condition of the service as well as to guarantee optimal efficacy of the service (18.01.2008.)
  - 32) Commander's practiced knowledge should be one of the resources when developing a regulative that is related to their work (least when making „problem tree“- a phase of problem analyses) (18.01.2008.)
  - 33) It is necessary and obligatory to fill in the complete form/providing legal assistance/ with a typewriter (part that is filled in by officer). (18.01.2008.)
  - 34) During disciplinary procedures it is to avoid that a part concerning provision of legal assistance and other prisoners' basic rights is regulated only by a form, without explicit input into the report by authorized person who leads the procedure. (18.01.2008.)
  - 35) A possibility that disciplinary commission consults and gets opinions on the competence of the staff against whom the disciplinary procedure is led for the violation of work duty, should be anticipated. This should not be left to be the case for the private complaint of prisoners' families in the cases with death outcome. (18.1.2008.)
  - 36) Disciplinary commission should, in its work on the case with death outcome of the prisoner Dejan Adamović, take into account the opinion of the competent instance from the Ministry of Health Care and professional ethics of the doctor against whom the procedure is led (besides others), for two reasons: (1) She is still in the disciplinary procedure for the omissions in the case of prisoner Draganović; our team follows up this case and will not give any comments about it until the case is finalized; (2) Case of prisoner Adamović is with a death outcome and is very disturbing for every citizen because it shows that eventual omissions that has resulted in this way can be sanctioned by such a level of penalty that comprises % deduction from the payment. (We are completely aware that disciplinary commission is not a body in charge of criminal procedures, but it can, through its work and expressed responsibility, contribute to the image of the Penitentiary as an institution capable to carry out the role of the State which guarantees the right to life to a prisoner during the imprisonment.) (18.01.2008.)
  - 37) To provide 1 PC for each employed educator
    - \* Faculties are obliged to „renew“computer equipment“in order to get accreditation, which means that computers can be obtained at relatively low prices. If it is not possible to provide means for the provision of new PC-s, a contact should be made with some of the faculties (Electronic, Law, Mechanical...) on time, and second-hand computers could be bought in this way. (22.02.)
  - 38) To increase the number of engaged treatment officers that work in the treatment service, so that the number of prisoners that each of them is working with is maximum 40. It would be good if they could be psychologists. (22.02.)
  - 39) To consider possibilities for cooperation with the Faculty of Philosophy (groups: sociology, pedagogy and psychology) and engagement of students, who would volunteer in the treatment service, as a part of their studies. They could take over at least one part of administrative affairs, without any need to enter the closed part of Penitentiary.
 

It would be an opportunity for the students to practically work in the area of their subjects and at the same time the educators would be relieved in some way. Eventual obstacle for the engagement of these students could be a daily check which can be solved by everyday inspection of them as well as any other person entering the Penitentiary. Cooperation with the faculty would present a good example of contact and cooperation with local community.

Subjects that have a need for such a volunteering, for example, on group Sociology, could be as follows: Social pathology, Social deviations and forms of deviant behavior and

Social politics. These are professionally applicative subjects in whose description there is a development of practical skills. Students are provided with a possibility of one-day visit to Penitentiary within the framework of their lectures, based on the approval of the Management, which is very interesting for them but it does not represent practice.

Based on preliminary discussions with subject teachers, students' engagement /individual/ could be organized in the following way: 4 hours/ two times a week/ during a month, one student. First, it would be needed to see the number of volunteers needed, and then, based on that, „negotiate“with the faculty about the engagement of a sufficient number.

We have not checked which subjects on groups Pedagogy and Psychology would have a need for such a practice. In any case, Dean of Faculty for Philosophy should be contacted and thus start up cooperation, for which we believe, would be to mutual benefit as well as to the benefit of Local Community. (22.02.)

40) To anticipate possibility of group work, in the work of treatment officers with the prisoners. Should there be insufficient knowledge, it should be provided. (22.02.08)

41) To perform technical modernization of Disciplinary commission and Legal Assistance Department by providing two PC computers and a printer (22.02.)

42) To consider a possibility to involve a person trained for administrative affairs- recording secretary, in the work of Disciplinary Commission\_in order to speed up the disciplinary procedure as well as to relieve the members of the committee from the additional work. (22.02.)

43) To provide urgently the means for sports requisites and equipment for simultaneous recreation of around 60 people. (22.02.)

44) To check every day if there is a House Rules posed in each pavilion and if any misses it should be replaced by a new one. (22.02.)

45) In order to raise the quality of admittance, inspection and proposal of prisoners' treatment with special needs (suicidal, mental diseases) we consider that Penitentiary should closely collaborate with Psychiatric hospital in Toponica, near Niš, which should be anticipated and covered with adequate budget for that year. So far, for daily needs the prisoners were sent to the Institute for Mental health and for those more serious to the Penitentiary „Hospital“ in Belgrade which is overcrowded.

Psychiatric hospital in Toponica is well organized and has all the resources (material and human) and it has better geographical position in comparison to other institutions that could satisfy the demands (22.02.)

46) To provide adequate space/conditions for sport activities of the prisoners that does not depend on weather conditions. (22.02.)

47) Continually keeping records of all applied restraint measures whether the imprisoned was injured or not, whether the imprisoned reported the injuries or not, whether the prisoner submitted the accusation against the treatment of the officials. This is legal obligation. (04.04.08.)

48) Anticipate as soon as possible the same measures of the law service workers regarding the beneficiary working span with the other officials who are of that legal right. (04.04.08.)

49) To find a possible solution for employing an efficient number of part-time engaged security officers/ superintendents till the first generation of wardens finishes the training (One possible solution is temporarily taking over the wardens from the various security services). (04.04.08.)

50) To increase the number of the treatment officers. A new part time treatment officer has been employed (04.04.08.)

51)Due to the needs of the medical service it is essential to hire one general practitioner and one analyst technician. A part time practitioner has been employed (04.04.08.)

52) All currently possible professional training should be enabled for employees in each and every service. Those trainings should not be directly related to the job they are doing; any additional professional knowledge is much favorable. (04.04.08.)

53) Providing the sensibilization in favor of human rights and education on basic EU and UN documents (The Universal declaration on human rights...) for employed in all services. (04.04.08.)

54) Enabling the illiterate prisoners any regular additional support related to writing submissions and introducing with the House rules and any other relevant documents. (04.04.08.)

55) Taking into account the recording of any means of constraint in dormitories with the purpose of evaluating prevention and decreasing the violence in the most rendered parts of the penitentiary. (04.04.08.)

**Recommendations for whose implementation is necessary to fulfill the condition that total number of prisoners is equal to or less than 850**

- 1) To provide stay in fresh air to all the prisoners for an hour, excluding time for the canteen and phone calls.
- 2) To remove third bed from the bunk bed and leave only two, one above the other, wherever they are;
- 3) To enable right to privacy and protection of personal integrity of the prisoners in Increased Supervision Department by setting at least improvised barrier (wooden panel, oilcloth, curtain...) at the existing outlet of the entrance to the toilet.
- 4) To separate different categories (not only risky groups, but much wider: drug consumers from those who do not consume drugs, those sentenced for war crimes from others, those willing to work, even theoretically from other) of prisoners whenever it is possible.

**Long term:**

- 1) To make easily accessible written, understandable for prisoners, instructions regarding the procedures of lodging complaints (09.07.2007.)
- 2) To make easily accessible for every prisoner, a written text, in the language understandable for them, regarding their behavior and time frames, by and in which they can advance from their category to a higher one. This kind of text can be done in cooperation with Center for Human Rights- Niš . (09.07.2007. / 07.12.2007.)
- 3) To make a plan of schooling and education of the prisoners (12.10.2007. / 07.12.2007. / 18.01.2008.)
- 4) To separate different categories (not only risky groups, but much wider: drug consumers from those who do not consume drugs, those sentenced for war crimes from others, those willing to work, even theoretically from others ...) of prisoners whenever it is possible. (12.10.2007. / 07.12.2007.)
- 5) To provide each prisoner, on the basis of counter-bond, at admittance till the end of the stay in Penitentiary, with a printed copy of publication with the following contents: house order of the institution, disciplinary measures, how one can advance through categories...and everything else that can be of importance for the prisoner and represents a set of his rights



and obligations during his stay in the institution (07.12.2007. / 10.08.2007./ 12.10.2007./ 18.01.2008.)

- 6) To provide adequate space/conditions for sport activities of the prisoners that will not depend on weather conditions. It is necessary to emphasize that there is an already prepared project design for Universal sports hall in Penitentiary, for which there is no money. It is important due to the fact that practicing sports:
  - Leads to sublimation of negative energy
  - Enables qualitative structuring of spare time
  - Enables persons that live in this kind of conditions to maintain adequate level of health (07.12.2007. / 18.01.2008.)
  - Enables creation of qualitative inter-personal relations (which enables them to move away from the authority of informal groups and their leaders), tolerance to being unsuccessful is developed and all this strengthens decisiveness in the accomplishment of set up goals. (07.12.2007.)
- 7) To plan the construction of school (18.01.2008.)

## 11. Adopted recommendations

- 1) In the period between our visits “1” and “2” 2 solitary cells were painted and completely arranged. Works on third one are coming to the end and the works are being performed on 4 more (10.8.2007.)
- 2) A part of the ceiling that was cracked is painted (10.8.2007.)
- 3) 4 flushing through cisterns are installed in “C” Ward. Proper functioning of flushing through cisterns is daily checked and depends of the pressure in the network; (12.10.2007)
- 4) Number of daily newspapers available to prisoners is increased (5 times increased- from 24 to 108); (12.10.2007)
- 5) Shortened and simplified contents of House Rules, adjusted to average prisoner’s understanding, are posed in “B” Pavilion; (12.10.2007)
- 6) House Rules is foiled in plastic which prevents it from being torn right after posing; (12.10.2007)
- 7) At the moment the work of the library is being reorganized so that it could enable prisoners to take books for reading in easier and faster way. (based on our suggestion) (12.10.2007)
- 8) Procurement of the material for painting and artistic (carving) section is under way at the moment. (12.10.2007)
- 9) In the procedure of providing legal assistance, prisoners are enabled to have confidential conversation with an officer from the Legal Department of Penitentiary, without the presence of other persons. (7.12.2007.)
- 10) Metal detecting gate on the work section entrance/exit is fixed (7.12.2007.)
- 11) Evidence keeping regarding illiteracy at the admittance of the prisoners in the Penitentiary has started (7.12.2007.)
- 12) „To increase internal security of Albanian prisoners in the period to come, at least for three months. ` Security Department is given instructions to pay attention to possibly incidental situations (18.1.2007.)
- 13) “Bearing in mind latest events it is necessary to install video monitoring of solitary cells, i.e. isolation rooms as soon as possible. This investment presents a minor investment in comparison to the benefit it will bring and problems it will prevent”– Project task for the installment of video monitoring is being developed (18.1.2007.)

- 14) "To provide adequate accommodation for disabled prisoners who are in Penitentiary Niš at the moment, with an aim to fulfill obligations of state organs from the valid RS Law on prohibition of disabled people discrimination."- Special room for the prisoners who use wheel chairs is provided and those prisoners who use canes are accommodated in the rooms on the ground floor. (18.1.2007.)
- 15) 21 Motorola was provided which is, together with the existing ones, based on the statement of the Head of the Security, considered to be a sufficient number, for the safety of Service staff in situations in which it directly depends on their possibility to make a contact with other Service staff. (22.02.)
- 16) The 3 notebook computers have been purchased out from own resources, one for each dormitory and will be used by the treatment officers. (04.04.08.)
- 16) The 20 used desktop PCs are being purchased from the Faculty of occupational safety. These computers are going to be used by the treatment officers as well as the disciplinary commission (1-2). (04.04.08.)
- 18) There is an open call for admission of additional 1-2 treatment officers. (04.04.08.)
- 19) The agreement on cooperation has been established with the Faculty of Philosophy in Niš that will have been realized with the following school year (September 08). According to this agreement the students would act as volunteers in the penitentiary and give support and help to the treatment officers. During the period till September a contract will have been made with precisely defined number of students-volunteers by courses, the volunteer schedule and finished formal part on getting the consent from the ministry. (04.04.08.)
- 20) The recommendation has been accepted that the disciplinary commission should be technically modernized and able to use 1-2 computers purchased from the faculty in their work. (look at 1). (04.04.08.)
- 20) The recommendation has been adopted that disciplinary commission work should be made easier by employing another staff member for administrative work - a secretary. The new members of the disciplinary board are being established at the moment. (04.04.08.)
- 22) The financial means are approved for purchasing new sport equipment according to the made list. The purchasing should be done during the following week from 07.04. to 13.04.08. (04.04.08.)
- 23) The House rules are replaced by a new sample due to the request made by the prisoner on duty. (04.04.08.)
- 24) The cooperation has been established with the Mental hospital in Toponica. According to this agreement there would be a psychiatrist engaged every day from 3-6 pm in the penitentiary ambulance. He/ she would examine the prisoners and decide whether they should be hospitalized or ambulatory treatment is effective satisfactorily. (04.04.08.)
- 25) The appropriate space for sport activities of the prisoners has been provided. The former classrooms have been adopted into the space for sport and recreation. These rooms are renovated, painted, there are sanitary facilities, the floor is covered with rubber layer. Now it

is needed to be equipped with sport accessories which is being done at the moment. Due to the safety reasons the sport activities would be done in groups of 50-60 prisoners from the same dormitory although there is more than enough space. The prisoners will be able to do sport activities 90 minutes a day. This is an extra 1 hour time for recreation and staying out on a fresh air. (04.04.08.)

26) The new position has been established, a deputy manager. (04.04.08.)

27) Due to the improvement of the legal advice services of the prisoners, at each dormitory and admission ward there is a lawyer on duty once a week answering questions, writing submissions in the name of the prisoners or doing something else as long as there are prisoners concerned. (04.04.08.)

28) A questionnaire has been done regarding the prisoners' interest on establishing the music section and a list of necessary instruments has been made. (04.04.08.)

29) Consequently conducting records and reporting of any of the violent attitudes or ill-treatment whether the imprisoned was injured or not, whether the imprisoned reported the injuries or not, whether the prisoner submitted the accusation against the treatment of the officials./ This is legal obligation. (05.05.08.)

30) To increase the number of the treatment officers./ A new part time treatment officer has been employed (05.05.08.)

31) Due to the needs of the medical service it is essential to hire one general practitioner and one analyst technician./ A part time practitioner has been employed (05.05.08.)

32) All currently possible professional training should be enabled for employees in each and every service. Those trainings should not be directly related to the job they are doing; any additional professional knowledge is much favorable./ Accepted. (05.05.08.)

### **Instead of conclusion**

Prisoners with their problems are, during serving of the sentence, most often out of the sight and interest of the public. Exceptions are, according to the rule, cases of enough violent or severe incidents that are currently being put in the focus of voyeur media, probably for fun and comfort of wide public. The remaining time, there is a great probability that they will be exposed, in different ways, to violations of their guaranteed rights and that it will be unnoticed. We believe that this is a conclusion related to most prisons in the World, while Serbia is not an exception.

In order to ensure the respect of prisoners' rights and that their violation is brought to the lowest possible level during sentence serving in Serbia, our opinion is that it is necessary:

#### **A/ General**

- As a priority, to bring to the lowest possible level importation of narcotics in the prison. Narcotics are in direct connection with corruption which is a problem that requires a systematical approach.
- That the number of prisoners in one prison is adequate for the capacity of that prison and provided for under the standard
- To establish cooperation among the Ministry of Justice, Ministry of Health and Ministry of Labor and Social Policy, with an aim to improve prisoners' life quality. Cooperation with the Ministry of Internal Affairs is necessary in order to prevent smuggling of narcotics intended for the market in the prison.

#### **B/ Work with prisoners**

- To rationalize and implement general prisoners re-socialization program, which in its structure anticipates harmonization of each prisoner's treatment according to his/her individual characteristics and needs;

General re-socialization program should comprise, besides other things:

- Programs of non-violent communication, stress control, takeover of responsibility for oneself and for the society and respect of oneself and others;
- To implement, together with prisoners, training programs for qualitatively different life after the completion of the sentence (including education), supervised by the program of acceptance after the completion of the sentence and possibility of employment;
- To structure prisoners' free time, design activities and creative hobbies;
- That prisoners' families are actively included in the process of prisoners' re-socialization.

To qualitatively change attitude towards prisoners and to establish ethical standards of employees' behavior in sense of respect of personality and prisoners' dignity, which implies:

- Development of affirmative approach in work, in general, and especially in creating conditions that are as similar as possible to those outside, which is not ascribed by law for it is not forbidden;
- Understanding that the prisoner is a person whose freedom of movement is temporarily restricted, as a penalty for committed crime, while other rights are guaranteed to him.
- That penalty for the committed crime is in charge of the court and that there is no need and no legal backgrounds for additional punishments, beyond disciplinary measures, by the staff
- Exceeding of powers in form of excessive use of force towards the prisoner would have to be treated as an offence not as negligence in performing work duties which is penalized by a cut-off in salary;

#### **C/ Prisoners' participation**

- That the prisoners are actively included in creating and deciding about their daily life in prison;

#### **D/ Services**

- To bring the number of employees in services to optimal number, adequate to number of prisoners.
- To educate the staff in services about human rights and European laws and recommendations related to prison, and to implement them in everyday work, as well as to provide acquiring of additional skills and techniques so that they could apply this knowledge.
- That programs of services' work are harmonized and in function of prisoners' re-socialization.

#### **E/ Quality of work in services**

- To develop and implement efficient mechanisms for the control of work within the services;

#### **F/ External monitoring**

- To provide permanent external monitoring of imprisonment conditions;

Results of independent external monitoring also give information about possible obstacles whose overcoming should be regulated by sub-legal enactments, by which conditions for dignified life of prisoners would be created, as well as for the work of officers, which means full respect of prisoners' guaranteed rights by State institutions.

We hope that, during the implementation of this project, we managed to contribute both to direct improvement of imprisonment conditions in Penitentiary Niš and to improvement of system solutions in execution of prison sanctions.