

HELSINKI COMMITTEE FOR HUMAN RIGHTS IN SERBIA

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Prison Reform Monitoring in Serbia  
2011-2013



Belgrade, January 2014



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*Monitoring Prison System Reform in Serbia  
2012-2013  
and  
Prison System in Serbia in 2011*

Belgrade, January 2014.

**Helsinki Committee for Human Rights in Serbia**

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# Introduction

Over the past ten years, the Helsinki Committee for Human Rights in Serbia (HCHRS) has conducted dozens of visits to prisons in Serbia with the aim of making an assessment of the human rights conditions for imprisoned and detained citizens. Since 2001, the HCHRS has visited all 28 institutions for the execution of criminal sanctions, many of which several times. In a vast number of reports<sup>1</sup>, the HCHRS has conducted analyses and noted non-compliance with solutions prescribed by national legislature and international law on the one hand, and with common practices in the system of execution of criminal sanctions on the other.

This publication contains reports from prison monitoring visits the HCHRS has conducted in the period 2011-2013. These visits have been carried out as part of two compatible projects – “Prison System Reform in Serbia” and “Strengthening the National Preventative Mechanism against Torture and Advocacy for the Rights of Institutionalized Persons”, cofinanced by Civil Rights Defenders and the Netherlands Embassy in Serbia.

During 2011, the Helsinki Committee has paid special attention to sensitive groups of the prison population, such as juveniles and women. In 2012-2013, the focus was on monitoring the situation in four big prisons (Niš, Požarevac, Zabela and Sremska Mitrovica) from the systemic reforms aspect, as well as in regard of the implementation of the Strategy adopted in 2010.

The HCHRS has used the same methodology for monitoring the observance of human rights in closed institutions, with an emphasis on sensitive groups of prisoners (juveniles, women, the elderly, persons with disabilities, minorities etc.).

In early 2012, the Helsinki Committee has, along with other civil society organizations, concluded an agreement with the Ombudsman thus becoming a member of the team of the National Preventative Mechanism against Torture (NPM). As part of the NPM, the Committee has carried out several monitoring visits to Sremska Mitrovica, Požarevac, Zabela, Pančevo, Subotica, Kragujevac and Valjevo. In addition, as part of the strengthening

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<sup>1</sup> All hitherto reports and publications are available at: <http://www.helsinki.org.rs/serbian/ljptortura.html>

of the National Preventative Mechanism in Serbia, the Helsinki Committee has organized several trainings on the topic “The Role of the NPM in the Prevention of Torture”, as well as study visits to the Netherlands which included members of the NPM team as well as representatives of institutions for persons deprived of their liberty.

# Prison System Reform

Prison System reform The Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions in the Republic of Serbia 2010-2015 was adopted in 2010 whereas the pertinent action plan in 2011. The Strategy itself was the government's answer to the growing number of persons serving sentence of imprisonment from 2005 (8,078 prisoners) till 2009 (10,974 prisoners).<sup>2</sup> Such a dramatic growth of prison population was not only contrary to international standards and domestic legislation but also a serious threat to fundamental human rights of persons imprisoned under the current law.

The Strategy was meant to:

- Improve the situation of prisoners under sentence, detainees and other persons deprived of their liberty, and the exercise of their rights;
- Humanize the "system for the execution of criminal sanctions" and improve the implementation of international standards in this domain;
- Ensure the feedback on implementation of the criminal legislation proscribing incarceration so as to correct penal policies of courts of law and governmental policies for punishment by imprisonment;
- Improve efficiency of the Administration for the Execution of Penitentiary Sanctions (AEPS) and the law enforcement within the Ministry of Justice in charge of implementation, planning and monitoring the "execution of criminal sanctions;"
- Reduce and redistribute subsidies for the prison system Administration for the Execution of Penitentiary Sanctions
- Improve safety of all citizens.

The Strategy plans the following steps:

1. Alternative sanctions and probation measures;

2. Conditional release and early release;

<sup>2</sup> Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions in the Republic of Serbia in the period between 2010 and 2015

3. Judges specialized for the “execution of criminal sanctions;”
4. Establishment of a probation service;
5. Increased accommodation capacity and improved living conditions in prisons:
6. Improved professional capacity of the Administration for the Execution of Penitentiary Sanctions (AEPS);
7. Amnesty;
8. Unified information system.

Now, at the beginning of 2014 – four years since the adoption of the Strategy – Serbia seems to be halfway through the accomplishment of the Strategy’s goals. The initial measures taken were either short-lived and cosmetic or seemingly most effective such as the Amnesty Law.

A probation law to detail the functioning and the role of the Probation Service was expected by the end of 2013. Among other things, the Probation Service would closely cooperate with pre-release services in prison institutions and the stakeholders in charge of prisoners’ social reintegration. The probation law has not been passed yet. However, the Ministry of Justice claims that its implementation would reduce the number of prisoners by 20 percent at least.

The Amnesty Law adopted in late 2012 was yet another measure the state took to combat overcrowding in prisons. The Law was passed under urgent procedure and without a public debate. Public reactions to the Law – especially by experts and civil society organizations – only confirmed the doubts accompanying its adoption. One thing is for sure: the Law did not solve the problem of prison overcrowding being a one-off measure that for a time created an illusion of better living conditions in Serbia’s prisons.

According to the Administration for the Execution of Penitentiary Sanctions (AEPS) (April 15, 2013) from the day the Amnesty Law was adopted in November 2012 till April 2013 about 2,000 prisoners having served nine-tens of their sentence were released. Director of the Administration for the Execution of Penal Sanctions (AEPS) Milan Stevović told the parliamentary commission for the control of “the execution of criminal sanctions” that the number of prisoners had been reduced from 11,300 to 10,228 persons.

Overcrowding in Serbia's prisons is still alarming. The government has no precise records about the number of persons under sentence waiting to serve their time in prisons at the moment the Law was enacted and the number of those sent to prisons after its adoption.

When the Law was announced a number of sentenced persons applied for imprisonment by their own free will hoping the Law would shorten their terms. This only added to overcrowding. For instance, the administration of the Women's Penitentiary in Požarevac had to put in extra beds to accommodate all the newcomers. As many as five women were admitted per day: one-bed rooms had to be turned into two or three-bed rooms. The pavilions (such as Pavilion IV) with accommodation capacity of 71 women had to accommodate 85 women under sentence.

When it comes to combating overcrowding yet another mechanism is seldom practiced – conditional release. Reasons for poor implementation of this legal provision are not exactly clear. According to the Administration for the Execution of Penitentiary Sanctions (AEPS), the number of conditionally released prisoners spiraled down over past couple of year: in 2005 prisoners released under condition made 38.59 percent out of total number of prison population and only 19.83 percent in 2009.<sup>3</sup> Courts of law decide on conditional releases upon recommendations from prison administrations. For their part, prisons often recommend early releases although they are anxious about having to admit recidivists; this testifies that they are fully aware about their inadequate resocialization programs. On the other hand, instead of general pardon some women prisoners in the Požarevac penitentiary were granted conditional releases, which would not have been disputable in itself was it not about the women who have already served long sentences for murders of their violent partners and had applied for amnesty for years in a row. These women were conditionally released just a couple of months before they served their full sentences in prison. These cases along with similar ones raise the question about why instead of alternative mechanisms such as conditional release the state tries to solve the problem of overcrowding by taking ephemeral measures.

Alternative sanctions provided under the 2010 Strategy have been effectively implemented in many European countries for years. In the Netherlands, a country with the population of 16 million, out of some 40,000 persons sentenced per year, only one-fourth are punished with imprisonment. In this sense, Serbia starts from scratch: because efficient

3 Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions in the Republic of Serbia in the period between 2010 and 2015

implementation of alternative sanctions calls for amendment of the so-called Law on the Execution of Penal Sanctions and adoption of a law on probation providing modes and conditions for alternative punishment with prison. True, the government has taken some steps towards efficient implementation of alternative sanctions. In January 2010 it opened the tenth office for alternative sanctions. Though the number of such offices grew within a year this implied not a growth in the number of alternative sanctions and their smooth implementation. The fact that a law on probation has not been enacted yet and the Law on Execution of Penal Sanctions not amended figures as the biggest stumbling block in the way probation services' efficient functioning. Further on, such offices necessitate recruitment of officers focused solely on probation duties: as things stand now, officers working for resocialization services in prison institutions are also engaged in probation offices in some towns in Serbia.

The most frequent alternative sanction imposed by Serbia's courts is the community service order. The number of such sanctions, however, is still small when compared with the total prison population (out of 10,000 sentenced persons the community service order has been imposed on just 223 persons). And yet a certain progress made in this domain cannot be denied: in 2010 community work order was imposed on 17 persons, in 2011 on 99, in 2012 on 209, whereas in 2013 223 persons were given the community work order. To have community service orders efficiently enforced the Ministry of Justice has signed contracts with 129 institutions so far (local self-governments, public utilities and enterprises, cultural centers, etc.). As the next step to make the government has to spread the network of probation services onto the entire territory of Serbia.

Prisons still accommodate numbers of persons awaiting trial along with prisoners under sentence – presently, there are about 2,400 detainees. In March 2005 detainees made 22 percent of total prison population, in mid-2010 this percentage was 30, while in late 2012 it amounted to 24.7.<sup>4</sup> A new code on criminal procedure is expected to provide detention only when truly necessary, considerably reduce the number of detentions and time a person spends prison while awaiting trial through measures ensuring a suspect's availability and unimpeded criminal proceedings as alternatives to detention (home detention sentences and bails) and principles of opportunity.

As things stand now, suspects are often kept in prolonged, uncorroborated detentions for which the state has to pay damages afterwards.

The latest inspection showed that overcrowding is the most prob-

lematic in the so-called closed wards accommodating prisoners sentenced to 1-10 year imprisonment.<sup>5</sup>

The Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions in the Republic of Serbia 2010-2015 was adopted in 2010 whereas the pertinent action plan in 2011. The Strategy itself was the government's answer to the growing number of persons serving sentence of imprisonment from 2005 (8,078 prisoners) till 2009 (10,974 prisoners). Such a dramatic growth of prison population was not only contrary to international standards and domestic legislation but also a serious threat to fundamental human rights of persons imprisoned under the current law.

In 2011 the Administration for the Execution of Penitentiary Sanctions began implementing yet another form of alternative punishment home detention as provided by Article 45, paragraph 5 of the Criminal Code of the Republic of Serbia. Although in 2013 the European Union granted 600 electronic bracelets to Serbia only 348 sentenced persons are presently in home detention under electronic surveillance. On the other hand, this form of punishment proved to be rather efficient: until now a court of law changed its initial decision on home detention under electronic surveillance in one case only by punishing the said person with imprisonment. In addition to above-mentioned benefits of alternative sanctions, international experience and facts show that alternative sanctions more efficiently serve the purpose of social rehabilitation of offenders and a community's safety.

To solve the problem of prison overcrowding Serbia has been also constructing new prisons and reconstructing the existing ones in the past years. A high security facility accommodating 450 persons was built in Padinska Skela and new pavilions for juvenile offenders erected within the Kruševac Reformatory. New facilities were also built within the Sremska Mitrovica Prison, the Novi Sad District Prison and the Subotica District Prison. Accommodation facilities have been reconstructed within the Special Prison Hospital and the prison institutions in Kruševac, Sremska Mitrovica, Zabela, Čuprija, Padinska Skela, Penitentiary-Reformatory for Women in Požarevac, Belgrade, Novi Sad, Leskovac, Subotica, Kraljevo Novi Pazar, Negotin and Smederevo

In 2011 the government adopted the Strategy for Social Reintegration and Integration of Convicted Persons in the Period 2012-2015. The Strategy envisages support measures for ex-con-

victs, meant to lessen the risk of recidivism or criminal behavior. It also provides assistance to released prisoners in the domains such as housing, employment, medical treatment, education, etc.

Presenting the Strategy in late 2011 the then director of the Administration for the Execution of Penitentiary Sanctions, Milan Obradović, said that released prisoners were left on their own to satisfy their educational, social and medical needs; out of some 11,000 prisoners in Serbia 50 percent had no qualifications whatsoever and could not find jobs upon release, 80 percent had never been employed, whereas 70 percent had been drug addicts. It is the more so necessary, he said, to establish a stable system of post-release reintegration into society. On the other hand, he added, these figures speak of poor social rehabilitation and pre-release program in prison institutions, as well as inadequate occupational programs for prisoners.

The Penal Sanctions Enforcement System Development Strategy 2013-2020 (the adoption of which is still pending) aims at curbing criminality through continual improvement of the conditions in which sanctions are implemented, including implementation of contemporary methods for prisoners' social reintegration. The Strategy deals with twelve major areas and sets priorities in each: laws and regulations; infrastructure; respect for human rights of persons deprived of their liberty, especially of vulnerable groups of prisoners; treatment programs for prisoners, especially for vulnerable groups; security measures; occupational programs for prisoners and prison work; alternative measures and sanctions, and post-penal integration; training programs for prison officers; judicial police; surveillance; and information and security systems. Such comprehensive problem-solving approach aims at not only improving the situation of prisoners, their professional capacities and integration into outside community after release but also at making a systemic change in the functioning of all prison institutions, the judiciary, the police, ministries and other stakeholders

# Prison monitoring 2012-201

In all four prisons (Niš, Sremska Mitrovica, Zabela and the Women's Penitentiary-Reformatory in Požarevac) where the Helsinki Committee for Human Rights in Serbia (HCHRS) has carried out monitoring over the past years, there has been a change in the management structures and new management was appointed in 2013. Regretfully, we have to note that this process is the result of political changes in the country, which we find to be a bad and harmful practice, having in mind that Serbia does not have sufficient competent personnel for working with the prison population as it is. Furthermore, this testifies of a chaotic relation towards the growing crime rate in the society, which reveals the political elite's incapacity to implement the judiciary reform and the reform of the prison system as one of its aspects.

This is further supported by the facts that there is a high percentage of returnees among the prison population, that the structure of committed crimes and perpetrators has changed (according to prison managers, the majority of prisoners are persons on the brink of poverty), there is a 'flood' of drug addicts in prisons, and society and political elites demonstrate a complete lack of understanding of the importance of the matter.

All penitentiaries-reformatories are dealing with numerous problems in their work, including insufficient residential capacities and funds vast debts for utilities, serious security risks etc. The entire prison system in Serbia gives the impression of an isolated segment of society, which the HCHRS sees as a serious problem.

## I. Quality of life and living conditions

### *a) Buildings and grounds, equipment, ventilation and lighting, sanitary conditions and hygiene*

Due to a lack of financial means, the decades of the neglect of problems related to the execution of penal sanctions, as well as the lack of a strategic outlook in the prison system reform process, all four prisons can still be said to be far from the proclaimed and adopted standards of conduct towards convicted persons, whereas the standards are to minimize torture, inhuman and degrading treatment. This is visible in all aspects, especially as regards the quality of life and the living conditions, which reflects on all other issues of significance for the prison population, but for the society at large as well. Although it is the only institution for the execution of penal sanctions for women – the **Penitentiary-Reformatory for Women in Požarevac** has not been, since it was founded, given special treatment among prisons, nor had it received significant funding which would enable full reconstruction of the dilapidated facilities. The last refurbishment of this institution was carried out in 1971, and has since been carried out only partially, as part of ongoing maintenance works, so that burning issues would be resolved and, as much as was possible, so that the living and working conditions for the prisoners would be improved.

During the first monitoring visit, the number of female prisoners was 270, whereas this number was 255 during the second one (September 2013). The capacities are built for 200 prisoners. In spite of the good news received in 2011, when the Administration for the Execution of Penitentiary Sanctions (AEPS) had approved the funds for the reconstruction of the main building, this investment has still not materialized. In October 2012, the project documentation was completed and a call for public procurement was published, however, the procedure were annulled and the construction work has not begun. One year later, the situation remains unchanged. The plan has foreseen that both the closed and the semi-open departments have capacities for 150 persons, whereas the open department would house 50 persons. The construction of a kitchen, which the Helsinki Committee has continuously persisted on, is also being planned. As regards the issue of raising the capacities is concerned, the criticism of the AEPS for insisting on the existence of one large institution instead of

several smaller, territorially dispersed ones, remains. This point of criticism is crucial having in mind the low social status of the prisoners, the difficulties in maintaining contacts with their children and families, additional negative consequences of being removed from a familiar environment, as well as other bad effects of centralization (as opposed to more balanced development and strengthening state capacities, new employments etc.)

In the period between two visits (2012-2013), the living room area in department IV which had burned down in the fire has been renovated so that the prisoners are no longer sitting around in the hallways, which was what was found during the visit in 2012. Nevertheless, there were insufficient funds for equipping this space, so that it now only contains school benches and chairs. However, the lack of bathrooms and toilet facilities in this department remains a serious problem. Between 60 and 70 women on average have only 2 showers and 2 toilets at their disposal, which are in very poor condition at that. The leaking roof also needs urgent reconstruction, as does the laundry room, which is in such poor condition that it should be closed down. One large and three small washing machines are only used for washing bed linen, bed spreads and the like, whereas the prisoners wash their clothes by hand in concrete tubs in a cold and damp basement. As compared to previous visits by the HCHRS team, when it was found that the prisoners were washing their laundry in cold water only, hot water for this purpose was introduced. The institution has also, out of its own funds, replaced windows, and the courtyard of the institution was paved. As part of the out-patient department, a separate department for persons with disabilities, including a wheelchair ramp was opened.

Several prisoners have stated that the TV crew of the Serbian Broadcasting Corporation had visited the institution in 2012, but that the cameras were not introduced to the closed pavilion, but rather only taken to those parts of the institution which were clean and in good condition. The Helsinki Committee considers such practice on behalf of the Ministry of Justice and the AEPS to be counter-productive and indicative of the lack of professionalism and a strong influence of politics on the judiciary in general, as well as on the sector for the execution of penal sanctions in particular.

**The Penitentiary-Reformatory in Sremska Mitrovica** remains to be an absolute record-breaker given the number of prisoners. During both visits (in October 2012 and in September 2013), it housed more than 2,000 persons. Out of this number, more than 1,500 persons are in the

closed department, around 400 are in the semi-open department, and more than 100 are in the open department of the institution. There is a noticeable decrease in the number of detained persons (132 in October 2012, 79 in September 2013), whereas there were 29 persons being held on misdemeanor charges on both visits. The pre-trial detention is located in the new object.

During our first visit, we have noticed that there are persons with disabilities in the institution who are not separated from other prisoners and who were being assisted by fellow prisoners in their daily routines and overcoming obstacles. Following our second visit, certain efforts to improve the conditions for persons with disabilities by transferring them to the hospital ground level have been noted. During 2012, the pre-trial detention department was still overcrowded, so that there were 10 prisoners in a room with 6 beds, forcing some prisoners to sleep on mattresses on the floor. Although it was also noted during the second visit that the number of prisoners was higher than proclaimed by existing standards in certain pavilions, beds for all prisoners have been supplied. Thus, in Block C in the III pavilion, each room houses 2 prisoners more than the standards prescribe, but each prisoner has his own bed. Prisoners from this block still have problems with the lack of hot water for bathing and with maintaining personal hygiene. However, in the renovated C1 block floor heating was introduced, and each room has its own bathroom and toilet facilities and hot water at all times, which has a significant impact on the prisoners' behavior. This block is also called 'the hotel'. The IV pavilion still has not been refurbished, and the object located on the economy still does not have showers, so the washing up takes place in the resting area.

**The Penitentiary-Reformatory in Zabela** continues to have a problem with a large number of incoming prisoners, which revolves around 700 prisoners on an annual basis. However, in September 2013, Zabela had already had more than 500 incoming prisoners, which pointed to the fact that there would be more than a total of 800 until the year's end. The new AEPS management, has, allegedly, taken a stance on putting an end to numerous transfers, which the Helsinki Committee considers to be a hasty and arbitrary decision. Namely, as problematic as transfers of prisoners from one institution to another may be for both the prisoners and the prison staff, the insufficient prison capacities in Serbia do imply the need for transfers for security reasons for example, such obduracy could endanger both prisoners and the prison staff. On the other hand the practice of transferring prisoners who fulfill the necessary conditions to county prisons, amounting to around 40 at the time of our second visit to Zabela, is not being implemented. In large systems, such as Zabela, any decrease in the number of prisoners is of essential importance

for the functioning of the institution. This is why we think that the AEPS should implement this decision with utmost caution.

As was already mentioned, the overcrowdedness in Zabela is not ceasing. Although the number of prisoners varies, it always revolves around 1,500 to 1,600 persons, which, along with poor housing conditions and the insufficient number of staff engaged, represents a big problem. As many as 80% of prisoners are in the closed department in this institution as well, which points to the need of serious re-evaluation of both court and post-penal policies, as well as that of the work of the educational service. In September 2013, the pre-trial detention had also had fewer persons – 48, so it can be concluded that this measure is being more cautiously issued. During the Helsinki Committee's visit a year earlier, according to the manager, there were usually around 90 to 100 persons in pre-trial detention, whereas the capacities are to hold no more than 60 persons. In pre-trial detention, there are even 4 story beds, which certainly isn't in line with standards and needs to be reduced to 2 story beds at the most. In pavilions I through IV of the institution, 3 story beds can still be found, and the III pavilion still has dormitories housing between 45 and 50 prisoners.

The institution has put in much effort to renovate old housing objects and improve conditions as much as possible: heating was installed in two pavilions and separate rooms were made for paraplegics. The pre trial detention has new lockers for personal belongings of prisoners, the VII pavilion has a new walking ground, and the placement of showers for use after sports activities is planned. New bed constructions have been made, and the Penitentiary-Reformatory in Niš will provide 100 new mattresses. Prisoners from this pavilion have complained about the lack of hot water for showering, which is why they use the stove for heating water.

During both visits, we found a vast number of elderly persons which should be provided with more suitable accommodation (2 story beds, stairs, bathroom and toilet facility access). The institution is planning to ask for funds from the state so as to adapt an object to suit the needs of this population.

**The Penitentiary-Reformatory in Niš** has similar problems overcrowdedness, shortage of staff and adequate facilities, debts etc but judging by the completed and ongoing construction work, there is an impression that this institution had more funds at its disposal. The number of incoming prisoners revolves between 40 and 70 per month in this institution as well.

During 2012, the reconstruction of the outside wall of the institution funded by the European Union, was completed. The reconstruction lasted 13 months, and the wall of 180 meters was built. During construction, only persons with a high security risk were transferred to other prisons (Padinska Skela and Sremska Mitrovica), whereas the other prisoners remained in the institution. This period was particularly strenuous on the institution's staff, especially on the security service which worked under a lot of stress, having in mind the fact that entire parts of the prison had remained without external security at times.

In early October 2013, the renovation of the II pavilion began, engaging prisoners in the construction works. The roof of the building which had been leaking for years has been mended, all rooms have been freshly painted, flooring replaced, new beds with mattresses and lockers for personal items procured. New alarms for calling members of the security service were installed, with visual and audible signalling devices. During our visit, construction works were still underway engaging between 16 and 20 prisoners, whereas around 40 prisoners were transferred to Padinska Skela. Solitary confinement rooms located on the ground level of the pavilion have also been refurbished. All solitary confinement rooms have beds fixed to the floor, a chair and a table, toilet and faucet with drinking water, but no sink, whereas natural light is very limited.

The C pavilion building is in the worst condition, and the institution has received a construction permit for complete refurbishment (water, plumbing, electrical wiring etc.). A project application was submitted for building a new object which would house visitation rooms, a package reception room and facilities for security service members.

Pavilions A and B have been refurbished so that now all rooms have lavatory facilities, a bathroom and hot water. The rooms accommodate between 6 and 12 prisoners.

The church on the institution's grounds has also been renovated. Inner construction works have been completed, and during the Helsinki Committee's visit, several prisoners had been working on painting the church's interior.

The heating system is old, but the institution's management hopes that the institution could get connected to the gas line, given that the gas line is adjacent to the institution. Since 2012, there were no water shortages during the summer months, given that the problem with water

pressure was solved.

### ***b) Kitchen, mass hall and food***

Prisoners' complaints about food quality and quantity are commonplace in all prisons. However, it is evident that prisoners from urban environments and of a higher social standing have more complaints about both the kitchen and the canteen than those of more modest social standing. The latter even stress that the food is satisfactory and the canteen well supplied, although the prison staff explained that many of them do not buy anything in the canteen because they are sending the money back to their families.

At the **Penitentiary-Reformatory for Women**, as is well known there is no kitchen and the food is being delivered from the male prison in Zabela. The Helsinki Committee finds the announcement that this institution could finally get its own kitchen an important step forward, not only because of the food quality for women, but also for other options which could be opened by this (in terms of training and occupational engagement, treatment, numerous activities etc.). Thus far, however, the situation is unchanged, and prisoners state that they often receive spoiled food, and that this is especially the case with dried meat products and other processed meat products. They have stressed that worms, bugs and the like can also be found in the food. Although the institution's management denies such claims, it is a fact that delivering food from Zabela is not sanitary and represents a health hazard, but it also holds true that this is degrading and dehumanizing for the prisoners. In addition, food prepared for women should be of better quality and should include more dairy products, fruits etc, which is not currently the case. The sanitation of the meals is signed by doctors who also taste the incoming food.

The canteen has various articles, including hygienic products. However, many women have stressed that the prices are high, which was verified by our team. The prison canteens are supplied with merchandise by the 'Nelt' company, which the management states was selected as the best offer and working without profit margin. Comparing prices in all four prisons, the Helsinki Committee has noted that the prices are not the same everywhere, and that certain products are more expensive than in regular stores. We see this as a big problem and omission on part of the AEPS which should be urgently resolved. In certain canteens, no fruit can be found for two to three months (because of the hot weather, according

to security service members), although it was available at an earlier time.

Also, as is the case in other penitentiary-reformatories visited by the HCHRS team, there is a discrepancy between very expensive cigarettes which are available at the canteen, and the real and estimated financial capabilities of the prisoners who are of poor material standing more often than not. As regards the procurement of cigarettes in this institution, the prisoners are allowed to receive in packages only those types of cigarettes which are not available at the canteen.

Prisoners in Sremska Mitrovica also claim that the amount and selection of food provided are unsatisfactory. According to them, the meal consists of 'one ladle', whereas they get one egg and some salami or sausage for breakfast. They get yoghurt once per week with polenta. As regards the meat, they say that, occasionally, they get 150 grams of bones and some meat, although the menus state that 250 grams of meat is being served per person.

The institutions in Zabela and Niš also rarely have milk and dairy products, fruit and sweets on their menus ('during holidays only', say the prisoners). It is commendable that all visited prison institutions cater to diabetics as well as to religious beliefs. In Zabela, for example, 3 wahhabis are currently serving their sentences, and they are receiving specially prepared food according to standards of the Islamic faith and in line with HASAP standards, which includes beef and special slaughterhouse requirements. According to security service members, these persons are being accommodated as much as possible, which was confirmed by the wahhabis, who stressed that they were content with how they are being treated as regards their habits and their faith.

The institutions' staff is aware that the prices in the canteens are high, but they stress that they are powerless to change anything in that regard.

Finally, it should be stated that the dining hall and kitchen equipment and dishes should be regularly renewed. AEPS should have a plan for continuous maintenance of all objects, especially those where food is being prepared or served. During our visits, new dishes were noticed to have been procured only at the Penitentiary-Reformatory in Niš. The dining room appearance should be given more attention.

### ***c) Medical care***

This aspect has been subject to many objections made by the Helsinki Committee in all of its reports. Although the health care situation is problematic in the society at large, we cannot but repeat once again that this service needs to be excluded from the competence of the Ministry of Justice and placed under the control of the Ministry of Health. It can still be noted that the health service greatly varies from prison to prison. This is one of the reasons for insisting upon the Ministry of health taking over this service and setting standards. Currently a vast number of medical staff are employed in the institutions, the organization of work has not been systematized even though this is possible, cooperation with health services in the open environment is somewhere problematic and elsewhere good, protocols are well developed in some institutions while others possess only basic information, provision of medication is problematic and also varies across institutions etc. These are all reasons for the HCHRS' high interest in the organization and work of these services.

There are three doctors and three nurses employed at the health service of the **Penitentiary-Reformatory in Požarevac**. All three doctors have very little working experience and this is their first employment in the health care system, which serves as a good illustration for the big problems all institutions are facing – for example, the difficulty of hiring medical staff. The Helsinki Committee maintains that this issue must be resolved in cooperation between the two ministries, because it is unfathomable that certain prisons have open calls for months and that, at the same time, young experts cannot find work. Social stigmatization of the prison population as well as of those employed in this field is present but it is unacceptable when health workers are concerned. This type of attitude also opens up the question of professional and moral qualities of medical workers.

The out-patient department working hours are from 7am to 8pm on working days, in shifts from 7am to 3pm (two doctors) and from 12pm to 8pm (one doctor), and from 8am to 8pm on Saturdays and Sundays. There is no health personnel at the in-patient ward between 8pm and 7am. At the out-patient department, between 60 and 70 health examinations are being carried out on a daily basis, which is very high, considering the number of prisoners. This points to the poor health condition of the female prisoners, although the health service personnel stresses that the women often simulate feeling ill. This attitude can, probably, hold true for persons addicted to psycho-active substances (PAS), but other prisoners have no motivation for this type of manipulation, given that there is no

work obligation. Our team's impression continues to be that medical staff is not sensitized enough for the specificities and problems of the prison population.

Upon admission at the penitentiary-reformatory, the first examination of a prisoner is carried out and it entails: taking a personal and family history, physical examination, skin inspection, body weight measurement. A gynecological examination of the cervix (Papa test) is also done upon admission. Laboratory tests and general health check ups are not being carried out. Upon admission, the prisoners are sprayed as a safeguard against fleas.

The prisoners schedule their health checkups through the commander in charge. Consultative examinations are also available.

A neuropsychiatrist and a psychiatrist visit the institution four times per month, the same goes for the dentist and dental technician, whereas a gynecologist visits the institution twice per month, or more frequently, as needed.

Injuries of prisoners are noted in the prisoner's health file as well as the Protocol for injuries and self-inflicted injuries. The Protocol contains information about date, general information and the way the injury was inflicted. A medical examination is mandatory before solitary confinement and prisoners are being regularly monitored. A psychiatrist's examination is mandatory prior to usage of fixation measures.

Prisoners of lower material standing receive hygienic packages from the management.

The in-patient ward consists of two rooms. One has only one bed and is occupied by a patient with special needs (paraplegia), whereas the other room has six beds. As needed, the prisoners are placed at the Special Prison Hospital in Belgrade. The maternity ward is neat, clean and freshly painted, children have toys and mothers often take them out for walks. Child care is excellent, and vaccinations and medical check ups are regular and up to date.

There is no laboratory, laboratory services are used once per month, or more often as needed (20-25 services per month). The testing of prisoners for opiates is carried out as suggested by the security, treatment and employment service staff, and after the manager's approval is secured. The institution procures medicaments via the state pharmacy. Methadone treatment is distributed in the pavilions.

At the time of the visit, one third of the prisoners were persons addicted to psycho-active substances (PAS) (10 of them are receiving methadone therapy), 53 were alcoholics, 33 had Hepatitis C, one was HIV positive and one positive for TBC. During 2012, there were two deaths. Although it is mandatory to carry out an autopsy and open an investigation, the institution stated that they received the autopsy report only upon their own insistence. The HCHRS maintains that providing the institution with the autopsy report should be a rule, which the Ministry of Justice could easily establish as part of the existing procedure.

In spite of the numerous complaints on behalf of the prisoners, there were no violations of employment obligations as part of this service.

The complaints usually include a long waiting time for seeing a gynecologist, the fact that they cannot receive medications from home inadequate medical treatment in the institution etc.

The health service at the Penitentiary-Reformatory in Sremska Mitrovica still employs six general practitioners, one psychiatry specialist, one dentist, 17 medical technicians, one dental technician and one laboratory technician. The head of the medical service is a doctor, a psychiatry specialist (he had completed his specialization at the penitentiary-reformatory), with six years of working experience at the institution. Five doctors are employed on a contract basis for a specified time. The working hours for the doctors in this institution are from 7am to 3pm, with one doctor on call during the afternoon and night hours (from 2pm to 10pm). The technicians work divided in four shifts. There is a doctor's office in each of the pavilions, as well as in the building where the in-patient ward is located. There is also a doctor's office at the pavilion 'Zelengora', as well as in the open department 'Veliki salaš', both of which are part of the penitentiary-reformatory.

Upon admission to the penitentiary-reformatory, a health file for each prisoner is opened. A physical examination is carried out, ailments are being noted, a family history is taken and laboratory analyses for Hepatitis B and C, as well as for HIV are being done. All prisoners are tested for opiates. Lung X-rays are done when needed, usually once or twice per month at the general hospital.

As in other institutions, the prisoners file a request for a physical examination to the commanders and are examined the following day at

the earliest. When requested by the commanders, the doctors enter the pavilions in urgent cases: loss of consciousness, epileptic seizure, cardiac arrests and the like.

Consultative examinations carried out by specialists are ensured: internal medicine (once per week), ORL (monthly), orthopedy, psychiatry and dermato-venereology (as needed). Given that the head of the medical service is a psychiatrist, he carries out the examinations three times per week (60 examinations per week in total). As needed, examinations outside of the institution are organized as well. The institution has its own ambulance for the transport of prisoners.

Injuries incurred during occupational engagement of prisoners are noted in the health chart as well as in the injuries record. The occupational safety service, assisted by one doctor, fills out forms for the insurance company twice per year. The injuries are classified into three categories: self-inflicted injuries, occupational injuries and sports injuries. There are still no protocols in existence: eg. a protocol for use of measures of constraint, incidental injuries etc. Before a discipline measure is enforced, the doctor must confirm that the prisoner's health state is adequate for enduring the measure.

The biochemistry laboratory is located at the in-patient ward, which consists of three blocks with two, three and four-bed rooms, with a capacity for 30 beds, or more as needed. Most prisoners placed in the in-patient ward are suffering from chronic psychoses. Three orderlies ensure that hygiene is up to standards and take care of these prisoners. There is a large number of prisoners suffering from Hepatitis B and C, as well as those addicted to using psycho-active substances.

As regards personal hygiene items, the prisoners receive shaving foam, razors and soaps, but they also frequently buy these items themselves.

Procurement of medicaments is done via the central pharmaceutical institution, and in part via tender procedure (which is financed with the institution's own financial means). Therapy for cardio-vascular diseases, as well as oral anti-diabetic treatments are administered once per month. There are therapy charts for psychiatric patients, based on which they receive medicaments individually from medical technicians. Insuline and methadone therapy is administrated at the in-patient ward.

**At the Penitentiary-Reformatory Zabela**, there are three doctors (all under five years of working experience), one dentist (10 years of

working experience), nine medical technicians and one higher-grade sanitary technician, whereas one pharmaceutical technician has relocated to the security service in 2013.

Four technicians work in 12 hour shifts, and others in regular shifts. As compared to the number of prisoners (1,500-1,600), the number of doctors is insufficient. The head of the health service is also in charge of the prisoners placed at the increased surveillance department (OPN). Around 80 scheduled and 10 ad hoc examinations are carried out each day. Between 8pm and 7am, the technicians are on call, and the the head of the service is called as needed.

Due to the risk of violent behavior of the prisoners, the commander is present during the examination, but given that this violates the right to privacy, this practice is not strictly enforced. There were no incidents recorded.

During the first 24 hours upon admission to the institution, the first health examination of a prisoner is being carried out and a health file is opened, but laboratory tests are not being done due to financial constraints. The first page of the file contains information on the prisoner's ability to work ('light manual labor', 'manual labor', 'not able to work').

The prisoners file are request for a health examination to the commander. The commander schedules the examination and accompanies the prisoner to the doctor's office. A doctor visits the VII pavilion once per week.

Before being referred to solitary confinement, a psychiatric evaluation is required. In addition to this, the corresponding specialist's report is needed in cases of prisoners with chronic diseases. The prisoners are being visited daily and the visitations are recorded in the Protocol.

Injuries of the prisoners are recorded in the health file, as well as in the Protocol of Occupational Injuries for the needs of the insurance company.

In Zabela, there is a protocol of accidental injuries - lacerations, ingestion of foreign objects (keys, pencils, shampoos), coercive measures - batons, use of physical force, fixation, testing for opiates, as well as the protocol for medical examinations. The fixation measure is used exclusively when issued by a psychiatrist, for no longer than 24 hours, and sedatives are being used alongside this measure.

Weekly consultative meetings are provided by: neurologists, dermato-venerologists, internal medicine specialists - cardiologists,

psychiatrists, surgeons. Twice per week, or more often as needed, a pneumo-physiologist is engaged.

The institution does not have its own laboratory, the tests are done at the City Hospital. The laboratory technicians visit the institution twice per week and perform tests for 10 prisoners on average. The doctors are informed only to carry out absolutely necessary analyses. Testing for opiates via urine test tapes is performed upon the manager's approval.

The out-patient department and the in-patient ward are located in the same building. The in-patient ward has 20 rooms, with 85 hospital beds. The rooms have three to four beds each. The majority of hospitalized prisoners are located there due to old age or type of disease (old and feeble, prisoners with stents and pace-makers, psychiatric patients, persons with disabilities). In serious cases of health deterioration, prisoners are transferred to the Special Prison Hospital in Belgrade.

This penitentiary-reformatory also has a high number of persons addicted to psycho-active substances (PAS), as well as those suffering from Hepatitis. The prisoners choose their own personal hygiene items (they buy these at the canteen or receive them in packages). They receive the 'collective package' very rarely.

The dentist's office is well equipped, but still operates without a technician. Tooth extraction is the most frequently performed dental intervention, and tooth treatments are done more rarely due to the lack of materials. Prisoners who are able to pay for dentures are taken to two private dentists' offices in the city, but this type of health care is problematic, because it entails additional security measures and providing a transport vehicle.

The problem of issuing prescribed medication has still not been adequately solved, that is, the commanders are delivering the therapy to the prisoners, which is a unique case seen only in Zabela. Only methadone treatment and insulin are received at the out-patient department. There is no justification for the persistence of this practice, as was emphasized by the HCHRS several times.

Since 2013, each penitentiary-reformatory publishes a separate public procurement call for medicaments. If a complaint about the call was to be filed, the institution can be left without medicaments. This is a large problem and it is a shortcoming of the Law on Public Procurement which needs to be urgently resolved by the Ministry. In addition, the funds for medicaments are insufficient, which only complicates the situation

further and is very straining for all of the managers in charge. There is no doubt that they would be held accountable if an incident caused by a lack of medicaments would occur, and the fact of the matter is that the solution of the problem is beyond their reach.

This is why the HCHRS cannot but conclude that the Ministries (of Justice and Health) are hiding behind individuals, which is cynical and irresponsible, to say the least.

Since 2013, the medical service at the **Penitentiary-Reformatory in Niš** employs 7 doctors, 1 dentist, 8 medical technicians, 1 dental technician, 1 sanitary technician, 1 pharmaceutical technician and 1 laboratory technician. The head of the service is a general practitioner on voluntary specialization in internal medicine and with 17 years of experience working in this institution.

The health service works 24 hours. The head of the service works between 7am and 3pm. One or two other doctors work between 7am and 7pm and between 7pm and 7am, depending on availability (vacation, shifts). The medical technicians work on the same schedule. The Penitentiary-Reformatory in Niš is also responsible for the department in Pirot (with 15 to 30 prisoners), and a doctor visits this department weekly as part of overtime.

Around 70 examinations are carried out daily, and the increased surveillance department (OPN) and the solitary confinement are visited without exception. The doctor is attending at the semi-open department once per week, and urgent medical assistance (loss of consciousness, chest pain) is provided at the pavilions as needed, upon security service members' requests. During vacation season, as well as during week ends and holidays, given the reduced number of medical staff available, the Urgent Medical Service in Niš takes over being on call as needed, between 3pm and 7am (holiday, week ends), or between 10pm and 7am (working days). Cooperation with this service is satisfactory.

The service holds meetings for organizing their work and managing shifts, but there are no written documents about this.

Regular, scheduled examinations in pavilions are being carried out once per week (regular therapy, follow up examinations), or more often, as needed. Prisoners report any change in their health condition to the commanders, and the commander schedules an appointment with the doctor.

Injuries of prisoners are recorded in the medical file and the Protocol for Injuries. The Protocol also contains information about the date and time of the injury, how it was inflicted (fight, sports injury, occupational injury), self-inflicted injury, injury inflicted by an official, description of the injury and diagnosis, the signature and stamp of the doctor. The head of the service insists on keeping an updated documentation – both the medical files and the Protocol.

A prisoner is examined by a doctor before being referred to solitary confinement. While in confinement, the prisoner is visited by a doctor daily, and all visits and changes in health status are recorded in the Protocol which is kept specifically for these purposes.

Prisoners who have applied for working in high altitudes undergo special medical examinations. Such examinations are being carried out once per year by doctors at the Institute for Workers' Health Protection in Niš. All prisoners undergo periodical examinations every three months.

Consultative examinations at the out-patient department are ensured: psychiatric examinations three times per week, ophthalmological once per week, internal medicine specialist twice per month. There are no other consultative examinations due to financial reasons, whereas there used to be surgical and infectologist examinations in the past. The prisoners are referred to the Niš Clinical Center for other specialists' examinations. There is a referrals procedure for these types of examinations. A list of prisoners in need of an examination is made each day by 11am, a transfer document is provided, as are security service members and a transport vehicle. There are, on average, four such examinations daily. The most frequent consultations include those with surgeons, endocrinologists, cardiologists, dermato-venereologists, physiatrists.

The laboratory is located in the in-patient ward, as is the out patient department. The in-patient ward is located on the first floor, it has four rooms total – out of which 2 have 7 to 8 beds, and 2 rooms have 2 beds each. As needed, the TV room can also be used as a dormitory. A patient suffering from multiple sclerosis is receiving special care (a special anti-decubitus mattress is provided, and another prisoner is assisting him around the clock). Prisoners who cannot take care of themselves due to old age or illness are also located in the in-patient ward. Special attention is given to prisoners suffering from terminal stage malignant diseases, as well as to the elderly and feeble prisoners.

The X-ray machine which was out of function for a long time was put back into function between two visits and it was used for screening

700 prisoners. The practice of screening all prisoners who are being admitted to the institution is introduced. Equipping and opening an office for physical therapy is underway.

The prisoners provide their own items for personal hygiene (they buy these at the canteen or receive them in packages). A small number of prisoners receives hygienic packages from the management once per month.

There is one dentist – prosthetic specialist (with 23 years of professional experience, as of lately employed full time) and one dental technician (employed on a contract basis for a specified time only) at the dentist's office. Engaging another team is planned so that the dental service could work in two shifts. A dental examination is performed and a medical record is established upon admission to the institution. Prisoners apply for ad hoc examinations. 80 examinations are performed each week. As of June 2011, this service also does prosthetics work. The prices for this service are formed based on prices in surrounding institutions – 3,500 RSD for parcial and 4,000 RSD for a full set of dentures. A consilium was formed to present the cases of prisoners who cannot afford the services to the institution's manager, and in such cases the dentures are paid for from the institution's own budget.

There are three pharmacies at the Penitentiary-Reformatory in Niš. The main one is located at the semi-open department, one is located at the A pavilion for reasons of proximity of the dining hall and for easier medication pick-up, whereas the third one is located in the in-patient ward. Prisoners receive 28 days' worth of prescriptions. The medicaments are picked up from the pharmacy once per week, and the pharmacist records the date of pick up on the prescription. Insulin and methadone are administered to the prisoners at the out-patient department. The prisoners can possess up to seven day's worth of analgetics, vitamins and therapy for chronic diseases in smaller quantities.

The obligation for every employed person to provide contact with the doctor at all times was introduced. In addition, there are designated assistants (prisoners) who provide assistance to other convicted persons with mobility problems, assisting with taking a shower, doing the laundry and providing assistance during night time, as they are usually located in the same room. They are paid for providing this service, whereas there is no systemic solution for this situation for all prisons at the AEPS level.

## II. Security

During the last visit to prisons in September/October in 2013, there was an open call for employing security service members. There is no contention about the fact that this important sector is understaffed. The HCHRS maintains that this is a real problem, having in mind the overcrowdedness, but also the fact that other security systems are lacking as well (video cameras, metal detectors, alarms etc.). All prison institutions are in the process of introducing more advanced technical measures for improving security, but the process has not been completed and is not fully functional.

**The Penitentiary-Reformatory for Women in Požarevac** is not sufficiently covered by video surveillance. The cameras are located in hallways and common rooms, whereas the outside areas still haven't been covered. The existing equipment is outdated and is not always in function, whereas archiving recorded materials takes between two and seven days. The footage is then recorded on a CD.

The alarms for calling the security service members are set up in many areas, including dormitories and solitary confinement, and the button keys are available to the prisoners. The alarms have sound and light signals.

Although the security service and the management states that there are no significant problems with female prisoners, incidents do happen. The penitentiary-reformatory keeps a record of incidents, and it contains information about the time the event took place, data on participants in the incident, a short description of the event, the names of officials intervening and the means used to overcome the resulting situation.

For a total of 60 serious disciplinary offenses 85 disciplinary measures have been issued, whereas the security service used measures of coercion in only 12 incidents – physical force and fixation (with seven prisoners), in cases of preventing self-inflicted injuries, maintaining order and security and in preventing attacks on other persons. The fixation measure is used as an exception and 'when all else fails', and in most cases security service members manage to appease the agitated prisoners verbally. As was stated in previous reports, there is a high level of trust and understanding between them, and the prisoners state that the women from the security service are 'all they have' during 24 hours a day. This is

why this service at the penitentiary-reformatory should be strengthened by engaging more women, because it is evident that, over time, a very good system of communication with the prisoners was developed, which should be maintained and developed as a successful practice.

Based on reviewed documentation, the HCHRS has noticed that the use of measures of restraint (fixation) has decreased over the years: 2009 (66) measures of coercion, 2011 (15), 2012 (19) and 2013 (12) measures of coercion. Examinations by doctors are regular during the use of fixation, but are not after its termination. The records about restraining measures are maintained regularly.

The disciplinary measure of seclusion has been issued 14 times, lasting for 24 hours on average. A total of 19 prisoners have been in seclusion for a period between three and seven days, whereas a group of prisoners who have attacked and beaten another prisoner have been issued this measure for a period between five and 15 days, which was the longest period in this practice.

During our visit to the penitentiary-reformatory, we have noticed that one room is used for both isolation and seclusion, it is the so called specially secured room, which is located on the ground floor of the main residential building. The room has video surveillance and an alarm for calling the security guards. It has toilet facilities and two beds which are fixed to the floor. There are special leather belts for physical restraint in the room. There were no prisoners in the room at the time of our visit.

The accommodation facilities under increased surveillance (OPN) are also located on the ground floor of the main residential building as part of the second pavilion. During the first visit, these facilities have served the regular purpose of accommodation for prisoners, whereas on our second visit they served to accommodate prisoners who were put under increased surveillance measures following a disciplinary procedure.

There are currently two solitary confinements in the institutions, in pavilions I and II each. The facilities have been refurbished, equipped with beds, table and chair, which are fixed to the floor, and they have toilet facilities, including a shower. The prisoners we have encountered during our visit have stated that they are being visited by a doctor, an educator and the manager every morning.

The number of prisoners that have left the institution after the Law on Amnesty was adopted is 49, whereas 44 prisoners have left the institution based on conditional release (parole). More than 50% of

prisoners at the penitentiary-reformatory are returnees, and a third of the population are drug users. A large number of prisoners have left the institution in December 2012 and January 2013 based on the Law on Amnesty, but a vast number has returned only a few months later.

As is the case in other prisons, due to a high number of prisoners, classification of prisoners at the Penitentiary-Reformatory in Sremska Mitrovica is mostly done on grounds of security assessments.

During 2012, there were only 300 employees at the security service, whereas the job systematization calls for 420. Based on the situation at that time, the employee – prisoner ratio was 1:7. Due to an increase in the workload and the shortage of staff, an internal call was published resulting in a transfer of 29 employees from other prisons, 10 out of which are women. Although there was an increase in the number of staff, some pavilions, like the I pavilion which accommodates 377 prisoners, there are only three security service members working per shift, and they are, at the same time, also responsible for 63 elderly prisoners who are located separately. It can be easily concluded that the ratio of staff and prisoners in this situation is 1:146.

The situation is similar in other pavilions, and the security risk rises during night shifts, but also in situations when prisoners are out in the sports court or walking. On such occasions, security service members from other pavilions are engaged.

The penitentiary-reformatory has video surveillance and alarms, but not in all pavilions. The alarms for calling security in the C block of the III pavilion are not always in function. There is video surveillance, but the video monitor located at the commander's office is not in function. In addition, security service members state that a loudspeaker would help them in their everyday work for summoning prisoners.

The disciplinary offenses in the institution are common ones, predominantly minor offenses (hiding medicaments which are later used for trading, sleeping during roll call, tattooing etc.), whereas the security service members mention problems with smuggling cell phones and illegal substances as the more serious offenses. The synthetic drug subutex, which is easily divisible and is easy to smuggle into the prison in packages is most often come across, which is the reason for tighter control of all incoming packages. Also, testing all prisoners who are entitled to prison leave for the presence of psycho-active substances is mandatory.

During 2013, there have been 150 disciplinary actions against prisoners, mainly imposing less stringent measures such as reprimands or probation. There have been 50 proceedings for serious disciplinary offenses during the same period.

The security situation in the institution is somewhat defused after a number of serious offenders have been transferred to the new prison in Padinska Skela.

The security service in **Zabela** has engaged only five new members in late 2013 via an internal call for applications. This service has 230 members, whereas the job systematization foresees 330 members.

Statistical data, according to which the ratio between employees and prisoners is 1:6, illustrates that the number of staff is still very low, but this ratio is even more unfavourable considering the fact that security service members work in three shifts. Due to understaffing, the head of the service is engaged in four working posts.

The categorization for placing prisoners in pavilions in this institution is made exclusively based on security assessments. A group of prisoners with the highest risk (based on their behavior) is placed in the VII pavilion, which also accommodates 68 prisoners with sentences between 20 and 40 years, all of which are controlled by 37 members of the security service. Due to the high security risks, the old walking grounds have been segmented so that there are now three independent areas for walking, without the possibility of contact between prisoners.

In this pavilion, more than 90 prisoners have been issued a disciplinary measure for fighting, 23 prisoners were issued the measure of increased surveillance (OPN), 57 were in the solitary confinement, whereas the facility accommodates a total of 194 prisoners. At the time of our visits there were no prisoners in solitary confinement, but 15 were awaiting this measure to be implemented. There were also 40 persons in the pavilion who were placed there at their own request (for seclusion), and those who were located there due to security reasons (mostly prisoners sentenced for rape or statutory rape) and 17 persons for inciting a fight or extortion.

During 2013, a total of 147 incidents were recorded in Zabela most of which were attacks on other prisoners and fights (44), followed by the abuse of PAS (30). There were 323 serious disciplinary offenses, for which 307 prisoners were issued disciplinary measures. Measures of coercion were used in 113 cases, among which the measure of seclusion is observably high – 101.

Members of the security service have used physical force seven times, and batons five times. Fixation is still not being used.

There were 68 prisoners that had been transferred from the Penitentiary-Reformatory in Zabela to Padinska skela, mostly from the VII pavilion, as well as some 'informal leaders' from the 'circle'.

Regarding amnesty, according to the then manager during 2012 20-25% of prisoners expected to be released based on the Law on Amnesty. The institute of conditional release is still rarely used, because the courts request that the institution provides a precise assessment of the degree of resocialization of the prisoner, which the institution certainly cannot do.

According to the institution's own data, the number of prisoners that were released on grounds of amnesty since the Law started being implemented until September 30, 2013 is 369, whereas the number of prisoners that were released on these grounds between January 1, 2013 and September 30, 2013 is 179. The number of prisoners that were released on grounds of conditional release (parole) in the period between January 1, 2013 and September 30, 2013 is 34. In the same period, prison sentences were replaced with alternative sanctions measures for two prisoners only. Only several months after being released, around 150 prisoners had already returned to the institution. During 2012, 64 prisoners were transferred from Zabela to Padinska Skela, whereas 37 prisoners were transferred from the Penitentiary-Reformatory in Niš to Zabela due to the wall reconstruction. Out of this number, only 15 have returned to Niš after the construction work had ended. The proximity of their families or homes were not used as criteria for the transfer of convicted persons.

On average, the institution has around 700 admissions per year, whereas the number of admissions for 2013 will surpass 800. The data points to the fact that the state needs to work on modifying and improving the penal policy, on more efficient court proceedings, as well as on implementing alternative measures of execution of penal sanctions more often. It is concerning that in the year when the Law on Amnesty, which had the aim of reducing the number of prisoners in the penitentiary-reformatories, came into force, one of the biggest prisons in Serbia recorded a rise in the number of admissions, and at the same time a vast number of returnees which were released on grounds of amnesty.

Rooms with a vast number of beds still exist at the **Penitentiary Reformatory in Niš**, as was already stressed. An adaptation of the dormitories needs to be carried out so that the number of prisoners per

room is significantly reduced, so that the risk of incidents is reduced as well, given that the number of prisoners in the institution remains high and the number of security service members has not been increased. Two or three commanders and one supervisor work in the morning shift depending on the pavilion. The number of security service members in the night shift is even lower. In addition, the problem with this service being understaffed is manifested during transport, but also when prisoners are being escorted to the health service, during visitation hours or while packages are being received.

During 2013, there were several actions for detecting drugs and weapons. There were two cases of drugs being smuggled into the institution over several months. In cooperation with the court and thanks to DNA analysis, the institution had managed to uncover the perpetrators and initiate criminal proceedings. The management states that drugs are most often being smuggled in body cavities, whereas the law forbids a body cavity search. In addition, they stress that there are insufficient funds for procuring tests for psycho-active substances (PAS), and mention the absurdity of the fact that not a single prison in Serbia has dogs trained to detect PAS.

During 2013, coercion measures (physical force, fixation, seclusion) have been used in seven cases only, although 239 incidents were recorded.

During our first visit, there were 1386 prisoners in the institution. During our control visit, there were 1254 prisoners. Seven prisoners were released on grounds of amnesty. 131 prisoner was released on grounds of conditional release, whereas there are no prisoners whose sentence was reinstated to alternative sanctions measures.

The courts have difficulties with conditional release (parole). Guarantees can only be given in penal conditions, whereas no one can provide guarantees of successful resocialization in the external environment.

### III. Legality of Treatment

The procedure and practice of informing persons detained of their liberty about their rights and obligations while serving a prison sentence prescribes that persons deprived of their liberty are informed of their rights and obligations verbally and in written form.

The female prisoners in **Požarevac** are only verbally informed about their rights regarding their sentence, whereas the regulations are also made available to them in written form and these are distributed throughout the pavilions once per month. The same regulations are available in the library and are located at the information board in the living areas. Basic information is pavilion also printed in minority languages and in English.

There are four lawyers employed in this institution (two in the general and legal affairs service, the manager and deputy manager). One lawyer from the service is also the president of the disciplinary committee whereas the other lawyer provides legal aid to prisoners who request legal assistance during disciplinary proceedings. Disciplinary proceedings for serious offenses are managed by the disciplinary committee, whereas the deputy manager is in charge of minor disciplinary actions. The disciplinary committee consists of three members and three deputies.

During 2013, there were three complaints made by prisoners. The complaints are made about the treatment program, special rights refusal, as well as on inadequate treatment by the neuro-psychiatrist.

A total number of filed requests for legal assistance in 2013 is 46, requesting assistance in conditional release, sentence calculation, extraordinary legal remedies, merger of sentences and expiration of sentence.

There are separate records for complaints filed to the Ombudsman and those addressed to the AEPS or the manager.

The lawyers also provide legal aid to convicted persons. The prisoners ask for legal advice in writing, but advice is mostly given verbally, and no records are being kept.

In **Sremska Mitrovica**, convicted persons address the penitentiary reformatory in written form, which is mostly standard procedure. The motion consists of two copies, and the decision and response are given

within 15 days. If they are not satisfied with the response provided, the prisoners can file a complaint.

The records on motions and complaints are kept at the general affairs and legal service. The prisoners file the report to the clerk at the notary office, who visits the pavilion twice per day. The motions are filed separately.

The complaints mostly refer to the change of treatment and transfer from the closed to the semi-open department, as well as the right to conditional release.

The situation at the increased surveillance departments (OPN) remains unchanged. They still accommodate persons who have spent several years there, which certainly cannot be continued as a practice. The un-written rule is that a person spends six months at this department ('unless a person has a deal or special privileges').

Foreign citizens (Hungarians, Iranians, Turks) are mostly held on narcotics charges, but, as they have stated, they do not have any problems for being foreigners. They mostly complain about the length of the extradition process, as well as about problems with legal representatives. Family visitations are rare, but they can receive packages and are able to use the phone.

The **Penitentiary-Reformatory in Zabela** has the most problems in cooperation with courts, which is reflected in very poor and slow communication, delivering motions (a vast number of complaints were made about the expiration of the prison sentence), transfer of prisoners and untimely delays of hearings.

The disciplinary committee has three permanent members (lawyer, head of the treatment service, head of the security service) and three deputies. The disciplinary committee in charge of the personnel consists of the same members. The legal service keeps records on disciplinary actions and complaints. One copy of the decision of the disciplinary committee is filed in the prisoner's personal file, and the other is for the prisoner's own record.

Prisoners most often file complaints about the treatment service and the security service (requests for advancement in treatment or reclassification). Prisoners file complaints in writing and all complaints records are kept separately. There is no particular form for filing a complaint, unlike other prisons. The total number of filed complaints in

2013 was 36 (16 complaints about the treatment service, 12 complaints about the health service and eight complaints about the security service).

The total number of requests filed in 2013 is 45, and the requests refer to: early release (8), transfer (7), reclassification (5), expiration of sentence (10), termination of disciplinary measures (11) and calculation of earnings in prison (4).

During 2013, 44 disciplinary proceedings against employees of the institution were initiated, out of which eight for violation of work duty and 36 for serious breaches of duty. 29 proceedings were finalized and 24 fines issued, one transfer to a lower rank position, two terminations of employment and 17 temporary suspension. Three proceedings were discontinued, and in two cases, the employees were acquitted. There were 10 complaints about the decisions, out of which seven were dismissed as unfounded and one was adopted. During the visit, 12 proceedings were ongoing.

In 2013, there were irregularities in treatment in cases of use of coercion measures by a security service member. One security service member was suspended following disciplinary proceedings. The case involved misuse of the coercive measure and the security service member failed to write a report about the use of the measure and the injuries incurred, and the prisoner was not taken to be examined by a doctor.

Salaries for prisoners are still not paid out on time. The last payment for June 2012 was paid out in April 2013.

The pedagogue employed at the **Penitentiary-Reformatory in Niš** informs the incoming prisoners about the institution's regulations the house rules and the Law on the Execution of Criminal Sanctions.

Notifications are posted on information boards, but these are removed by the prisoners. Illiterate prisoners are informed verbally, and the institution also employs a pedagogue familiar with sign language and she is in charge of informing persons with hearing impairments. The House Rules are available in minority languages.

However, during our visits to the institution, we have not noticed any information on rules of conduct, house rules or the right to legal aid. There are posters with information about the Ombudsman, but the shelves for the brochures are empty throughout the institution.

Prisoners we have interviewed during our visits have stated that they are unaware of the reasons for advancing in treatment, and it can be

concluded that more frequent meetings with educators could be useful for resolving the prisoners' everyday problems.

As of 2012, at the Penitentiary-Reformatory in Niš the following items are forbidden in packages: cigarettes, personal hygiene items, sweet or savory snacks, chocolates (all items that can be found at the canteen). Notifications about these changes are visible in all hallways of the dormitories, however, it is unclear why certain products cannot be received in packages since there was no such decision in any other institution in the same period.

There are two ways of filing a complaint: internal motion and a complaint. The complaint is filed to the institution, to the general affairs service, which refers it to the pertinent service. Following a review of the complaint, a decision is issued and the prisoner reserves the right to appeal.

The internal motion is filed to the head of service, educator or courier, and a separate record is kept. The motion is filed in a separate file and one copy is kept in the prisoner's personal file, whereas the other is for the prisoner's own record. A separate form is used for the motion, the prisoner uses the top page for his request and the bottom of the document contains the institution's response.

The manager conducts confidential interviews with prisoners and a record is being kept. The prisoners address the manager via an internal request, and the response is issued both verbally and in writing, depending on the subject matter. According to the manager, during 2013, 50 complaints on the personnel were filed. There were four cases of false accusations and disciplinary proceedings against those prisoners were initiated.

According to the data provided by the institution, the total number of complaints filed by prisoners in 2013 was 186. By far the most complaints refer to the work of the health service (79), general affairs service (38), the treatment service (12), miscellaneous (29) and complaints to the Ombudsman (11).

The disciplinary proceedings at the institution are being managed by two disciplinary committees at the same time (a permanent committee and its deputies) due to the scope of work. The institution does not keep a separate record about legal aid provided during disciplinary proceedings. During 2012, there were only six requests for legal representation before the disciplinary committee (the prisoners usually represent themselves).

During the same period, 293 requests for legal aid and counselling were filed to the institution's lawyer.

#### **IV. Social resettlement**

The problems pointed out by members of the treatment service and the occupation and employment service remain more-less unchanged over the past years. We regretfully have to note that the state hasn't done much in this respect, demonstrating a lack of understanding of the importance of education, professional training and employment of prisoners for realizing the purpose of prison sanctions, that is, for their social resettlement. The treatment service is, also, wrongfully neglected and, in our view, its work largely depends on the initiative of a small number of employees.

Truth be told, it should be stressed that the vast number of prisoners is a hindering factor for any type of organizing an institution's work. In addition, the unfavourable economic situation as well as the continued lack of financial means certainly complicates the situation regarding the creation of adequate policies which would enable resocialization. However, this cannot change the fact that this issue has not been dealt with in a serious manner for more than two decades.

There is no good reason to account for the fact why the state has not put into function the production capacities located in penitentiary reformatories in Sremska Mitrovica, Zabela, Niš and, to a lesser degree in Požarevac. Even if the penitentiary-reformatories were not allowed to participate in the open market with their products, could not the state institutions have at least been equipped with these products, instead of vast amounts of money having been paid out to private companies?

This money could have been used to procure new machines and raw materials, thousands of prisoners could have been trained and schools, kindergardens, social institutions, health institutions and others could have been equipped with water boilers, stoves, sheets and all other items that were once produced in these large penitentiary-reformatories. With strict control preventing misuse by prisoners, the financial situation of the prisoners themselves and their families could have been (and still could be) improved, given that their respective families mostly depend on welfare. Good working habits of prisoners could be created or maintained,

their psycho-physical stability improved, the security situation in the institutions defused etc. There is no need to stress in detail the long lasting benefits society would have from a high percentage of prisoners having undergone a genuine resocialization process.

Instead, the state has left it up to the prisons to deal with all of its irresponsible and failed actions in very restricted conditions, with lacking funds and shortage of personnel, leading to the current pointless situation. The crime rate and number of returnees are on the rise, the material and financial resources in prisons are nearly ruined, and even a brief analysis clearly shows that this is a 'vicious circle' which needs to be ended decisively and strategically. However, as far as this issue is concerned, the prison system reform still lies far ahead.

The Penitentiary-Reformatory for Women in Požarevac still engages a very small number of prisoners on a few different jobs. The tailoring workshop employs between 20 and 25 prisoners on sewing products for other penitentiary-reformatories in Serbia (pillow cases, nightsuits, towel s, bedding, prison clothes etc.). In addition, children's wardrobe is being made and sold commercially. The lack of raw materials is stressed as a problem.

There is a work station for weaving baskets for commercial purposes, as well as the pottery station with 10 pottery wheels for working with clay. The procurement of clay is, reportedly, not a problem, but the temperature in the station drops below 18 degrees during winter, making any type of work impossible. However, as we were told, even in such conditions, the prisoners do work with clay without using the wheel and water, whenever possible. Some prisoners are engaged at the economy doing seasonal work, and 26 women were engaged in maintenance and other types of work at the time: courriers, admissions department, making coffee, working in the ambulance etc. According to the staff, these jobs are more popular than other, physically more demanding types of work.

The bakery which was a donation of the European Union serves only for training prisoners, but cannot be used for production due to small capacities. The staff states that a small number of prisoners is interested in working at the bakery and that the initial interest in this type of engagement quickly wanes.

The low level of motivation of women in general is a signal that the treatment service's work is inadequate and insufficient, but it is, certainly, not their sole responsibility. Namely, the entire system of assessment and reclassification is still not established adequately – prisoners do not know

what the rules are, the conditions needed to be fulfilled for reclassification are vague (and often unattainable), questionnaires for assessment are not entirely adapted to our social conditions etc.

The penitentiary-reformatory employs 11 trainers, that is, one trainer per 20 prisoners. The prisoners complain that the trainers are unaccessible, whereas the treatment service negates this and stresses that they do not have elementary working conditions. The social system still has a 'tutorial' approach, there are no mechanisms in place for solving problems, the individual approach is limited, there are no possibilities for educating and empowering women, the choice of available jobs is limited and certain jobs inadequate etc.

Given that the treatment service and the occupational and employment service do not function adequately even in such a small institution such as the Penitentiary-Reformatory for Women, it is clear that effects of the work of these services in other penitentiary-reformatories are neglectable.

As of March 2013, the **Sremska Mitrovica Penitentiary-Reformatory** has introduced educational groups in pavillions, and there is a total of 35 educators working with the vast population of prisoners. Social therapy with persons addicted to psycho-active substances (PAS) (group therapies) has also been introduced.

The educator's offices are located in the pavilions, and yet their computers are located in the main building. It should be stated that the administrative part of their work is overwhelming and takes up much of their time, at the expense of the prisoners. Although there have been no requests for changing an educator in place since the educational groups have been introduced, it is our impression that the contact with prisoners still isn't adequate.

Torture is not physical, but rather 'psychological' – for example the transfer to the open department lasts very long, which is difficult for the prisoners. It should be borne in mind that this is also a way of additionally punishing the prisoners.

Considering that there is no post-penal assistance for the prisoners, the educators stress that their advisory work prior to release is rendered pointless - 'you know that you have nothing to offer them', in the words of one educator.

More than 200 persons have applied for the training for prisoners which was financed by the EU. The prison management states that the prisoners are interested in working, but that the possibilities for employment are very limited.

In **Zabela**, as part of the EU-funded program of professional training and education in prison institutions, the training was completed by 185 prisoners for: welding, making furniture (47), working in the baking profession (59), pad printing skills (40) and vegetable production in a contained area (24). All prisoners that have undergone this training have received certificates. This institution also stresses that a vast number of prisoners is interested in working, but there are no jobs available and that the institution cannot provide conditions for employment on a significant scale. The job systematization plans for one educator working in the open department and two educators in the semi-open department. However the groups from the open and the semi-open department are led by only one educator. Seven educators are in charge of leading 12 educational groups in the closed department. The prisoners we have interviewed during our visits generally complain about rarely seeing the educators and not being visited by them. According to the treatment service personnel, there is a regular plan at the institution for individual interviews with prisoners every three months, with the possibility of prisoners addressing their educators more often as needed. Although there is a plan for individual interviews, the prisoners complain about rarely having an opportunity to talk to their educators and that the educators are not daily present at the pavilions.

Certain novelties have been introduced at the **Penitentiary-Reformatory in Niš** as regards treatment. Thus far, the educators held a monopoly for reclassification of prisoners as part of their treatment, whereas there has been a change at the level of the institution that any employee, including commanders, can propose a change of treatment of the prisoner. The team making evaluations and decisions about treatment has been expanded, so that the first level consists of commanders and educators, the heads of services make assessments at the second level, whereas the manager and heads of services make assessments on the third level. An employed prisoner cannot lose his work post without an explanation and the manager's signature. However, the problem of the lack of educators working with prisoners remains. Certain education groups are still very large, so that the educator – prisoner ratio is 1:90. The prisoners usually request a interview with the educator, but due to the the high number of prisoners in the groups, the educator does not have enough time to conduct interviews with all of the prisoners

in one month's time. The problem of organizing the education groups has worsened as two educators are absent on maternity leave, and three educators are also engaged in the office for implementing alternative sanctions. The expert team for assessment of treatment maintains that they need more engagement on professional development, access to more expert literature and publications as well as more exchange of experiences with colleagues from other penitentiary-reformatories.

The plan for occupational engagement of prisoners is being developed with more new opportunities. A service for the replacement and servicing of tires and a car wash have been opened. Prisoners are working on maintenance and washing the institute's vehicles, but the service is also available to citizens at large at very low prices.

In 2012, the EU has donated a set of machines and after training on printing jobs, tailoring and in the bakery, the prisoners can receive diplomas about the completed trainings issued by a high school institution in Niš. During our control visit, 20 prisoners were included in the training and the occupational engagement program.

As of April 2013, the number of prisoners who have been transferred to the semi-open department has increased five times. All occupationally engaged prisoners working on seasonal jobs or in the car service can be granted prison leave as a reward. Over six months, 80 prisoners have been granted this type of leave.

The institution had been procuring hay as livestock feed over the past years. It is now renting property (land) from the Water Supply Service for a period of five years. The prison possesses its own mechanization, but it would be advisable to procure more machines as this would provide the opportunity to increase the surface of arable land, given that the existing number of machines do not suffice.

The institution produces beds for all other prisons, whereas the water boiler production was discontinued because the institution was operating at a loss.

## V. Contacts with the Outside World

This aspect of the life of prisoners has remained mostly unchanged as compared to our team's previous visits. The right of persons deprived of their liberty to phone calls, packages, visitations, leaves etc. is in line with the effective legal regulations.

The phone company providing telephone services to all prisons in the prison circle and the pavilions has been changed. Instead of Telekom Orion is now the sole service provider. Without exception, there are objections on the functioning of the phone booths in all institutions, on part of both the prisoners and the personnel. The connections are very poor, with frequent interruptions, the subscription cards do not function well and the prisoners do not have the information about how much money they have on their accounts. The security service members stress that this is not an insignificant problem and that the nervousness and dissatisfaction of the prisoners has implications on security. The HCHRS is appealing that the AEPS urgently resolves the problems concerning the realization of this right or to choose an alternative service provider.

At the **Penitentiary-Reformatory for Women in Požarevac**, there is a problem with withdrawing money that was paid in to the prisoners' accounts, because they have to leave the institution, which requires transportation in the police van. In cases when a vehicle is not available, the money had often been returned to sender. Some prisoners state that the packages are withheld for more than three days, as are the payments.

Packages weighing up to 15 kg are allowed at the **Penitentiary-Reformatory in Sremska Mitrovica**, but these cannot contain items for personal hygiene, press, clothes, coffee. The security service members explained that coffee isn't allowed for reasons of past misuse (especially 3 in 1 mixes of coffee). Also, powdered goods are not allowed for the same reason. There was also a recorded case of whole peanuts in the shell concealing narcotics.

In Zabela, the packages are scanned with a metal detector at the entrance and are examined there, and then they are inspected again at the entrance of the closed section. The allowed package weight amounting to 10 kg has been effective for a long time, and special approval is needed for receiving a hygienic package. In order to facilitate and speed up the process of sending mail and packages, a new post office was opened across the prison complex in Niš.

## **VI. Personnel**

Having in mind everything that was mentioned in this report, it is clear that the position of the personnel at the penitentiary-reformatories is burdened with problems. The general impression is that the entire staff is working under tremendous strain, in very poor, even unacceptable conditions, and the 'burnout syndrome' is evident.

We will make a special mention of the serious problems regarding the work of the security service. General health examinations for members of this very important service are mostly not organized in accordance with the effective legal regulations. For example, the last medical check up for members of the security service in Niš was organized in 2002. In Zabela, we were told that a general health check up was not organized in the last 25 years and that even today it is only organized incidentally (for example, when a member of the security service was stabbed with a needle used on an HIV positive prisoner). The security service members in Sremska Mitrovica have not had health check ups for years, as is the case in Požarevac as well.

The security service members spend nearly all of their time in the same conditions as the prisoners, or even worse, at times. On several locations, there are no rooms at their disposal, not even toilet facilities because the service is understaffed they cannot even leave their posts to buy food, they are forced to work overtime contrary to the effective regulations, most of the time they cannot even use their vacation time let alone the free days they are given for working overtime, they do not have adequate clothing and shoes etc. A vast number is employed on a contract basis, which only adds pressure to the stressful work they do.

All services stress that there is no institutional communication between staff from different institutions. There are personal contacts with colleagues, which is insufficient, given that a continuous organized exchange of experiences would provide multiple benefits. In addition, professional development, trainings and seminars are lacking.

# Prison System in Serbia in 2011

## I – INTRODUCTORY REMARKS

During the first visits to prisons in 2001, it was determined that human rights conditions were extremely poor. At that time, there were around 6,500 convicted and imprisoned person in Serbia. Ten years later, resulting from vast efforts by non-governmental organizations (NGOs), international organizations (OSCE, UN, CoE), but that of the state as well, the human rights conditions in prisons have been significantly improved, primarily when the decreasing practice of torture and introduction of new (contemporary) legal solutions in the field of criminal sanctions are concerned. The implementation of the institute of alternative execution of criminal sanctions<sup>6</sup> has finally begun in 2011. It includes the possibility of serving a sentence in home confinement (with or without electronic monitoring) for persons serving prison sentences of up to one year, or the conversion of the prison sentence to community work. However, the number of sentenced and detained persons in prison has nearly doubled over the same period of time.

The data on juvenile delinquency, which has significantly risen over the past decade, are particularly alarming. Serbia falls among countries with serious problems in this area.

It is quite clear that the two decades of political and economic violence have had consequences particularly on the social group of young people. Given that education, family and society have lost their preventative and control function, all in the context of serious social problems in the process of unsuccessful transition, the vast number of crimes committed by juvenile offenders (or younger adults) is more than logical. Paradoxically, the state's only response is a stricter judicial policy which results in referring a large number of young people to the system of criminal sanctions execution.

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<sup>6</sup> At the time of writing this report (December 2011), ca 150 citizens are serving the penal measure of alternative sanctions. In early 2012, thanks to an EU donation, Serbia will have at its disposal a total of 600 electronic bracelets, which will additionally reduce the number of citizens in prisons.

The standards which apply in cases of depriving persons of their liberty are of a specific nature and stem from a range of international documents, as well as from domestic regulations. Although Serbia has not yet reached a satisfactory level of implementation, this must be insisted upon in the future.

This report of the Helsinki Committee aims to encourage all actors who are in any way competent for dealing with minors, to ensure consistent enactment of regulations and introduction of necessary and binding standards for Serbia.

During repeated visits to institutions for the execution of measures and sanctions for juvenile offenders and while writing this report, the HCHRS has had in mind the recommendations and standards of the following key documents: the Convention on the Rights of the Child from 1989, the UN Standard Minimum Rules for the Administration of Juvenile Justice from 1985 (The Beijing Rules), the and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), CPT standards, the Law on juvenile criminal offenders and criminal protection of juveniles etc.

## **Educational–Correctional Institution in Kruševac**

The Educational–Correctional Institution in Kruševac<sup>7</sup> represents a unique institution in Serbia for the accommodation of juvenile offenders who have committed a crime for which they were sentenced by the court to the educational measure of being referred to an educational–correctional institution.

During four visits to this institution in 2011, around 212 juveniles were detained under this educational measure, two thirds of which were of legal age. The average age of protegees is 17 years and 8-9 months, whereas it was ascertained over the past years that the average age happened to be even above 18. The lower limit for the educational–correctional institution is 14, whereas the upper limit is 23 years of age, when the execution of a measure automatically ceases.

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7 Detailed reports from the Educational–Correctional Institution in Kruševac from 2004 and 2005 are available at the Helsinki Committee's web page

At the time of the HCHRS' visit, the institution also hosted 11 girls. The largest number of juveniles are of Serbian and Roma nationality (in nearly equal percentage); there were also 11 youths of Hungarian nationality, 7 of Bosnian nationality, 3 of Romanian and 1 of Albanian nationality.

In the past five years, out of the total number of juveniles referred to the institution, two thirds have committed crimes with elements of violence. As many as 70% of them have used marijuana, whereas 20% have used heroin.

## **I – SAFEGUARDS AGAINST THE ABUSE OF MINORS**

In spite of the generally accepted notion that juveniles should be deprived of their liberty only as a last resort, the extremely unfavorable political and socio-economic circumstances and the society's inadequate response have influenced the rise of criminal behavior of juveniles and the severity of committed crimes.

Although intended for minors, the vast majority of the population in the Educational- Correctional Institution in Kruševac are persons of the age of majority (by two thirds) with a court sentence for a crime they had committed as minors. This legal solution is, in essence, confusing because it leads to the fact that already formed serious offenders are referred to this educational-correctional institution for treatment. This way, the sentence to this educational measure, which should be stimulating for young people, practically opens the door towards prison for many of them. Moreover, more serious offenders use legal benefits for committing a range of crimes which are sentenced to educational measures. By the age of 23, they practically substitute being in a juvenile prison for the far more comfortable treatment at the Educational- Correctional Institution in Kruševac. However, their stay at this institution poses a serious challenge both for the management and for those minors who are referred to the institution for minor offenses. All of this leads to the creation of serious informal groups. During 2011, an informal group which has systematically harassed and even threatened juveniles has (upon the suggestion of the institution's security service) had to be allocated to the department of increased supervision. This move on part of the management has led to a more relaxed situation at the institution.

As has been mentioned, over the past five years, the structure of crimes committed by proteges of the Educational-Correctional

Institution has been significantly changed Earlier, the majority of them had been referred there for committing crimes of theft (petty theft), whereas now the majority of protegees at the institution are there for committing serious crimes, including murders, rapes etc. Over the past five years, out of the total number of minors entering the institution, 2/3 of them have committed offenses with elements of violence. This fact calls for particular attention of various state institutions and their synchronized reaction. Unfortunately, it is still missing and this crucially lessens the possibilities for successful treatment at the Educational-Correctional Institution. At the same time, this is also a fact which has a significant impact on abusive practices and is subversive to the guarantees the state has committed itself to, and which should be provided by the institution. Under the current conditions, it is not possible to ensure that juveniles are separated from the majors; hence it is also difficult to ensure their physical safety and psychological stability.

The HCHRS wants to draw attention to another concerning fact Namely, out of the 212 protegees, 95 are members of the Roma national community (45 percent). Having in mind that juvenile delinquency is generally on the rise, it can be concluded that the courts are far more strict towards minors of the Roma population. In addition, this points to the fact that other social-preventative mechanisms towards the young Roma are either not functioning, or are not being used. This fact in itself testifies of the discriminatory behavior towards this national minority group. In addition, in practice, members of the Roma population (thus juveniles as well) do not have equal access to mechanisms of legal protection as compared to their peers from the general population.

Intentional abuse, as a systematic approach, certainly does not exist at the institution. However, certain behaviors and actions, whatever the justification may be, are coming dangerously close to this qualification.

During the visits to the institution, it is nearly impossible to come across an evident case of abuse. The fact that around 35 protegees have complained about physical violence committed by members of the security service (including girls), is reason for serious concern and for taking adequate measures, even if it is the case of attempted manipulation. Three girls have stated claims that a member of the security service has punished them by a beating on occasion (they admit to having caused problems). Also, one of the protegees accommodated at the department of increased surveillance has shown us traces of beatings on his body (located on his left thigh). Two team members have seen hematomas which could possibly have been caused by the use of an official baton.

The proteges whom we have found at the department of increased surveillance have stated a claim that the application of physical coercion by members of the security service is a very frequent occurrence. Two minors have testified that they had been beaten by members of the security service while they were still at the admissions department, during their first week at the educational-correctional institution.

We would like to stress another fact which was stated by several minors that they were harassed and abused at police stations before being referred to the Educational-Correctional

Institution in Kruševac. The HCHRS maintains that it is the obligation of the institution's management to report such cases to the competent authorities, as is the Administration for the Execution of Penitentiary Sanctions' obligation to alarm the Ministry of Internal Affairs.

## **II – ACCOMMODATION CONDITIONS FOR MINORS**

The conditions in institutions accommodating minors deprived of their liberty need to be adapted to their age and specific needs. The current conditions at the Educational-Correctional Institution in Kruševac do not satisfy these criteria, but there is an ongoing construction of new facilities which should provide much better conditions both in terms of accommodation and the treatment altogether.

It should be stressed that the staff have put in an effort to make the space hosting minors as pleasant as possible. Additionally, they are allowed to have personal items, which, at their age, is extremely important for emotional stability and gaining self-confidence.

However, in spite of the dilapidated state of the buildings and expectation of new accommodation capacities, there is an impression that more could have been done in this respect. The lack of motivation of minors is a general social problem; however, in institutions such as the Educational-Correctional Institution in Kruševac, it is also an indication of the lack of motivation and professionalism on part of the staff.

### III – PERSONNEL

The personnel in institutions for the execution of criminal sanctions for minors must be selected carefully and with special attention; it must be professional and well educated. At the Educational-Correctional Institution in Kruševac, there are highly qualified and dedicated professionals, but there are also those who have not lived up to their very sensitive tasks. The institution employs persons of both sexes, which is good and desirable; however this quality is not being put to sufficient use.

It is also important that such institutions are being headed by persons with high managing skills and a good knowledge and understanding of the problems of the youth population. The Director of the Educational-Correctional Institution in Kruševac has been an incumbent for seven years, and has been employed at the institution for more than 11 years. A graduated psychologist with previous experience as an educator, he has introduced significant changes into the functioning of the institution, even though they haven't been fully implemented. In the HCHRS' opinion, such managers are desirable, with the suggestion that they should not lose contact with the protegees, because successful management depends on understanding their needs.

The difficult and demanding work with minors susceptible to crime cannot serve as an excuse for poor conduct and lapses in professional behavior. Although the staff in penitentiary institutions across Serbia often isn't selected according to capabilities, the high professional standards and the change in approach to human rights in general, and children's rights in particular, obliges them to continuous improvement. The personnel must be particularly committed to working with young people and it should be capable of guiding and motivating the minors at their care.

The staff and the management must pay serious attention to complaints by minors, but also to those by independent control bodies which occasionally visit the Educational-Correctional Institution in Kruševac. In this sense, the HCHRS feels that it is intolerable to ignore the claims of certain protegees that they are being "pedagogically punished" from time to time. To give an example, some of the girls have told the HCHRS that one of such punishments entails cleaning corners or radiators with a toothbrush. They have also complained of certain (female) commanding officers who are on the lookout for their mistakes, who verbally abuse them and call them derogatory names ("local sluts"), and

physically punish them (if they fight amongst themselves, they get beaten by bats afterwards, and they claim that there have been cases of restraint by handcuffs).

The female pavilion is on the outskirts of the complex and is physically separated from the remaining parts of the Educational Correctional Institution by a low metal fence. The pavilion doors are usually locked, because the employees fear that protegees might escape, or rather mix with male protegees, who are allowed to walk around the institution's yard. The female protegees are allowed to sojourn outside the pavilion only when supervised by one of the employees. Such a practice is inadequate and the staff must find a way to change it.

#### **IV – SANITARY CONDITIONS**

The sanitary conditions, which correspond with the objects' age and physical condition, are unsatisfactory. Having in mind the completion of new buildings, significant improvement in this aspect should be expected; however, the HCHRS would like to draw attention to the problem of poor social status of the majority of juveniles, which does not allow for their basic needs for hygiene to be satisfied. It is necessary for the state to provide better supplies of sanitary items, having in mind particularly the hygienic needs of young girls. The lack of sanitary items is in itself degrading and humiliating treatment.

#### **V – KITCHEN AND ALIMENTATION**

The supervision of food quality is particularly important for minors, because they have not yet reached their full potential in terms of growth and development. Given that the consequences of inadequate alimentation can be far more severe than in persons who have reached full physical maturity, the health personnel must play an active role in supplying alimentation of good quality.

Although the Educational-Correctional Institution in Kruševac caters to specific needs (dietary alimentation, religious customs etc) the juveniles state that the daily food menu is poor and does not contain sufficient dairy products, sweets, fruit and meat.

In addition the kitchen and mass hall do not seem particularly clean, and the juveniles claim that they often find insects in the food and that there are often pigeons in the mass hall while they are eating.

Although the HCHRS has not taken notice of the above stated situations, we have been made aware of their existence in other places which leads to the suspicion that this is quite possible at the Educational-Correctional Institution in Kruševac as well. We feel that it is not necessary to additionally stress that such a state of affairs is utterly unacceptable.

Additionally, the argument that the lack of funding dictates the food quality is also unacceptable. The state must provide sufficient funding for adequate alimentation of minors. As far as the institution itself is concerned, this important segment calls for greater attention and additional efforts to be put in for the provision of all necessary foodstuff for the physical development of minors.

## **VI – HEALTH SERVICES AND ACCESS TO THE DOCTOR**

The work of the juvenile health service should have a multidisciplinary (medical-psycho-social) approach.

At the Educational-Correctional Institution in Kruševac, this service is organized in the following way: it consists of general medicine, dental service and an out-patient department. We maintain that it would be a good idea to have a laboratory, even if for the most basic of tests, as part of the institution. At this time, the Health Center in Kruševac provides these services.

The general medical service hires one general practitioner and six medical technicians. The physician works in the morning shift, and the medical technicians work in 20 hour shifts, two at a time. During the night, one technician on call is present, so it can be said that basic health protection is well organized at the Educational-Correctional Institution. However, the majority of the minors which the HCHRS has interviewed have had serious complaints about the physician. They feel that he is not interested in their problem, which they describe by the statement that “a person should lose consciousness for him to notice them”. The mass dissatisfaction with the health service is serious grounds for an intervention on part of the Director, and not only in this particular service, but also in all others which also share responsibility for noticing health problems of the proteges and responding to them.

There are also occasional problems in the cooperation with health institutions and dentists in Kruševac, due to their ignorant and/or discriminatory attitude towards minors from the institution. We are emphasizing that this is a widespread practice in Serbia's health system which wants for a serious reaction on part of the Ministry of Health.

The good thing is that the Educational-Correctional Institution in Kruševac has maintained the good practice of conducting systematic medical check-ups and mandatory testing for HIV, hepatitis B and C, as well as chest x rays. Anti-tetanus protection is also obligatory. If the court documentation contains a report about a previous chronic contagious or non-contagious illness, it is also documented in the new health chart. The worrying fact is that in 2010 as many as 34 juveniles have tested positive for hepatitis C, whereas 4 have tested positive for hepatitis B.

An increasing psychiatric symptomatology is noticeable over the past years. Only during 2010, 722 psychiatric examinations at the Educational-Correctional Institution in Kruševac and 23 at the Health Center have been conducted. Over the past nine years, a psychiatrist, engaged on a contract basis arrives three times a week, or more often, when needed.

At the Health Service, it is stated that there is a vast number of juveniles with "serious psychological disturbances", and that they are aggressive and destructive. In most cases, depending on the young person's condition, the psychiatrist treats anxiety and tension with medicaments from the benzodiazepame family (Bensedine and Bromazepame), with the treatment lasting around ten days. The psychiatrist claims that the juveniles are treated with less powerful medicaments. In more difficult cases, the measure of fixation is used, lasting up to eight hours, during which time the person is under video surveillance. Difficult cases are referred to the hospital of the Central Prison in Belgrade by the psychiatrist.

The HCHRS is very concerned about the extensive use of tranquillizers in such a young population, whereas the distressing measure of fixation and the inadequately long duration of this measure are reasons for serious concern. In our opinion, there is no medical justification for fixation lasting for several hours; hence any other reason for this can only be qualified as torture and abuse. This measure should be immediately reexamined and strict criteria for its use should be introduced.

We are stressing that psychological tension, insomnias and establishment of emotional balance in young people should primarily

be treated via an expert-based educational-pedagogical and social approach, rather than pharmacologically.

On the other hand, although there are many juveniles at the Educational-Correctional Institution who have abused drugs at some point or who are registered drug-users, there is no addiction treatment in place. Namely, juveniles from this group are subject to methadone treatment at the hospital of the Central Prison in Belgrade prior to arrival at the Educational-Correctional Institution. This is not a sign that the institution does not have a problem with addicts. Interestingly, the youths show the most interest in educational workshops for overcoming drug addiction, as well as for dealing with and treating hepatitis and HIV. Given that minors are, as a general rule, more prone to risk-taking behavior particular attention should be paid to their health education.

The Educational-Correctional Institution has organized the administration of treatment for those who are ill, be it medicaments for oral use or injections. A medical technician is in charge of administering the medicaments, which is done at the out-patient department exclusively.

The general practice service keeps records of suicides, injuries and self-inflicted injuries. In addition to the juvenile's name, last name and type of crime the juvenile was referred to the institution, the suicide protocol also contains data on the attempted suicide method, the date and time of the attempt, a description and reasons for the attempt, as well as its consequences. One suicidal attempt by hanging was recorded in 2009, one attempt by poisoning in 2010, and one by hanging in 2011 (by September). In addition to usual information, the protocol on injuries also includes records on the way injuries were inflicted (in a fight, while working, or by accident), as well as records on the severity of the injury (minor or severe). Lacerations and burns are the most frequent injuries. In 2009, 84 injuries have been recorded, 56 in 2010, and 40 in 2011 (by September). Most often, injuries are inflicted by cutting and swallowing metal objects.

The cooperation between the health service of the Educational-Correctional Institution in Kruševac and the Ministry of Health does not exist, which poses a huge systemic problem.

## VII – DISCIPLINARY SANCTIONS

Facilities hosting juveniles deprived of their liberty, nearly without exception, prescribe disciplinary sanctions for misconduct of the protegees.

The practice of keeping minors in conditions similar to prison solitary confinement, a measure which can harm their physical and/or psychological integrity is cause for particular concern. Although the law prescribes that this measure should be used only as an exception, the HCHRS regrettably notes that this is not the case in practice.

Additionally, the recommendations and standards suggesting that the isolation of minors from the other protegees should be as short as possible are not being implemented. Based on conversations with minors who have been isolated for various reasons, the HCHRS has ascertained that, in some cases, the “isolation” lasts very long, which is most often justified by security reasons. Ensuring appropriate contact with people, access to books, magazines etc. and at least one hour of physical exercise in the open air are also problematic. Having also in mind the very poor accommodation conditions, it is clear that the existing shortcomings can produce very serious consequences.

The department of increased surveillance is part of the institution which is no different than the closed departments in prisons. The management of the Educational-Correctional Institution in Kruševac has explained that the protegees who are allocated to these departments are prone to demonstrating violent behavior and abusing other minors, and that (following a major incident) the management was, thus, forced to transfer them to the department of increased surveillance. On our second visit, we have noticed that some of them were transferred to the institution’s general section, which is commendable, and demonstrates that the institution is giving them a ‘second chance’. This example illustrates that it was better to have referred a number of protegees to serving a prison sentence at the Valjevo Juvenile Penitentiary-Reformatory, and that the judicial practice of referring serious offenders to the Educational-Correctional Institution is wrong.

Finally, we are emphasizing that all disciplinary actions taken against minors must be duly recorded and supported by formal guarantees. Several minors have informed us that their complaints do not reach the Director, because they are being torn up by members of the security service and certain educators.

This claim should be verified and a control mechanism guaranteeing an efficient appeal procedure should be established.

## **VIII – SOCIAL AND FAMILY RELATIONS**

Maintaining good contact with the outside world for all minors deprived of their liberty is of utmost importance. All limitations of such contacts should be based exclusively on serious security reasons, or available means reasons. Active improvement of such contacts is especially useful, because many minors have behavioral problems relating to emotional deprivation or the lack of social skills. Although the Educational-Correctional Institution personnel are putting in an effort to enable contacts of minors with their respective families, we feel that this requires a greater and more continuous engagement of the entire staff.

The HCHRS also wishes to stress that the juveniles' contact with the outside world should never be limited or denied as a form of disciplinary measure, which is the currently the case.

## **IX – ACTIVITIES AND STIMULATION FOR MINORS**

Unless minors with problems are not given adequate attention, there is a danger of long-term social maladjustment. In order to minimize or avoid this, special efforts on part of an array of experts, based on a multidisciplinary approach, should be put in. Teachers and educators, instructors, psychologists and other professionals have the task of ensuring a secure sociotherapeutic environment for the minors' individual needs to be expressed as best as possible.

Minors have the need for physical activity and intellectual stimulation; hence the lack of purposeful activity is particularly harmful to them. Minors deprived of their liberty should be provided with an educational program, sports, professional training, recreation and other activities. It is of particular importance that girls and young women deprived of their liberty have equal access to such activities as regards their male counterparts. Unfortunately, the Educational-Correctional Institution offers female juveniles such activities which are stereotypically considered "appropriate" for them.

The treatment at the Educational-Correctional Institution in Kruševac includes a general system of stimulation which enables juveniles to acquire additional privileges in exchange to demonstrated good behavior. However, it is of extreme importance that the way that they may progress (or regress) as part of the given program contains enough guarantees as insurance from voluntary decisions of the personnel. In prisons in Serbia, the Educational-Correctional Institution in Kruševac included, this is highly problematic. A unique grading system (UGS), as the most important instrument of progress assessment of protegees at this institution, is being used. It is one of the main methods of measuring the degree of resocialization – reeducation. The grading system provides a general structure for positive behavior. If, during the implementation of a measure at the Educational-Correctional Institution, a protegee demonstrates good conduct (which is being analyzed on a daily, weekly, and bi-annual basis) and reaches the highest grading level, the institution gives a positive opinion which is very significant when the court is reaching a decision on the termination/change of the measure. The measure is being revised every six months.

According to the Director, the grading system has enhanced the treatment. “The system of grading and levels is a general program which describes and gradually develops desired behavior in minors during their time at the Educational-Correctional Institution. The main idea of the system is: noticing good behavior and rewarding it, rather than punishing bad behavior” (quotation from the flyer “Review of the system of grading and levels and accompanying programs of the Educational-Correctional Institution in Kruševac”, 2011). When asked how the personnel accept and apply this new and significantly different approach to minors, the Director has stated that they still need to be reminded of the “new philosophy”.

Based on interviews with minors, it is evident that the system of grading and levels is being applied, that they are very interested in it and that this approach provides them with a framework for greater possibility of managing their own behavior. What could be concluded from the conversations with juveniles and the personnel is that this method also easily becomes a punitive measure in practice, because it is much easier to lose than to gain a favorable position. It is our impression that the method is being used as a “carrot and stick”, that adjustments according to characteristics of individual minors are not being made and that support plans for weak points in their behavior are not being made, but that, rather, it is waited for them to make an offense and be downgraded to a lower level.

*For example, one young man was transferred to the lower grade level because of having an argument with his brother over the phone. The educator had overheard and reprimanded him, but he, according to her words, could not stop himself, the anger having overpowered him. The young man's problem is a broken home which is in constant conflict and does not support him. Another young man was transferred to the lower grade level after not being allowed to go home to see his wife who had just given birth to their child. He had escaped and, as he claims, has returned on his own, but he was placed in detention and has lost all hitherto accrued benefits.*

The grading system is an innovative method and deserves attention and acknowledgement. However, the personnel at the institution have also seen that, following the initial trial phase of its implementation this instrument needs to be reformed, improved and harmonized with practice. The system is a creation of the Director of the institution and several of its employees. One of them has developed and designed a software program which enables the personnel to see the progression or regression of the juveniles in the grading system at any moment. The mentioned program is a useful tool for the employees who grade the individual progress of the proteges at the end of each working day, and it could be standardized and applied in other institutions for the execution of criminal sanctions as well.

However, it is our impression that not only at this Educational Correctional Institution, but in others as well, there is a lack of interest of a part of the staff for this (or any other type) of innovation. At both the Educational-Correctional Institution in Kruševac and the Valjevo Juvenile Penitentiary-Reformatory, the innovative approach is being sustained exclusively thanks to the personal dedication of the Director and several employees (younger people, as a rule). Such an attitude towards work and their profession is unsustainable in the long run, and has a particularly negative impact on young persons deprived of their liberty.

In addition, the Educational-Correctional Institution has introduced supplementary programs for acquiring life skills which should facilitate the social resettlement of juveniles after leaving the institution. The programs include: Aggression replacement therapy, Prevention and treatment of drug abuse, Prevention and treatment of alcoholism, Active job searching, Non-violent communication; Alimentation, clothing and habitation; Mediation; Most frequent house repairs; Etiquette According to the Report on the realization of the program for acquiring specific skills at the Valjevo Juvenile Penitentiary-Reformatory during 2010-2011, which the HCHRS had insight into, most trainees were part of the program. Most frequent

house repairs, and the fewest were part of the program Aggression replacement therapy (52). The HCHRS finds this data very interesting, and it should be subject to a detailed analysis by the personnel as well. In addition these two programs have had the greatest number of trainee truancy (20%), whereas this was the case in 10% and less in other programs. The Mediation program has not been implemented in the reporting period.

An analysis of key goals of these programs demonstrates that, in essence, they should promote higher and high levels of ethical understanding, skills of rage management, adoption of constructive social skills, tolerance and mutual respect, expressing feelings in a way that is not hurtful to others, raising the level of personal hygiene and the sanitation levels at the place of residence, good eating habits as an important element of maintaining personal health. A paradox can be noticed between the values which are being promoted by these educational programs and the existing values in the juveniles' surroundings, which include poor quality of food, an extremely low level of hygiene, absence of the minimum of aesthetic criteria, neglect, strong restrictive measures.

The institution's staff has pointed to other weak spots in their work. An example was the fact that juveniles are of differing age, and that the nature of their offenses varies. It was also stated that the community does not include "post-penal juvenile social resettlement". Based on interviews with the protegees, we have been informed that, out of all activities which have been introduced to enrich the life at the institution and to prepare them for social resettlement, the only activities the juveniles see as serving this purpose are the school and the workshops for acquiring craftsmanship skills.

The HCHRS particularly stresses that sporadic occurrences hardly have any impact on the juveniles' quality of life, even less on their socialization and rehabilitation. By this, we are referring to the existing practice to easily suspend any activities (sports, cultural, educational) via a decision about treatment change, by prescribing disciplinary measures, and even resulting from a non-transparent decision of an educator, teacher or an instructor, which is based on their personal assessment. When working with a sensitive and problematic group as are the young people at the Valjevo Juvenile Penitentiary-Reformatory, there should be no room for voluntarism, and each decision must be the result of serious consideration by various experts.

Interviews with young people demonstrate that they predominantly feel rejected, worthless and angry. The obsolete and habitual modes of conduct of a part of the employees do not contribute to alleviating such

feelings which always lead to destruction and auto-destruction.

In order to make changes in this segment, the institutions and the general community need to start caring and giving support to the institution so that a good quality mode of functioning can be established.

The responsibility for establishing a system of continuous social support and cooperation in the juvenile rehabilitation process is primarily that of the Administration for the Execution of Penitentiary Sanctions and the Ministry of Justice. They need to initiate the process of inter-sector cooperation and insist that all institutions of importance for the wellbeing of the youth should take part and take on their respective responsibilities.

The outcome of the absence of such a strategy can most clearly be seen based on data on recidivism. Officially, recidivism amounts to between 15 and 20 percent. However, according to data collected by the institution itself, after educational and correctional measures, the juveniles that were referred to the Valjevo Juvenile Penitentiary-Reformatory return to the criminal offense system in 70% of cases if they come from a small town and in a 100% of cases if they come from a big city. This distressing fact gives testimony of the inefficiency of the measures which are being implemented at the institution, but even more about the inertia and the lack of interest of the general surroundings to establish programs which would enable adaptation and social resettlement of juveniles upon leaving the institution.

## **X – EDUCATION**

Providing conditions for schooling and professional training of young delinquents is crucial not only as regards the treatment during their stay at the Valjevo Juvenile Penitentiary- Reformatory, but also for their future. The languid and ignorant attitude of the state and the society towards this segment of life of juveniles is, thus, unacceptable

The lack of coordination between the length of educational measures and the educational system poses a particular problem which is complicated further by revisions which are carried out every six months and which often result in a change of measure, and the termination of education as a result. The school system at the surroundings to which a juvenile is being relocated often does not provide the possibility of continuing the education process. It is, also, incomprehensible that the state has

not developed an education system for the education of the vast number of young people who have not attended school, and do not fit the adult education category.

The Principle of the school adjacent to the Educational-Correctional Institution maintains that the protegees “accept school pretty well considering that they have rejected it before their sentence”. He stresses that, while at school, they rarely cause disturbances. In 10 years, there was one major breach of the code of conduct. Additionally, the juveniles do not cause physical damage to the school inventory, which was also noticeable during the visit While preparing a play for Saint Sava’s day, no one was in detention for two months, which is unusually long for being without punishment at this institution.

Interruptions in the education of protegees and repeating grades primarily occur when they are punished with detention or increased supervision. These are times when the school has no contact with them. It can also happen that a protegee purposely behaves in a way that would result in repeating a grade, in order to extend his/her stay at the Educational-Correctional Institution. In the words of the school’s Principal, a methodical system is suitable to the protegees as does the fact that the school is the only place at the institution where young men and women are together.

What can be indirectly concluded based on what was being said is that the school answers their needs and interests, that interacting with teachers, direct contact based on topics which are not related to their difficult experiences and stigmatization, make significant improvements in the behavior of protegees, and that an analysis of their behavior at school demonstrates their potential for socially adequate behavior.

## **XI – MECHANISMS OF CONTROL**

All international documents and contemporary standards state as extremely important the developed mechanisms by which independent bodies monitor juvenile institutions. The Valjevo Juvenile Penitentiary Reformatory stresses that nearly 90% of minors are visited by judges, given that the judges predominantly come from big cities and visit several juveniles in one visit. The HCHRS, however, notices that such practice is not particularly effective because the limited time of a particular visit and the large number of juveniles which are to be visited cannot provide true insight into their respective situations, treatments and potential complaints. In addition, it is evident that during visits to juveniles whom they have sentenced to educational measures do not oversee the work of the institution and are not investigating the issue of the implementation of the treatment.

With consideration of the separation of competences, we feel that the courts must have a more active stance as regards this issue. In that sense, additional education of judges is needed, and a possibility of additional experts who could accompany them in their visits and who could make a more adequate assessment of the institution's work and the attitude towards minors should be considered.

Visits of the Ombudsman to institutions for juveniles should be more frequent, and there are no obstacles to local offices of the protectors of citizens being included in the independent assessment process. This has not been the case thus far.

## **RECOMMENDATIONS**

- Enrich cultural and sports activities and conduct them in continuity;
- Reduce punitive measures and strengthen support;
- Prevent the interruption of schooling due to punitive measures;
- Make the system of grading and rewarding objective and visible;
- Carry out and increase the scope of the programs of life skills and non-violent communication;
- Strengthen cooperation with the school and cooperate with it in enriching activities;
- Take measures for additional monitoring of all services and work on continuous education of personnel;
- Establish safeguards against any type of abuse and degrading conduct towards minors;

# Valjevo Reformatory

The reformatory in Valjevo is Serbia's only prison institution for young offenders, males exclusively.

And yet, adult prisoners have been accommodated in the institution for years now. At the time of the Helsinki Committee team's last visit the Reformatory had accommodated 232 prisoners out of which 70 were adults (recidivists allocated by the Central Prison Administration), 28 were underage, whereas the rest young adults.

Widespread abuse of psychoactive substances still plagues the institution Besides, numbers of juveniles had been incarcerated there for murder and other violent crimes. Such structure of prison population only logically calls for special treatment regimes and organizational arrangements but also for full support from relevant institutions of the system.

## **I – GUARANTEES AGAINST ILL-TREATMENT OF JUVENILES**

International recommendations about the shortest possible incarceration of juveniles are hardly applicably to Serbia where extreme violence among young is much too frequent.

By far more juveniles with long criminal records are accommodated in the Valjevo Reformatory than in the one in Kruševac. Actually, this institution is quite specific by the number of juveniles under long sentences.

On the other hand some juveniles punished for serious crimes have got inappropriately mild sentences. This indicates arbitrariness in the judicial policy and, moreover, the state's undefined strategy for this category of young offenders.

The structure of prison population and juveniles and adults that are not accommodated separately are by far more pressing problems. The influence of young adults on those underage is more detrimental than influence of adult prisoners who should not be accommodated

there in the first place. The fact that different categories of prisoners are not psychically separated implies in itself the risk of inter-prisoner exploitation and various forms of maltreatment, as well as seriously affects the rehabilitation process.

The prison is so constructed that it is impossible to have underage offenders separated from adults (recidivists) or young adults. At present the prison management is working on a reconstruction plan. But as things stand now the plan cannot be effectuated in foreseeable future. Therefore, the team takes that the authorities should start collecting funds for its realization without undue delay.

None of the interviewed complained of having been abused or ill-treated by the staff. Explaining cuts and bruises visible on some, they ascribed them to inter-prisoner fights that had been carefully planned in advance and therefore could not have been prevented by security officers. Such fights are occasional but extremely violent. Prison officers should pay a watchful eye on any hint of fighting because it could be fatal to those involved.

According to the interviewed prisoners, the police regularly torture them upon arrest and in custody. One cannot but be concerned with such testimonies.

## **II – CONDITIONS OF LIFE**

Nothing has changed in the “intensified surveillance” ward /OPN/ since the team’s last visit. Dormitories are still dark, humid and poorly ventilated, and toilets and window frames in deplorable state. Bedclothes are still being removed at daytime. The latter can only be labeled harassment. Restrictions in the ward are traumatic enough for those accommodated there – juveniles under disciplinary measures and those whose personal safety is endangered.

Conditions in other sections also do not meet the standards for juvenile accommodation though the prison administration tries its best to make them bearable. The team takes that additional funds could help change the things for the better.

### **III – INSTITUTIONAL PERSONNEL**

Though all forms of physical punishment are prohibited under law and avoided in practice, the interviewed prisoners often quoted cases of humiliating treatment by personnel. Here one should bear in mind that many of them do not see humiliating treatment as something impermissible – they come from socially deprived environment where humiliation is part of the everyday. What causes anxiety is that some officers on the staff cross the line but justify their actions as pedagogical measures.

The respect for gender equality in recruitment of personnel has been producing positive effects notably on juvenile offenders.

The prison administration plans to make major changes in the domain of security and introduce, among other things, the “prison without arms” model. For the time being such transformation of the institution and its security service is open to question given that it involves large investment. Be it as it may, any consideration given to less rigid conditions for some parts of prison population is always most welcome.

Though the institution is rather experienced in catering juvenile offenders its personnel are not always carefully recruited and capable of coping with the challenges of the work with this category of prisoners and taking care of their wellbeing at the same time. It goes without saying, therefore, that the Ministry of Justice and the Central Prison Administration should pay more attention to pre-recruitment training and in-service courses of training for institutional personnel.

### **V – HYGIENE**

Toilets, bathrooms and toiletries available at all times are most important for this category of prison population. Unfortunately, like in the Kruševac Reformatory, general hygiene is not satisfactory while the state fails to manifest understanding for such complex issue as juvenile criminality.

## **V – KITCHEN AND FOOD**

The same as in other prisons throughout Serbia fruits, milk products and sweets are rarely on menu. The team takes that some improvements in this aspect could be made despite meager funds the more so since this is about most important items in young persons' diet.

## **VI – MEDICAL CARE**

In its previous report the team drew the attention to the negative change in the institution's practice of testing all newly admitted prisoners for hepatitis B and C, and HIV infection. Since such testing has not been resumed in the meantime the team once again appeals to the Ministry of Justice and the Central Prison Administration to make sure that it is implemented in this institution. Numbers of juveniles and young adults having consumed various psychoactive substances prior to admission and their earlier environments are high-risk factors affecting their health and overall conditions in the reformatory.

The institution keeps records of all medical services provided to prisoners. The information of numbers of those suffering from depression and various types of psychoses causes anxiety but is not unexpected. Despite the claims that the institution has established good cooperation with psychiatrists in the Valjevo Hospital and Belgrade's prison-hospital, the team holds that the practice of having of psychiatrist engaged on contractual basis should be resumed. A psychiatrist's presence on the premises is the more so necessary since prisoners are kept in OPN for long. Besides, his/her presence would remove doubts about legality of treatment in the case of inter-prisoner violence.

One suicide that took place since the team's last visit causes anxiety and indicates failures in personnel's work Symptoms of depression manifest even among the youngest prisoners (who openly discussed their feelings with team members) indicate insufficient and/or non-existent care and not by medical officers only.

The team also takes that the medical service should recruit additional professionals and work round the clock rather than till 9:00 pm.

All prison officers without exception should be concerned with juvenile's health. The medical service (physicians, nurses, psychologists, etc) need to coordinate their work with other professionals in permanent communication with juveniles. A medical program with emphasis on most important aspects of healthcare should be available in writing to all members of the staff expected to participate in it.

A medical service's duty – and particularly when it comes to juveniles deprived of their liberty – is not only to heal the sick but also to prevent all types of illnesses.

## **VII – DISCIPLINARY MEASURES**

As expected among young deprived of their liberty strong “informal systems” constantly hamper the institution's functioning. Over its fact-finding missions the team has registered the existence of two strong “informal” groups and several lesser subgroups. According to prison officers, the informal system does not affect that much those accommodated in the semi-open ward, who communicate freely and socialize regardless of their affiliation to this group or other. This is not the case in the closed ward where the rules of the game are by far stricter and considerably undermine the institution's functioning and security. Prison officers openly speak about their difficulties in keeping these groups under control, preventing fights and self-mutilation.

It is with much difficulty that the institution copes with this problem the nature of which overcomes prison treatments and calls for action by institutions in the outside community. Since the prison has not developed a systemic approach to the problems of young delinquents all crises are solved through isolation of those identified as gang leaders. In its earlier reports the team has stressed that such practice is contrary to law as it leads towards inappropriately long-term disciplinary measures in OPN and allocations to the closed ward. Some interviewed prisoners were obviously under stress, some were visibly frightened and some depressive. No doubt that compromised safety negatively affects both prisoners and the institution as a whole. On the other hand disciplinary measures that are presently taken against juveniles seriously undermine their mental and physical health. The state should get more actively engaged in solving this problem in tandem with the prison administration.

As things stand now grievance procedures are not available to prisoners and fulfillment of their other rights such as rights to education, meaningful work, exercise and recreation is also questionable.

## **VIII – SOCIAL AND FAMILY TIES**

One cannot but be concerned with the fact that as many as 80-90 percent of juvenile offenders never receive family visits. Prison officers on their own cannot secure support and communication from families and other persons young prisoners care about. Social care centers, schools and other institutions in the communities juveniles come from should play major roles in this aspect.

When it comes to the activities that connect prisoners with the outside world, the prison organizes annual poetry festivals and painting colonies. In 2011 eight painters joined the colony, which unlike previous 4-day events lasted one day only.

## **IX – MOTIVATIONAL ACTIVITIES**

In catering juveniles only full commitment by the staff could reduce the risk of their long-term social dysfunction.

The prison's general motivational system makes it possible for juveniles to earn extra privileges in return for proper behavior.

The prison's plan includes a variety of activities aimed at encouraging constructive social skills and positive interests in juveniles. However, the team noted that only some of these activities were actually implemented and that only a small number of juveniles only occasionally took part in them.

Of all clubs in writing only sports club is active at all times in the form of recreational activity. The journalist club usually produces some stories to mark the St Sava Day, there is not telling whether the church choir practices at all, the painting club operates only within the painting colony, while the music club was closed down when juveniles smashed their instruments.

The prison's psychosocial program includes social skills, anger control, alcoholism support group, family therapy, post-penal preparations and individual therapy.

The great majority of juveniles have tried some psychoactive substance. Most of them are drug addicts. Up to now the prison has organized only one 1-year rehab program with eight juveniles out of which five went through it all the way. It goes without saying that by far more juveniles should be encouraged to join such programs.

The family therapy is well-designed the more so since a considerable number of prisoners are married and have families. The program includes genograms, messages, role-playing and letters of forgiveness and reconciliation. Groups are mixed – meaning that they encompass prisoners from open and closed wards alike. Four groups have gone through it up to now.

Pre-release period is a period of crisis for all prisoners. The pre-release program is organized twice a year for those who will be released within next six months. Ten 10-member groups have been organized so far but the number of those who have actually finished it is smaller. It aims at developing the sense of personal responsibility and compassion, build personal integrity and help prisoners in overcoming the obstacles awaiting them in the outside community. In this context they are taught how to write CVs, cope with stigmatization and develop personal 1-year plans of action. Experience has shown that the existing program has had no beneficial effect on prisoners from the closed ward.

Being poorly educated and poor big majority of families are not capacitated to provide adequate support to their children. Small steps can gradually make things move for the better in local communities juveniles are returning to upon release and, therefore, should be taken to facilitate their reintegration. According to prison officers, establishing communication between juveniles and their families is beyond their power. The team takes that this aspect of social rehabilitation is too important to be given up.

No doubt individual psychological treatments are most welcome. Unfortunately such good practice cannot fully satisfy the needs of a large number of prisoners.

All the above-mentioned programs are not available to all prisoners. For instance prisoners in the closed ward have had no opportunity to attend the program dealing with social skills anger control and antialcoholism treatment. The interviewed officers manifested awareness about the pressing need for having this program in the closed ward and said they were planning to organize it.

According to prison officers, it is almost impossible to bring together persons seeing themselves as socially superior and those they consider inferior (like Roma) in one psychotherapeutic group. This is the reason why many among the later have never been included in such programs. The team takes that a proper solution to the problem must urgently be found.

Officers who have created the psychotherapeutic program take motivation for joining the program is a major problem – namely most prisoners and some members of the prison staff alike treat joining the program as a sign of weakness. Out of 7-10 persons forming a group at the beginning only some 5 go through the entire course. The team was told the juveniles are more interested in school and vocational activities than in therapy, Generally speaking, they are more interested in the activities that could help them get better prison regimes.

One of the reasons why a small number of prisoners are included in psychotherapeutic programs is the resistance to it within the system. Five members of the professional staff work on the program, including the prison manager, whose other duties do not allow full commitment to it. Five professionals is almost nothing when compared with the significance of this form of support provided to prisoners.

Vocational training is realized in prison workshops and by the program developed with- in the Reformatory. Prisoners can attend courses of training for metalworkers, locksmiths and carpenters. According to the prison administration, some hundred participants are included in these programs on annual basis. All the courses are organized in cooperation with the Vocational Center in Nis so that the certificates issued to participants bear no evidence of being earned in prisons. If they wish so, prisoners may also attend courses of training in coating surfaces with pain and baking. As of recently an elementary course in computer literacy has been available to prisoners. At present the prison administration is seeking for a solution to certificates that will not bear evidence of prison. At the time of the team's last visit a group of ten prisoners from the closed ward and another ten from the open one were attending this course.

The prison has formed a juvenile team composed of representatives of all services. The team is tasked with coordination of all activities and monitoring the overall situation of juvenile prisoners. Establishment of a team as such is a major step forward. Unfortunately, its work has not been reflected yet in the quality of prison treatment. Major activities such as educational, occupational or psychotherapeutic are still cancelled because of disciplinary measures taken against individuals. Proper support to juveniles' and young adults' capacity for abiding to socially recognized rules of conduct and to their education should be a top priority during incarceration. This would lessen the probability of recidivism on the one hand and encourage their integration into the outside community after release on the other. Judging by what it observed during the monitoring the team acknowledges the institution's endeavor to introduce positive changes in the areas of juveniles' education, constructive conduct and skills capacitating them for the life in the outside world. And yet, methods of punishment predominate over this endeavor. This indicates that cooperation between different services and mutual observation are still inadequate. The team left under the strong impression that personnel's attitude towards prisoners primarily depend on the former's individual commitment and initiative.

The institution has not established the practice of in-service courses of training for prison officers. Participation in such trainings is left to individual interest in acquiring new knowledge and skills. So far, one course of training in encouraging behavioral changes has been conducted by the prison manager with the assistance from OSCE Mission to Serbia. Not all instructors working with prison population have attended it.

## **X – SCHOOLING**

Prisoners are provided the opportunity to finish elementary school. Classes are organized by the Adult Education School from Obrenovac. Presently, some 16-17 prisoners attend these classes.

Prisoners can also attend secondary school classes in Valjevo but only those accommodated in semi-open and open wards. Besides a prisoner's schooling depends on his family's financial resources. Families have to cover the costs of admission and exams, textbooks and transportation, which totals some 30,000 RSD per student. Bearing in mind that financial resources of these families are usually scarce, it is clear that many juveniles cannot exercise their right to schooling.

The prison administration has not made arrangements with secondary schools to organize classes within the prison institution. Instead, all students-prisoners have to be transported to local secondary schools. At present only three of them attend classes (technical and economics schools) though more prisoners would be only glad to continue their schooling.

According to the interviewed prison officers, some students drop out. The team has not obtained the information about the number of those who have dropped out. Allegedly, they have had to be hospitalized. The team takes prisoners punished by disciplinary measure and those isolated for security reasons must be in this category.

Though the available data were not precise enough, it is obvious that only a small number of juveniles and young adults are enabled to continue their schooling. More attention, therefore, needs to be paid to this problem.

## **XI – MECHANISMS OF CONTROL**

By laws provide that the reformatory shall submit annual reports to court of law on prisoners' treatments and the state of their physical and mental health, whereas courts of law shall inspect the reformatory also on annual basis. True, the later do respect this provision. However, their inspections boil down to rather formal procedures and as such hardly have any beneficial effect on the institution's functioning.

The reformatory is occasionally inspected by representatives of the Office of Citizens' Ombudsman. A mailbox on which the Ombudsman's address is visibly posted is available to prisoners in OPN ward. The interviewed prisoners say the rarely appeal to the Ombudsman – some fear reprisal by the institution while others take a complaint will make no difference. Regardless of such rationale by prisoners, the team recommends that the institution should improve its grievance procedure and keep juveniles better informed about their rights.

## **RECOMMENDATIONS**

- Improve prison officers' capacity for team work;
- Train prison officers in contemporary approaches to treatment (in-service courses of training);
- Diversify cultural and sports activities for prisoners and organize them on regular basis;
- Reduce the number of disciplinary measures against prisoners and provide support to them instead;
- Prevent dropping out on the account of disciplinary measures'
- Make the system of benefits and rewards more objective and transparent;
- Organize more trainings in the skills juveniles can profit on upon release

# Penitentiary-Reformatory for Women in Požarevac

## I – INTRODUCTORY REMARKS

For the past ten years, the Helsinki Committee for Human Rights in Serbia has been monitoring and identifying violations of human rights of marginalized groups accommodated in various institutions, where their fundamental rights have been partially or entirely limited.

After several visits to all prisons, during which the HCHRS has, based on a previously established methodology, ascertained the state of affairs followed by a systemic monitoring of the changes in the execution of criminal sanctions, the new project aims to identify violations of rights of vulnerable groups among the prison population. Having in mind that the prison system is reforming at a slow pace and that many aspects are contingent on changes in the society and in other state sectors, the *Monitoring of the Prison System Reform in Serbia 2011*<sup>8</sup> focuses on the most prominent problems which threaten fundamental human rights of persons sentenced to prison or to educational measures, belonging to one or more categories of the so called sensitive groups. For this reason the comprehensive methodology used in previous reports has given way to observance of existing rights which the abovementioned persons cannot realize fully or to some degree, in spite the pronounced social or individual need for such rights to be engendered in the case of these particular groups.

Having defined the goal in this way, six institutions have been selected for monitoring. This includes institutions which are assigned by law for use by a specific population (such as women or minors), as well as those institutions having such a structure or capacity to provide as much as possible, the monitoring of rights of a relevant number of offenders belonging to a particularly sensitive group (ill persons, persons with disabilities, members of a religious, ethnic or sexual minority). These are: the Penitentiary-Reformatory for Women in Požarevac, the Kruševac Juvenile Reformatory, the Valjevo Juvenile Prison, and three largest

8 The HCHRS has published analyses of this Penitentiary-Reformatory for Women in 2002, 2005 and 2010, and the reports are available at [www.helsinki.org.rs](http://www.helsinki.org.rs)

Penitentiaries-Reformatories – in Sremska Mitrovica, Niš and Požarevac (Zabela).

Over the past ten years, the Penitentiary-Reformatory for Women in Požarevac was the subject of particular interest of the HCHRS given the fact that it is the only prison for women in Serbia<sup>9</sup>.

In the detailed report for 2010<sup>10</sup>, the Helsinki Committee's expert team has extended much serious criticism on account of the state of human rights in this institution, that is, on account of the prison's management. During the first visit in 2011, the warden has assessed that the monitoring by the HCHRS and the presented report have led to "collective morale depletion". The director states that, during previous visits, the employees in the PR for Women "were not capable of stating all of the things that they do", leading to, in her opinion, a particularly bad impression of the HCHRS about this institute. Unfortunately, even following the latest visits the ascertainment stands that the culture of human rights in this institute is at a relatively low level, that is, that the prison's management, but also the Administration for the Enforcement of Penal Sanctions as well as the pertinent Ministry, demonstrate insufficient understanding of the problems of human rights of the prisoners, as well as that of the employees at this institute. Nevertheless, even with the identified shortcomings, it is important to stress and commend the institution's efforts for aligning every staff activity with the Law on the Execution of Criminal Sanctions, as well as the willingness to adopt more adequate ways of treating the convicted women.

The HCHRS' task is to identify problems and to insist on the unconditional respect for human rights. The objections stated in this report and in previous ones refer to the inadequate systemic solutions and point to either the lack of respect for human rights, or the absence of understanding the concept thereof. In this sense, the report is not an attack on individuals (prison directors, managers of departments) or on the entire personnel; it is rather a form of help with the aim of better understanding of the lapse in the area of the execution of criminal sanctions demonstrated by all pertinent actors, and with the aim of a better understanding of international standards in this area.

\_\_\_\_\_ During subsequent control visits in 2011, the HCHRS intended to

9 More precisely, under criminal procedure, women can be placed in special detention facilities within other prisons in Serbia. However, this is the only institute specialized for women serving prison sentences.

10 Prisons in Serbia 2010, Helsinki Committee for Human Rights in Serbia, group of authors. Available at: [http://www.helsinki.org.rs/projects\\_crd01.html](http://www.helsinki.org.rs/projects_crd01.html)

ascertain and register potential positive (or negative) shifts as regards particular, especially threatened rights of female prisoners which are of great importance to them. The standards which the HCHRS went by stem from international documents which are accepted – in other words ratified and/or signed – by the Republic of Serbia<sup>11</sup>

## **II – STANDARDS AND RIGHTS AS REGARDS ACCOMMODATION CONDITIONS**

*The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) sees the overcrowdedness of prisons as a serious problem in many states and considers that this cannot convincingly be explained solely by a high crime rate, but also by judicial policy. However, although objections pertaining to this segment must primarily be addressed to the state, the institution itself should have to approach more boldly and more openly towards the courts and the Ministry, and to insist, based on arguments, on the implementation of noninstitutional punishments, a higher number of releases and more cases of amnesty being granted, whenever the conditions for this exist. Public advocacy for a milder penal policy would also contribute to a change of the existing practice, especially having in mind that employees at the institute hold that the behavior of the majority of prisoners is exemplary, that there are few returnees and few women likely to commit crimes which represent a great social danger.*

Decreasing the number of prisoners would improve the conditions for serving a prison sentence and would bring many benefits – working on their resocialization would be more substantial and would yield better results, the organization within the institute itself would be improved and more rational, and there would be multiple benefits for the society.

Unfortunately, in spite of certain efforts taken by the institution, the accommodation conditions in the institute remain very poor. The lack of financial means is certainly a limiting factor; however, the HCHRS is concerned about the lack of sensibility for the specific needs and psychology of women, primarily in the Administration for the Enforcement of Penal Sanctions and in the pertinent Ministry, but also, to a lesser degree, at

11 Conventions on human rights (EU and the UN), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Optional Protocol to the Convention against Torture (OPCAT), Standard Minimum Rules for the Treatment of Prisoners...

the institute itself. Women represent a relatively small group of people deprived of their liberty; therefore, there is no excuse for the state's lack of interest and capability for providing decent prison conditions for them. This especially if having in mind that the majority of women are far from home and from their families and that they belong to a low social stratum which means that the prison surroundings are, almost exclusively, their main environment. The building of the Penitentiary-Reformatory for Women is the oldest among prisons in Serbia (137 years of existence) and it has been renovated only twice thus far. The information received by the HCHRS from the prison's management that the Administration for the Enforcement of Penal Sanctions has designated around 30,000 euros for the reconstruction of the main building and that an upcoming repair of electric installations amounting to 20,000 euros is planned, is the first hint of change of attitude towards the prisoners. This, however, does not suffice, therefore the HCHRS will, in the future, insist on a comprehensive improvement of conditions at the institute, including full refurbishment of facilities, procurement of new furniture and equipment, and especially raising the general hygiene level.

### **III – THE RELATIONSHIP BETWEEN THE STAFF AND PRISONERS**

As compared to all previous visits, there has been a significant change in the dress code rules pertaining to the female prisoners. Namely up until this year, the management has strictly prescribed the use of prison uniform (in spite of the fact that this provision has been eliminated, or rather ignored, by the majority of prisons). Finally, in early 2011, the management has allowed for the prisoners to use civilian clothes and make up, with certain necessary limitations which were imposed by the warden herself by a special act. One of the limitations which the HCHRS considers unjustified is the mandatory wearing of closed-toe shoes even during the summer months.

In addition, the demand for the prisoners to bow their head and to cross their hands on their backs whenever passed by any staff member or visitor represents an unreasonably rigid relation and rigid understanding of the execution of the criminal punishment. Such measures are degrading and counterproductive to the efforts of the trainers and other staff members which are attempting to raise the women's self confidence and to enhance their sense of dignity. Additionally, such measures are not justified by security reasons and they do not contribute to the establishment of positive relations between the staff and the prisoners.

On the other hand, it is commendable that the majority of the security staff personnel have established a relationship of trust and closeness with the prisoners, while not putting into question their professional authority and security. The HCHRS maintains that the prison's management should instigate all other employees to enhance their communication with the prisoners, with the aim of creating constructive, decent and human relations. Such an approach reduces aggression and abuse, and it increases safety through the creation of a more secure environment, thus also preventing a high level of stress among the staff.

In the past reports, the HCHRS has given a lot of attention not only to the poor and inhumane conditions in certain parts of the central facility, including solitary confinement facilities, but also to measures of restraint (fixation) and solitary confinement which are procedurally insubstantial and excessive, in the HCHRS' opinion. The problem of unnecessary and prolonged fixation<sup>12</sup> has also been pointed out during 2010. In 2011, the fixation measure has been used rarely and at times of absolute necessity, which represents a positive change. In addition, at the time of the most recent visits, the section of the pavilion holding the solitary confinement was being refurbished. The management's intention is to transform the two existing solitary confinement rooms into one which would be functional and more adequate in terms of accommodation.

However, the HCHRS stresses that the implementation of such measures should be extraordinary, of short duration and strictly controlled. In a situation where nearly the entire prison population is well disciplined the impossibility of controlling and appeasing upset or acutely aggressive women is primarily a fault on behalf of the staff. To support this claim we are stating the opinion of a member of the security service: "If there weren't several women, mostly drug addicts, who are prone to causing incidents, we would be like a kindergarten".

As compared to the previous visit, the practice of prisoners doing their laundry manually has been partly modified. Namely, the previous report stressed that forcing the prisoners to wash their laundry by hand was unacceptable. According to recent findings, the laundromats are now being used on a regular basis and this obligation no longer exists.

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12 In this institute, this measure has been used primarily as a punitive measure – not for medical purposes; see previous reports

## **IV – HYGIENE**

Apart from the fact that certain toilets and bathroom facilities are still in miserable condition and do not provide the minimum of conditions for maintaining personal and sanitary hygiene, there is also a problem of supplying the prisoners with necessary sanitary items. Such items are inadequate and insufficient. The official explanation states that, due to the lack of financial means, frugality is necessary in the procurement of such items. The prisoners from Pavilion I are still complaining that it does not provide sufficient hot water for showering, especially during the summer period, which particularly affects women who are occupationally engaged.

The hygiene issue in the women's prison is far more specific as compared to penitentiary institutions for men. The needs of women must therefore, be addressed appropriately, and officials cannot make excuses based on insufficient funding, because, in the case of women, hygiene is much more directly related to their health. The failure to provide basic sanitary items may, in itself, represent humiliating treatment.

## **V – KITCHEN AND FOOD FOR PRISONERS**

Alimentation remains a problematic topic for both the prisoners<sup>13</sup> and the prison's management. Namely, the food quality at the Penitentiary Reformatory for Women is extremely low. In this institution the food is supplied daily from the Penitentiary-Reformatory for Men in Zabela, which is a unique case. During the past visit, we have noticed a mini bakery which was received by the institute as a donation. The prisoners were making good quality bread and croissants, which was an important addition to their alimentation. During the last visit, the bakery was out of order (for several weeks) because the flour was not provided by the management.

At the institute, they are persistently refusing to discuss the need and possibility of the institute establishing its own kitchen, whereas the HCHRS has not been given an acceptable explanation for such a stance. The construction of a kitchen is not part of the prison management's

13 Nearly all prisoners interviewed on this topic by the HCHRS had complained about the monotonous, low quality food without fruit, dairy and sweets

plan, in spite of the fact that this kitchen would also entail occupational engagement for a number of prisoners, while it could serve as a form of professional training for others; whereas it would be a source of additional income for the institution. The possibility of providing food of better quality and more adequately prepared, as well as the possibility of training for various types of work it would provide (baking, confectionery, catering, business...) was acceptable to absolutely every woman the HCHRS has talked to. Thus, the response by the institute that they "do not want another objection by the HCHRS that there are types of misogynous behavior at the prison" is nothing but an attempted justification of their own lack of initiative while allegedly referring to gender equality. The HCHRS sees in this but a violation of this right, in a classical case of avoiding responsibility which is attributive to all those who, in essence, do not understand the concept of human rights including women's rights.

## **VI – HEALTH SERVICES**

The organization of the health service in prisons is quite poor because the medical staff is considered a part of the prison's administration whose work is under the competence of the prison management, that is, the Ministry of Justice, and not the Ministry of Health. The existing solution is unsustainable and very problematic as regards the interests of the prisoners.

Unfortunately, in spite of persistently pointing out the unsatisfactory level of health care in all prison reports, it is the HCHRS' impression that the Ministry, and even the prisons' managements have not dealt with this problem with adequate attention. Primarily, this illustrates that the officials are not sufficiently aware that inadequate health care most easily leads to situations which can be characterized as "inhumane or humiliating behavior". Even more disturbing is the fact that there isn't an awareness of the extremely important role the health service in each particular institution has in fighting against abuse. On the contrary, health services in all prisons behave as they are part of the penal system, disregarding their basic function. Such an unacceptable and very concerning approach is, certainly, the result of a poor systemic solution as part of the Ministry of Justice, but it is also the result of Serbia's seriously flawed health system. The HCHRS holds that the competence over health services in prisons must urgently be transferred to the Ministry of Health.

## VII – ACCESS TO THE DOCTOR

When discussing the rights of female prisoners, in addition to alimentation, healthcare continues to represent one of the most contentious points. During discussions with HCHRS representatives, the women have, practically without exception, complained about the quality of health services. During previous visits, they have mostly complained about the work of a particular doctor who has, in the meantime, changed her work post and no longer works at this Penitentiary-Reformatory. The new doctor, although very young, has fit very quickly into the unsatisfactory collective and the established practice. Thus, it is not surprising that the majority of objections stated by the prisoners continue to refer to the work of the health service, doctors as well as nurses with decade-long experience in the institute. The medical staff's claim that "female prisoners have better access to health services than citizens, that they don't wait in line and have provided medication" is problematic on many accounts and clearly demonstrates the state of affairs in both the health and the penal system. Even though, essentially, these are changes which require the transformation of the entire society, it is important for the Penitentiary-Reformatory management to take into account the prisoners' complaints. When claims and statements coming from various categories of female prisoners overlap significantly, the least that can be done is to seriously question the functioning of the health service.

For example, a high number of prisoners have complained about having difficulty receiving ordinary analgetics for pain relief in cases of headaches, migraines, stomach pains etc. The prison doctors and other medical staff find this complaint unfounded. The HCHRS' request to gain insight into medical records of certain prisoners has been refused, whereas the doctor justified this with medical ethics. This is the first time that the HCHRS has not been able to gain insight into the institute's complete medical documentation. Given that the HCHRS' expert team includes a licensed specialized doctor with longstanding experience, such an excuse is inadequate and irrational.

However, having reviewed the registry of medically examined prisoners for 2011, it has been established that, over the past six months, an extremely small number of prisoners with a headache had been given treatment. The prison's doctor refers to her professional competence and has stressed that, in such cases, the patient's blood pressure is always taken and her medical chart is reviewed, on the basis of which it is concluded that there isn't a need for analgetics. Not contesting

the knowledge and professional attitude of the young doctor, the HCHRS still finds the given explanation inadequate. The use of cheap and widely available analgetics is justified in many cases, especially when women in prison conditions are concerned. Treating high blood pressure is a health problem differing completely from a headache which can be the result of poor or insufficient sleep, exposure to the sun, the cold, stress etc. In addition, various gynecological problems which can be completely benign and acute, often cause pain which is eliminated by a small dose of analgetics. Such a restrictive approach to medication can neither be justified by financial limitations. Therefore, the HCHRS stresses that each prisoner must be given adequate health treatment in each situation, not only in cases of serious diagnosed conditions.

## **VIII – PREVENTION OF VARIOUS FORMS OF VIOLENCE**

As regards security, the Penitentiary-Reformatory for Women is one of the best institutions in Serbia. As testified by the prisoners, the security service represents a buffer zone between them and the management although the lack of confidence in the Treatment Service is puzzling and concerning. In addition to the good organization of the Security Service, it probably holds true that women represent a more disciplined part of the prison population. This thesis is supported by the fact that incidents, such as attempted escapes, smuggling of drugs or cell phones into the institute is nearly an unknown event. As stated by the prisoners, the work of the Security Service has improved significantly over the past year.

In addition, in 2011, there has been a significant decrease of self-inflicted injuries, which can, to some extent, also be explained based on other positive changes in the management's conduct, ie. a more flexible stance towards the prisoners' outfits and make-up wearing. This has, clearly had a very positive psychological effect on their self-perception. It should not be forgotten that this Penitentiary-Reformatory was well known for its great amount of prison disciplinary offenses committed by the inmates, primarily regarding self-inflicted injuries. In 2009, 11 women have purposely injured themselves in an organized manner, which was, clearly, an outcry for help and a demonstration of their helplessness as regards the institute's management.

The number of disciplinary actions against prisoners has dropped significantly since 2011 as compared to previous years. The reasons for this change are numerous: primarily, over the past year, the new Acting

Chief of the Security Service has moderated the rigid attitude towards the prisoners – which has not gone unnoticed.

As part of the Admissions Service, which employs a graduate psychologist, there are a vast number of specialized psychological tests (measuring IQ, risk assessment etc.). However, the quality of such tests is questionable based on one of the cases noted at the institute. During 2011, a woman convicted for a serious crime was admitted to the institute to serve her sentence. During admission at the Penitentiary-Reformatory for Women, this woman has attempted suicide twice, whereas the tests carried out had shown no serious risks in her case. Immediately upon admission, the woman committed suicide. Although the stated example does not prove the incapacity of the Admissions Service or that of the psychologist performing the tests, there is an impression (especially based on discussions with graduated psychologists) that this part of the service is in urgent need of additional education.

## **IX – SOCIAL AND FAMILY TIES**

Adequate psychological help is needed because many women have alternating, 'turbulent' emotions, ranging from negation to feeling guilt, to regret and to a feeling of relief. Many of them also have poor relations with their respective families, which calls for continuous work with them, but also with their families or other close persons. This is a very important segment for a prisoner and her future life, and yet it is a weak spot in all prisons as well as in all other institutions with institutional accommodation. Contacts with their respective families and the outside environment call for engagement and a professional, synchronized approach by various different institutions.

## **X – EQUAL ACCESS TO ACTIVITIES AND PROFESSIONAL TRAINING**

A vast amount of the psychologists' engagement takes place based on support and empowerment of women following their release from longer sentences. Activities and trainings for the improvement of social skills and assertiveness (self-confidence), are being taught, as are skills for protecting themselves from sexual, physical and psychological abuse, for the improvement of family relations; they can also receive legal aid, some

forms of education and an antistress program (tension reduction through physical exercise). These one-hour activities take place once a week for a period of eight weeks. However, it remains unclear as to how much women serving their sentences actually participate in choosing activities which to take part in. In addition, the weekly activities can hardly maintain the continuity and motivation for participation, which is noted by the staff themselves. Group drop-out reaches up to 50% percent.

Resocialization is crucial for the successful return of convicted citizens into normal life. As regards resocialization (which is an outdated and inadequate term, which is, however, still being used in Serbia's prisons), it is a positive influence of the prison's Educational Service on the prisoners, in the context of work engagement of the prisoner, their professional improvement, education and schooling. In addition, the dimension of leisure activities of the prisoners is very important, as are the preparation for release from prison and post-penal protection.

Unfortunately, this aspect of work with the prisoners in Serbia's prisons is quite neglected. In many prisons, one trainer works with between 20 and 50 prisoners (male or female). The state, evidently, does not see the importance of this type of work with the prisoners, whereas the explanation, as usual, boils down to the problem of the lack of financial resources.

Regarding the Penitentiary-Reformatory for Women, the structure of crimes has changed significantly, as did the structure of the prisoners themselves. It is extremely important for the women in prison to be offered adequate work and professional engagement. The prison's management is not doing enough in this regard. The vast part of the women's engagement comes down to manual and maintenance work and, most of the time, this refers to working on a farm (this is a seasonal engagement which represents a difficult and physically demanding job with low reimbursement) and working in a workshop at the institute. The work-shop represents an inadequate space for women to work in, especially under winter conditions.

At the time of the HCHRS' last visit (in July), more than 160 women was occupationally engaged (which is commendable), although these are still seasonal or temporary jobs.

A number of employees claim that it is impossible to interest many women at the institute in any type of work or professional improvement.

Even though it holds true that many women are apathetic and depressed having talked to the prisoners, the HCHRS was under the impression that the scarce offer of jobs and activities by the Penitentiary-Reformatory significantly affects such a state of affairs.

As compared to the previous visit, no changes were observed as regards treatment in the narrow sense. This time, particular attention was paid to the work of psychologists. In the opinion of the HCHRS, the tests which were conducted during admission for personality testing, testing of general abilities and emotional state testing, as well as a questionnaire for the assessment of risk which encompasses various aspects of life, are not being used enough and in an adequate way in terms of treatment planning. In the case that some psychological problems are observed during the admission of a new prisoner, we were told that a psychologist can initiate another meeting with her. If no problems have been observed women can visit a psychologist during their stay at the institution only based on a referral from an educator. The HCHRS holds that this procedure does not allow for psychologists to adequately monitor the women's adjustment process to prison conditions, nor does it allow for good insight into the women's mental state. Thus, an adequate response is lacking, so it is not surprising that the prisoners feel greater closeness to certain members of the Security Service which they interact with on a daily basis. Nevertheless, this should not be a replacement for a continuous professional support by psychologists and educators.

Apathy, sadness and a small capacity for active engagement are the characteristics of persons who live in isolation, outside their natural environment. Relying only on their motivation to participate and work makes chances for success very slim. The program for occupational training called *The Second Chance*, which includes skills of cooking, flower growing working on a computer, a hairdresser's and a beautician's courses, certainly provides a bigger choice and possibilities for motivation. However, the beautician's course is under question because of hepatitis B which has been detected at the institution. As this is an important segment for self confidence raising and for preparing to return to the outside environment it is necessary to provide a quality level of these courses and to continue working on raising the motivation level of women for participating.

## XI – PRISONERS WHO ARE NOT SUITABLE FOR EXTENDED IMPRISONMENT

Women who are victims of domestic violence are of particular interest to the HCHRS. As a rule, these women commit serious criminal offenses of murdering their partners and are sentenced to long imprisonments, which is a testimony of the utter incommensurateness of judicial practice in Serbia. Such judicial practice deviates significantly from the court practice in European countries. Sentencing women who are victims of long-lasting torture (sometimes lasting several decades) to a long imprisonment is inappropriate, to put things mildly.

As a reminder, only during the first six months in 2011 29 women have been killed in Serbia, whereas 32 women were murdered during 2010<sup>14</sup>. These crimes against women have been committed by their partners<sup>15</sup>. This data demonstrates that domestic violence is on the rise, which is clearly a consequence of tragic social events in Serbia. The stated data also demonstrates that state institutions have failed at the process of protecting a vast number of women. However, these same state bodies, which were incapable of or uninterested in helping the victims of domestic violence, are very efficient when it comes to sentencing women for murdering their husbands. These proceedings are carried out very quickly and efficiently, which is not the case with other criminal proceedings in the country. At the same time, in contrast to often stunningly low sentences for other serious criminal offences, verdicts of up to ten year imprisonment for women who are victims of violence are a regular occurrence in court practice.

Additionally, the HCHRS finds inappropriate that persons with short term fatal prognoses, persons suffering from serious illnesses

14 Data according to the Ministry of Labor and Social Policy, as part of the project 'Combating Sexual and Gender-based Violence'.

15 A third of the women in Serbia are being simultaneously exposed to a combination of different forms of violence, whereas this is, in most cases, a combination of psychological and physical violence. Also, 38 percent of women view the family as a place of suffering and uncertainty. According to the same survey, the degree of psychological violence in 2010 was the highest among young women aged 18 to 24 (42,3%), as was the case with physical violence (20,9%). During the past year, the most severe forms of violence were committed exclusively by men, as high as 96 percent, out of which 80,8 percent were husbands and partners; whereas the violence took place in the presence of children in 40 percent of the cases. Over the first three months in 2011, 11 women were killed, out of which 6 women were victims of domestic homicide. In March 2011 only Domestic violence has risen 6,5 times since 2005.

which cannot be adequately treated in prison conditions, persons with severe disabilities and elderly persons are serving long prison sentences. Extended imprisonment of such persons presents a big problem both for the prisoner and for the prison itself. In such cases, which are also present at the Women's Penitentiary in Požarevac, it is up to the prison doctor to present a report to the competent authorities with the aim of finding alternative solutions. On the other hand, the initiative of the institute to refurbish one ground-level area for persons with disabilities is commendable.

Due to inadequate prevention and treatment of victims of domestic violence, as well as persons with serious illnesses and/or elderly persons, the HCHRS has initiated a campaign for the amnesty of a certain number of women in Serbia, that is, for their release via the institute of conditional release (parole) as soon as possible. The first such case of conditional release was recorded this year. A female prisoner was released from prison as the result of an initiative of a group of prominent (female) citizens<sup>16</sup>, which have signed their support to her application for Parole.

Until the end of 2011, the HCHRS continues its initiative and plans to lobby for at least five women sentenced to prison for murdering their partners or other similar criminal offences resulting from domestic violence.

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16 Judita Popović, Slavica Đukić-Dejanović, Sonja Biserko, Mirjana Karanović, Latinka Perović, Vesna Pešić, Vesna Rakić Vodinelić, Milena Jerotijević, Natasa Mičić i Borka Pavićević

# Prison System in Serbia in 2011

## KPZ Niš KPZ Sremska Mitrovica KPZ Zabela

Serbia's system for the execution of criminal sanctions has undergone multiple transformations over the past ten years. Since 1991 the prison system has a record of an increasing number of detainees and prisoners, which is the result of a more strict court policy. This occurrence was particularly pronounced as of 2003. Before 2003, the number of detained persons in the Republic of Serbia was steadily between 5,000 and 6,000; whereas afterwards the growth rate of the prison population amounted to more than 10%, so that today, the total increase as compared to the mentioned year surpasses 60%.

Year	2005	2006	2007	2008	2009
No. of prisoners	8.078	7.893	8.970	9.701	10.974

(Table no 1 Number of prisoners on December 31st on each of the stated years<sup>17</sup>)

In late 2011, the number of detained and imprisoned persons has been stagnant at 11,500. Although it was expected that, by early 2012 the number of detained and imprisoned persons surpasses 12,000 (that is 14,000 by the end of 2012), the number of persons in Serbia's prisons has remained unchanged, primarily due to a somewhat more cautious punitive court policy in 2010 and 2011, but also due to the introduction of alternative sanctions, that is by the introduction of the execution of criminal sanctions which is not implemented in institutions for the execution of criminal sanctions. Concretely, during 2011, the system of

17 From the document: Strategy for the Reduction of the Overcrowdedness of Accommodation Capacities in Institutions for the Execution of Criminal Sanctions in the Republic of Serbia in the Period Between 2010 and 2015, Official Gazette, Republic of Serbia, no 53/2010

alternative execution of sanctions in house conditions with electronic monitoring has finally come to life. In 2011, the Administration for the Execution of Criminal Sanctions has been in possession of 200 “electronic bracelets”, which were rented as part of a commercial agreement. In early 2012, 600 bracelets purchased by the Ministry of Justice of the Republic of Serbia are expected to arrive in Serbia (the funding was provided by an EU donation). The introduction of alternative sanctions has been slow primarily due to organizational problems (problems in establishing a network of commissioners in Serbia), but also due to slight resistance in courts, which have only in mid 2011 started issuing decisions for a greater number of measures of alternative sanction.

In the circumstances of an increasing number of detained and imprisoned persons, the Helsinki Committee for Human Rights in Serbia (HCHRS) has, during 2011, conducted six control visits to the greatest institutions for the execution of criminal sanctions which host the majority of detained and convicted persons. These are: the Penitentiary-Reformatories in Požarevac (Zabela), Sremska Mitrovica and Niš. These institutions hold more than 50% of the total prison population in Serbia. In addition to juveniles and women, during 2011, the HCHRS has also focused on the general prison population. Three penitentiary-reformatories have been selected as the most representative sample because they represent the best illustration of the prison conditions in Serbia.

Over the past ten years, the Helsinki Committee has, on several occasions, visited the Penitentiary-Reformatories in Požarevac, Niš and Sremska Mitrovica. Previous reports have provided detailed descriptions of the conditions of the infrastructure, that is, the objects accommodating detained and convicted persons. The previous reports, additionally include detailed descriptions of the quality of life and living conditions of detained and imprisoned persons and, given that there haven't been any significant changes in this segment over the past couple of years this report will primarily encompass the greatest – systemic problems in these prisons. The stated assessments refer to the population in the three penitentiary-reformatories we have visited during 2011, but they can be applied to other institutions for the execution of criminal sanctions as well. This report is concluded with short assessments of particular problems in the three penitentiary-reformatories.

## I – COURT POLICY

As regards the work of the courts, it can be noted that the cooperation between courts and prisons is unsatisfactory. Over the past five years, the courts have issued prison measures for a vast number of citizens without insight into the real state of affairs in prisons. In this segment, the Ministry of Justice, which should have to coordinate the work of courts and the Administration for the Execution of Criminal Sanctions, bears the greatest responsibility. The prisons have a legal obligation to accommodate any detained or convicted person, regardless of the capacities and resources at their disposal. In this regard, it is evident that the courts have issued punitive measures of prison sentences (especially the short ones – up to one year) lightly, although both theory and practice demonstrate that working with persons sentenced to such short punishments is nearly impossible. The outcomes of such court policy are most visible in prisons which, in part, represent institutions for the accommodation of citizens in need of social assistance. The ongoing recession demonstrates that a vast number of citizens opt for petty crime in order to survive both physically and socially. The courts punish such behavior by adjudicating prison sentences, which represents a double social risk. On the one hand, the accommodation of such a vast number of prisoners represents a huge expenditure for the state and the society, while, on the other, their isolation from their surroundings makes their social resettlement additionally difficult. In the very case of these short sentences, it is evident that the alternative sanctions measures are the best option for a vast number of convicted citizens.

Serbia's punitive policy is very disparate in many segments. It is often the case that the courts from one part of Serbia (Vojvodina, for example) opt for a stricter punitive policy as compared to those in Eastern Serbia. Even though a fully synchronized punitive policy at the level of the Republic is impossible, it is clear that additional education of judges in this area is needed.

We are presenting the case of a person YY who has been sentenced to 38 years of prison for murder. Having insight into this document, we have found that the court has been particularly harsh towards this person. In a country which does not have a death sentence and where the maximum prison sentence is 40 years, it is very rarely that such draconic measures are enforced, so they are adjudicated only in cases of murdering a police officer on duty, murdering a judge, the country's prime minister or for murdering a child under extremely cruel circumstances. Although this

particular murder was brutal, comparative practice shows that the courts issue such drastic punishments very rarely. Upon deeper analysis, we have come to the conclusion that this is a person who has not had access to a good legal representative, rather, he is a member of the Roma ethnic minority.

In the period between 2000 and 2004, the proportion of prison sentences to the total number of adjudicated criminal sanctions measures has been gradually increasing, and it amounted to 30.9% in 2004, whereas the proportion of parole sentences has recorded a drop from 51.4% in 2000 to 45.8% in 2004. In the structure of total adjudicated prison sentences the sentences to prison for up to six months and for six months to two years are still dominant. Such punitive policy has a direct impact on the overcrowdedness of the accommodation capacities of the institutions for the execution of criminal sanctions, because the vast number of persons sentenced to prison for up to six months who are going to serve their sentence remains (in the period between 2005 and 2009, on average they made up 41,6% of the total number of persons sentenced to prison who are about to begin serving their sentence). Therefore, the main characteristic of the courts' punitive policy for minor criminal offences is that it is mild (a large number of parole sentences) and that this is a repression on a mass scale (a large number of short prison sentences) which does not serve the purpose of criminal sanctions. This is certainly the most important factor which contributes to the overcrowdedness of the institutions for the execution of criminal sanctions and measures in the Republic of Serbia.

## **II – PAROLE RELEASE**

The courts in Serbia have nearly abolished the institute of parole. The pertinent Law prescribes that each person is eligible for asking for parole release after serving 2/3 of his/her sentence. A data analysis carried out by the Belgrade Center for Human Rights demonstrated that, on average, the courts deny around 95% of all applications for parole release. The roots of such behavior of judges should be sought primarily in the fear of making a wrong decision and political pressure. Thus during the reelection of judges in Serbia, the number of approved parole releases has dropped additionally, which in itself speaks enough about the independence of the judiciary and the scale of a free assessment of a judge.

The non-functioning of the institute of parole release has led to vast problems in prisons. The consequences of such judicial policy are evident in three largest prisons in Serbia. Namely, each person serving a prison sentence should be occupationally engaged, which would assist the resocialization process. Resocialization progress would, consequently lead to a positive opinion of competent persons in prison when appeals for parole release are being filed. However, the convicted persons are aware of the fact that parole release does not function. They are, also, aware that, regardless of their conduct while serving their sentence (abiding by disciplinary measures, occupational engagement etc), they will have to serve a full prison sentence. All of this makes the resocialization process a more difficult, sometimes even an impossible process.

### III – DETENTION

The frequent sentencing to custodial measures represents one of the key causes of the overcrowdedness of the institutions for the execution of criminal sanctions. This is illustrated by the fact that, out of the total prison population, 35% of them are in prison. Under existing conditions, this means that there are more than 3,500 detained persons in Serbia, which makes Serbia number one in Europe when it comes to the number of detained persons. At the same time, the detention measure is transformed into a punitive measure, because, in a vast number of first instance cases against citizens, the prison sentence issued is equivalent to the time spent in prison. Thus, this measure is rendered meaningless.

Additionally, the condition of prison units in Serbia is particularly poor. The number of persons who are given custodial measures by far surpasses the accommodation capacities of custodial detention. It is certain that the condition of human rights in detention is far worse than in parts of the prison accommodating convicted persons.

Some provisions of the law which regulate the citizens' custodial detention measures represent obsolete and inadequate solutions. They are often not harmonized with the EU practice and they need to be changed. The most problematic section of the Law on Criminal Proceedings is paragraph 5 (article 142), which deals with reasons for imposing custodial sentences. It states that it is possible to give a custodial sentence for a criminal offence for which a prison sentence extending 10 years is prescribed, that is longer than five years for a crime with elements of violence and if it is justified due to particularly grave circumstances of a serious crime. The underlined section of paragraph 5 represents the most problematic legal provision. Based on interviews with a vast number of detained citizens, we have come by the information that investigative judges usually go by this article of the law because it is imprecise and subject to various interpretations. Namely, this section of the law is also applicable to crimes without elements of violence, that is, to crimes from the area of economic crime. This is best illustrated on the example of Tomislav Djordjevic<sup>18</sup>, who has spent six months in prison for abuse of office<sup>19</sup>

18 <http://www.blic.rs/Vesti/Hronika/201973/Djordjevic-izneo-odbranu>

19 The offense of abuse of office in a private company does not exist in EU practice One of the most striking cases is the trial for Stanko Subotic, who was sentenced for this criminal offense to a prison sentence of six years The state secretary at the Ministry of Justice Slobodan Homen has announced the abolishment of this provision, as well as the continuation of the cases that are currently being processed in Serbia's courts

although the investigation (and thus all reasons for extending custody) has ended three months before a custodial measure was adjudicated. Therefore, it is possible in practice that the investigative judge also sets an inappropriately long custodial sentence for criminal offenses without elements of violence. This enables detaining citizens in custody for several years, which is contrary to European practice. Additionally, Serbia has, in its response to the European Union's Questionnaire (answer to question no 70 in the Political Criteria section) answered that *"Detention is a procedural measure that is undertaken in order to facilitate the smooth conduct of criminal proceedings, if the goal cannot be achieved by any other means that undermine to a lesser extent, the basic constitutional rights. The essence of this legislative solution is a detention as procedural measure, rather than punishment, which is consistent with the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights."* Such an answer is not in accordance to the practice of courts we have come across while visiting prisons in Serbia.

The hereto described problems make up a group of systemic problems resulting from the work and neglect of the entire state apparatus. Topics such as inadequate and uneven court policies, disproportionately long custodial measures, ie inappropriately long detention and the non-functioning parole release represent a group of problems which employees in the system of the execution of criminal sanctions have no influence over. However, in the following section of the report, we will show a range of problems which are in the exclusive jurisdiction of the prisons themselves. In our opinion, the described problems represent a lapse of the Administration for the Execution of Criminal Sanctions, the prison manager and the staff.

## IV – OCCUPATIONAL ENGAGEMENT OF PRISONERS

We are emphasizing the issue of occupational engagement of prisoners as a particularly important one in prisons in Sremska Mitrovica Zabela and Požarevac. These institutions possess great potential for occupationally engaging prisoners. In the previous system of real socialism, these prisons have, with state assistance, built small factory workshops. In each of these prisons, the workshop stretches onto several hectares. Each of the institutions we have visited have workshops for working with metal, leather, wood, paper etc.

Data acquired from the training and employment services in these three prisons point to the fact that, within the contents of occupational and professional engagement of prisoners, nothing has changed significantly since our last visit. This means that the prisoners are occupationally engaged in departments of mechanical engineering, craftsmanship printing, textile making, wood processing and catering profession. The technology of the work remains the same, and the machines have not been refurbished. The number of prisoners participating in the work process is far from what is needed. According to the staff, the reasons for this situation lie exclusively in the lack of materials and raw materials, that is, in the lack of funding in order for the work process to be organized in a satisfactory manner. According to data of the management of these prisons, the institutions occupationally engage 400-500 prisoners (in each institution), including those which are engaged in maintenance. As compared to the total number of prisoners in these three institutions, the number of occupationally engaged prisoners is low. Additionally we are expressing serious doubts in the validity of this data. During our tour of these institutions, we have, as a rule, come across a handful of prisoners who are occupationally engaged. As a rule, vast factory halls are empty and only several dozen prisoners are stationed there. Although we do not possess valid evidence, we feel that the prisons' managements have mostly simulated occupational engagement during our visit for the purpose of embellishing reality.

Not engaging prisoners in these three institutions poses a great problem. As has already been mentioned in this report, the occupational engagement is of crucial importance for the resocialization of convicted persons. The lack of financial means is evident, however, it is unclear as to why the state has not intervened with more serious funding in this area thus far. To give an example, the Penitentiary-Reformatory Zabela in Požarevac has, until the dissolution of the Yugoslavia, annually produced

30,000 to 40,000 stoves for home use. The stoves were distributed to markets of Croatia, Bosnia and Herzegovina, Kosovo and Serbia. When Yugoslavia dissolved, so did the market, but, to give an example, today this institute can produce representative benches for parks, and at a competitive price, at that. However, when an institute such as Zabela applies for a public tender for supplying the city public enterprises of „Greenery” (across Serbia), the problem of raw materials for producing larger quantities of benches appears (the prison does not possess means for investing into production startup); and there is also the problem of systemic corruption of public procurement in Serbia. As it turns out, the prisons do not get tenders, even though these are competitive state enterprises which can supply other state enterprises at an affordable price (the price of prison labor is low). Positive discrimination of prisons in the system of public procurement would solve the question of occupationally employing convicted persons. This way, the issue of fulfilling the conditions for parole release would also be resolved to a great degree. However, it seems that the state of Serbia is utterly disinterested in this segment. The previous state (SFRY) had a well developed and transparent system of engaging persons in all of its republics. It is unclear why the state would disavow cheap labor, that is, why would it not allow convicted persons to enter the process of resocialization via occupational engagement.

One piece of good news is that a pilot project funded by the EU will start during 2012 in these three prisons, and which will achieve greater occupational engagement of persons serving sentences in these three prisons. However, the projects cannot, in themselves, make up for the role the state should play in this particular issue area. Public procurement the issue of legal status of prisons on the market, as well as the issue of high corruption in public procurements in Serbia remains a big problem when attempting to solve the problem of occupational engagement of prisoners.

## V – MEDICAL CARE OF PRISONERS

The issue of medical care of prisoners and persons in custody represents one of the most problematic issue areas as regards the prison system in Serbia. During the past two years, we have seen a vast number of psychiatric patients, that is, of patients suffering from systemic diseases who do not belong in prison.

Psychiatric patients represent a big problem for prisons. In these three prisons, the out-patient departments are filled with people who should be treated in hospital conditions, not in out-patient departments. In addition, it is utterly unacceptable that a number of chronically ill patients, particularly the elderly, should end their lives in prison.

We will give examples of two patients whom we feel should not be in prison, but remain there due to court bureaucracy as well as due to a lack of understanding of the Administration for the Execution of Criminal Sanctions.

1. AB (24) is convicted for armed robbery. He is a returnee, and this is the fourth crime for which he is convicted. During his stay in prison he has developed a severe case of multiple sclerosis. The young man is at a phase characterized by having only partial mobility or even none at all. Concretely, he cannot move without assistance, he cannot even leave his bed without it. This young man's prognosis is such that his condition cannot improve. Upon the HCHRS's suggestion to immediately suspend this prisoner's sentence, the prison's management did not respond with concrete steps because they maintain that the Director of the Administration for the Execution of Criminal Sanctions will not approve of the suspension. Namely, the ill prisoner awaits yet another trial at this moment, which is, in the management's opinion, reason enough for him to continue serving his sentence. This begs the question whether the prison's management actually thinks that he is able of committing another crime? This is not the only example, as another patient with multiple sclerosis had died of the illness in one of these prisons.

The termination, or rather, the suspension of the sentence is used most often in cases of terminally ill prisoners. The termination of the sentence means that the Director of the Administration can issue a ruling to suspend the serving of the sentence for six months or for a year.

This suspension can be repeated until the convicted person's health improves, or until his life ends.

2. The example of the psychiatric patient NA best illustrates the problem regarding prisoners suffering from mental illness. The young man has committed a murder three years ago. Expert testimony during the trial has revealed that he was sane when he committed the crime however, the expert was unsure of the full psychological state of NA. During the time spent in prison, he has presented with psychosis, which was diagnosed afterwards. A report by a neuropsychiatrist stated that this was a case of severe and long-term mental illness. Upon the HCHRS' statement that he does not belong in prison but rather in a psychiatric institution, we have been informed that the procedure of transferring him to a psychiatric institution was extremely complex. In spite the efforts of his mother and the HCHRS' commitment, this young man has not been transferred to a psychiatric institution to this day.

At the Penitentiary-Reformatory Zabela in Požarevac, healthcare of prisoners is currently managed by two general practitioners and one surgeon who has been absent for a longer period of time (3 months). One physician has been employed since December 2007 and has, as of recently, been employed full-time. The other physician is a woman who has been working there for 14 months, having previously worked at the Zemun hospital. The service also includes one dentist, 10 medical technicians and one X-ray technician. Four technicians work in 12-hour shifts, and the others work in shifts.

Specialists in neurology, psychiatry, internal medicine and surgery carry out weekly consultative examinations at the institute, whereas a dermatovenerologist and an ophthalmologist work every other week. The surgeon also carries out ultrasound sonograms of the abdomen. The ambulance is spacious and, apart from the doctor's office and the intervention room, they are versatile. One of the rooms has an ultrasound apparatus, beds for intravenous medicament administration and one of the cabinets with medicaments. Laboratory tests are conducted twice per week at the city hospital. The Dentist's office is well equipped. Without a dental technician, the dentist usually performs tooth extractions and rarely carries out treatments (due to a lack of materials). As a result prisoners who are able to afford it, have treatments at private dental clinics.

The polyclinic includes an out-patient department with 85 beds. The rooms fit three to four beds. 70% of prisoners are hospitalized for

psychiatric illnesses. The out-patient department includes disabled persons (of various causes of disabilities), as well as elderly prisoners who are unfit to work.

During our visit, we have noticed a certain number of prisoners who have been at the inpatient department for a longer period of time. As regards this group of prisoners, the purpose of their imprisonment is questionable. First of all, it is certain that for those with greatest health problems, prison is not a suitable place, and, secondly, it should be stressed that the prison cannot offer adequate healthcare for this group of patients.

The pharmacy is located at the management building. A pharmaceutical technician administers medicaments to the healthcare staff, not the prisoner. A special form – recipe – is being used for the administration of medicaments, stating the name of the prisoner, pavilion name of the drug, date of prescription, amount of pills, as well as the time for taking therapy (including the date). This form is signed by a doctor. The procurement of medicaments is partly centralized, via the Central prison hospital, and partly via a tender. Psychiatric therapy is administered by non-medical staff, according to lists that they receive from doctors; with the exception of methadone therapy which is administered at the out patient department. The other therapies are administered in two weeks time.

Upon admission of prisoners to the Penitentiary-Reformatory Zabela in Požarevac, as a rule, a systematic examination is carried out as well as a neuropsychiatric one, an X-ray of the lungs and laboratory analyses are carried out. Due to financial reasons, testing for HCV, HIV and HbsAG is not done for all prisoners, but only for those with transaminases.

At the Penitentiary-Reformatory Zabela in Požarevac, there are currently 437 prisoners who are being treated for addiction (11 of them are on methadone therapy), 4 have AIDS, 148 have hepatitis and 43 are being treated for alcoholism.

In addition to general information and the health condition upon arriving at the Penitentiary-Reformatory Zabela, the health chart also includes the results of a neuropsychiatric examination. Out-patient treatment is also noted, as are treatments in other institutions while serving the prison sentence. Periodical systematic examinations are not being done. In addition to a health chart, the documentation also includes protocols: measure of coercion, accidental injuries, injuries at work and

deceased. During 2010, 22 measures of coercion have been carried out (8 by rubber batons and 14 by fixation); whereas until August 31, 2011 2 have been carried out by rubber batons and 14 by fixation. Accidental injuries have been acquired in fights and during sports activities. Until September 7, 2011, there were 37 of them; whereas 90 were recorded during 2010. In 2010, 27 occupational injuries have been noted; 10 have been noted until August 21, 2011. In 2010, 7 prisoners have died; 5 have died until June 28, 2011.

The measure of fixation is carried out exclusively upon a psychiatrist's order; it does not last for more than 24 hours, and sedation medicaments are being used simultaneously.

Each day, the doctor examines prisoners in one of the pavilions.

The prisoners apply for examination to the commander.

Diseases of the locomotive system (lumboischialgia), as well as injuries and kidney diseases (colica) are most common. Most frequently used medicaments include analgetics, antibiotics, anxiolytics and antidepressants.

## **VI – ALIMENTATION AND KITCHEN**

A weekly menu is made by the main chef (a professional cook), the head of the health service and the storagekeeper, and it is signed by the institution's Director. There are three menus: regular, for those suffering from diabetes mellitus and for prisoners of the Muslim faith. A daily calorie value of the meals is between 12 659 J and 14 952 J. The menu for diabetics differs from a regular menu only in that it lacks sugar. Meat and meat products are provided on a daily basis, though in small quantities. There is no fruit. It has been noticed that prisoners carry cutlery (spoons) with them.

The mass hall is spacious, clean, with sufficient tables and chairs. The kitchen is, also, neat. It employs three professional chefs. At the Penitentiary-Reformatory Zabela, there is also a bakery where bread and pizza dough are being made.

At the Penitentiary-Reformatory in Niš, the health service is made up of a dentist and a medical service.

The dental service employs one dentist, one prosthetics specialist (22 years of work experience, as of recently employed full time), and one dental technician (employed on a contract basis). It is planned that one more team be employed so that the dental service could work in two shifts. Upon admission at the Penitentiary-Reformatory in Niš, a systematic dental examination is being carried out. The prisoners apply for extraordinary examinations. Weekly, 70 examinations on average are being done. As of June 27, 2011, this service also engages in prosthetics. Up until October 18, 2011, 13 dentures have been made, and 15 prisoners are on the waiting list. The prices of these services have been formed according to prices in surrounding institutions – 3500 RSD for a partial and 4000 for a full denture. A prisoner signs a consent statement for having money taken from his depository account for the expenses of making dentures. For prisoners in need of financial assistance, a consilium has been formed, presenting cases to the Director of the Penitentiary Reformatory, and in those cases the institution covers the expenses.

The medical service employs 6 doctors. The director of the service is a general physician at a specialization in internal medicine. One doctor is a specialist in sports medicine, one is doing a specialization in psychiatry

and three are general physicians. Six medical technicians work in shifts. The working hours of the doctors is from 7 am to 3 pm (two doctors) from 7 am to 7 pm and from 7 pm to 7 am (one or two doctors at a time). The same schedule applies for medical technicians as well. Consultative examinations are being carried out as well. Psychiatrists visit three times per week, internists twice per month, ophthalmologists once per week (by determining visus and examining back of the eye), radiologists visit twice per month (ultrasonograms of the abdomen, prostate and breast), and a clinical biochemist coordinates the work of the laboratory. The laboratory does daily examinations of full blood work, sedimentation, lipoprotein profile, urea and creatinin, whereas the remain of laboratory analyses is carried out at the Niš Clinical Center. The Penitentiary-Reformatory possesses an ambulance vehicle.

The in-patient department currently accommodates 19 prisoners; whereas the full capacity is 24. It most frequently accommodates persons suffering from chronic psychoses, one person has multiplex sclerosis, and there are also persons unable to take care of themselves (ill-sighted, the elderly). In addition to the medical staff, prisoners who are occupationally engaged there also take care of these prisoners. It has been noted that the multiple sclerosis patient receives special care (he has been provided with an anti-bedsores mattress and one person cares about him all the time).

The medicaments are procured from tenders, from wholesale pharmacists. Medicaments are administered weekly for chronic diseases and daily for psychiatric ones.

The first examination of prisoners is carried out upon their arrival at the Penitentiary-Reformatory and a health chart is being opened at that time. A personal and family history of disease is taken, arterial blood pressure is being measured, as is their weight; auscultation of the heart and lungs is carried out; a general examination for determining physical impairments and injuries is done, in addition to an X-ray of the lungs and to laboratory tests. This institution also does not carry out tests for HCV, HIV and HbsAg, but only at a prisoner's request, and between 80 and 90 prisoners are tested each year. The director states that there was an HIV infected person at the in-patient department, who was transferred to the Infectious Diseases Clinic at the Clinical Center in Niš. The employees state that prisoners suffering from hepatitis or HIV do not pose a threat to the environment (during contact with the prisoners, all employees wear gloves) to the degree that those suffering from tuberculosis do. This is the reason for carrying out a lung X-ray and a TBC screening of prisoners upon

admission (400 prisoners in March, out of which two tested positive).

Apart from a medical chart, there is also a book for recording injuries, which includes the date of the injury, the way it was inflicted description, diagnosis, person who inflicted the injury. The time of the injury is not always stated. There were 219 injuries recorded in 2011.

In addition to the initial examination, monthly examinations of prisoners suffering from chronic diseases are being carried out according to a predetermined schedule from pavilion to pavilion. Examinations are mandatory for occupationally engaged prisoners working at high altitudes, prisoners who were away for the weekend, as well as for those who have been sentenced to measures of coercion or solitary confinement. Periodical examinations are also carried out every three months. During the morning, extraordinary examinations are being carried out as well. On average, 100 prisoners are examined each day.

In addition to psychiatric illnesses, most frequent illnesses include respiratory tract and locomotive system diseases; whereas most frequent chronic diseases include hypertension and diabetes. Sedation medicaments are being used most frequently.

As part of preventative care, workshops are being organized once or twice per month. The lecturers include physicians, psychologists and medical technicians, and the group is made up of between 20 and 25 prisoners. Substance abuse and HIV are the most frequent topics.

Particular attention is given to prisoners suffering from malignant diseases at a terminal stage, as well as to the elderly and frail persons. The Director is presented with a fully reviewed medical case in situations of postponing the serving of a prison sentence for three months on average. The serving of a sentence was suspended for a prisoner suffering from a mediastenum tumor, another for an adrenal tumor and a prisoner older than 80 years of age due to general weakness.

Medical care of prisoners at the Penitentiary-Reformatory in Sremska Mitrovica is being conducted by 6 physicians, one dentist and 22 medical technicians. The director of the medical service is a doctor, specialized in neuropsychiatry (the specialization was acquired at the Penitentiary-Reformatory). One is a transfusion specialist, four are general practitioners. Out of 22 technicians, one is a laboratory technician

one a dental technician and the others are general practice technicians.

Working hours are between 7 am and 3 pm, and doctors are on call during the afternoon and during the night. The technicians work in four shifts.

At each the admissions and the open department, as well as in the building where the in-patient department is located, there is a doctors office. There is another doctor's office at the "Zelengora" pavilion, and one at the "Veliki salas" open department, both of which are part of the Penitentiary-Reformatory. One doctor's office is planned to be opened at each pavilion.

A specialist in internal medicine visits once per month as a consultant; an ophthalmologist, an orthopedist, a dermatovenerologist and an ear-nose-and-throat specialist visit twice per month. The prisoners are taken to civilian medical institutions for all other examinations as well as in cases of emergency. These institutions occasionally face problems due to the transfer of prisoners as well as due to limited medical supplies.

During the HCHRS' visit, the in-patient department accommodated 28 prisoners, where- as the capacity fits 32 prisoners. The most frequent illness is chronic psychosis, and 18 prisoners with this diagnosis are currently being treated. In more serious cases of illness deterioration, the prisoners are transferred to the Central prison hospital in Belgrade. The procurement of medicaments is done via tenders, and centrally in part. It has been noted that the pharmacy is well supplied with medicaments regardless of the limitations of the Republic Institute for Health Insurance. According to the director, not all medicaments needed by the prisoners are currently available, so the prisoners procure them from their relatives. Antiviral therapy for treating hepatitis is currently stopped.

The laboratory carries out basic analyses, and, with the prisoners' consent, testing for hepatitis and HIV, which is done twice per week.

Upon arriving at the Penitentiary-Reformatory, a medical chart is opened for each prisoner, a general examination is carried out, previous illnesses are recorded and laboratory analyses are done. A blood test for the presence of opiates is done for each prisoner. A lung X-ray is being done upon indication. In addition to the first examination, healthcare is available to the prisoners on a daily basis. Between 150 and 200 examinations are being done each day. The most frequent illnesses

include personality disorders, addiction to substances (450 prisoners) heart disease, respiratory infections and diseases of the spine and joints. Currently, there are 18 prisoners suffering from hepatitis C. Methadone therapy is not being administered for substance abuse. Over the past year, there have been two recorded cases of overdose.

The therapy is being administered by medical technicians. The prisoners receive psycho- active substances in individual doses, and the remainder of the therapy every 21 days.

Apart from the medical charts, there are no particular protocols as in other institutions of this type. All injuries, as well as examinations preceding coercion measures and solitary confinement are only recorded in the medical chart. During 2011, two measures of fixation have been carried out in prisoners who were agitated and who were susceptible to risk of injuring themselves or others. This measure does not last for more than 24 hours, it is being carried out at the in-patient department under the supervision of a neuropsychiatrist who also prescribes medicament therapy administered via injections.

The mass hall has been refurbished relatively recently. It is spacious, well aired and well light. The floor is clean. There is a sufficient number of tables and chairs. The kitchen includes several rooms (storages a wardrobe for the employees, an area for cooking) which are dilapidated and in poor condition. There are four professional chefs (two of which are employed full time) and around 40 prisoners.

The menus are being made each week and are displayed in a visible place. The daily calorie value ranges from 13 461 J to 15 067 J. In addition to a regular menu, there are also menus for prisoners suffering from gastro-intestinal diseases (ulcers), diseases of the kidneys and liver diabetes, as well as for prisoners of the Muslim faith.

When visiting the Penitentiary-Reformatories in Niš, Požarevac and Sremska Mitrovica, it has been noted that health services function in different ways. This is not only due to the poor financial situation, but also due to the lack of familiarity of the health personnel with the subject matter, more so than their lack of interest. The personnel is isolated there is no cooperation or exchange of experience among institutions. Representatives from the Ministry of Health visit most of the institutions only based on complaints from the prisoners. In order to protect the

rights of both the health personnel and the prisoners, it is necessary to make procedures of work applicable to all these institutions. This way, all institutions of this type would have the same medical charts; all prisoners would be examined in the same way, including laboratory testing; risk groups would be recognized, identified and monitored in the same way. In all institutions, therapy would be administered according to adopted procedures. The protocols for coercion measures, accidental injuries occupational injuries and deceased persons would be uniform for all institutions. It is also necessary that prisoners give their signed consent as regards being informed about their illnesses, as well as regarding diagnostic measures and treatment.

## **VII – OTHER ASPECTS OF LIFE OF CONVICTED PERSONS**

### **a) The Penitentiary-Reformatory in Niš**

The admissions department is the first part of the prison the convicted persons come into contact with. At the admissions department the needs and characteristics of each prisoner are being analyzed by an expert team consisting of a sociologist, a pedagogue, a special pedagogue and a psychologist.

In assessing the personality of the prisoner, the following are being used: a questionnaire, an interview, an analysis of court decisions healthcare status, social care status and behavior during the adaptation period.

As regards cases of homicides and longer sentences, or upon request of a particular service, as part of the personality assessment battery, there is also a general capability test (Raven's progressive matrices), personality assessment scales (MMPI, CI), projective techniques (Ma- hover, TNR), which represents a multi-layered and adequate approach to assessing the personality of the convicted person.

The admissions service cooperates with the security and the health services on a daily basis.

Based on the findings reached at the admissions department, a decision is being made as to where the convicted person will be assigned, that is in which pavilion the sentence will be served.

The prison's management has explained that activities are determined based on a personal needs assessment, as well as that employees can provide consultancy assistance to educators when there are problems during the serving of the sentence, as needed.

However given the number of convicted persons at the institution, as well as considering the overall organization, it is questionable to what degree it is really possible to assess and accommodate the needs of the prisoners in an individualized manner.

The fact that one educator is in charge of several dozen prisoners poses a particular problem, which makes this process additionally meaningless.

Objectively speaking, the program of engaging prisoners is very poor and sporadic. Insufficient participation is attributed to the lack of interest of convicted persons or to certain external factors, and is, quite inappropriately, being related to the concept of treatment, the institution's organization, the professional competences of the employees etc.

There was a program of raising the level of literacy for a couple of months, which was led by one of the prisoners. The program had between 15 and 20 participants. When this particular prisoner left, the program ceased to exist. All of this illustrates the very poor management strategy as regards the education of the prisoners.

Cultural events of any kind are not being organized because the cultural center was torched during the rebellion in 2011. The management maintains that they are in need of an area for cultural and educational activities.

They have a library. The institution does not provide newspapers; the prisoners themselves can purchase them. They have TV rooms on each floor, or educational group.

On an educational group level, the prisoners have access to the *Law on the Execution of Penal Sanctions*, *The Rulebook of Conduct*, *The Manual for Prisoners*, and there is also the possibility of consulting with the personnel on the matter. We have been informed that there are persons regularly seeking consultations, and that there are those who need to be reminded of this option by the educational service. In addition, a number of prisoners refuses to consult with personnel of expert services on a regular basis.

Previously, this institution has had a one-year project “Drug Free”, which included the participation of around 20 persons, whereas 11 persons have completed the program. The activity has not been continued, without explanation.

The prisoners have direct contact with the educators; they need to apply in writing for any other form of communication with the rest of the personnel (most often the director).

#### b) The Penitentiary-Reformatory Zabela

The admissions department employs three persons: a psychologist an andragogue and a person with a teaching college degree.

The prisoner is accommodated in the admissions department for a maximum of 30 days, during which time a personality assessment is being carried out. The entire team of three use diagnostic interviews and a risk assessment questionnaire. Given that it is sometimes the case that the convicted person arrives in prison with the verdict only, without any additional information, the psychologist applies additional psychological instruments for personality assessment (MMPI and sometimes a Plucik test), as needed.

The risk assessment questionnaire is a mandatory part of the personality assessment procedure and a model taken from Great Britain is being used for this purpose. It is used to assess the risk of recidivism and the demonstration of risk behaviors towards the prisoners them-selves and towards others while serving their sentences.

The questionnaire has been translated, but a standardization of assessment norms for our population, rather to our cultural and living patterns have not been done. Thus, for example, our respondents receive a low grade because the general level of education is significantly higher in Great Britain, as are employment possibilities and actual level of employment, whereas a person's place of residence signifies a person's belonging to a particular social group. Additionally, the questionnaire is not responsive enough and is not applicable enough when concerning prisoners who are in prison for crimes of selling and distributing narcotics. Thus, those who can be considered to be drug dealers receive better grades than, say, treated drug addicts.

The practice is such that the institution does not receive any data on the prisoner from institutions of other systems (social care centers etc). The admissions department only gains information from the convicted person, and this data is difficult to check, as a rule.

Upon first contact, the employee at the admissions department acquaints the prisoner with regulations, and gives him a Prison Rulebook. On this occasion, they are informed that they will be able to ask for a consultation meeting with a psychologist later on, should the need arise. This contact lasts for 10 minutes.

A personality assessment of the convicted person lasts for an hour to two hours on average, sometimes even longer. This is preceded by gaining insight into the documentation on the prisoner.

Based on the data gathered during the interview upon admission, the conclusion about the program of conduct and assigning the prisoner is made by a team made up of a doctor, the chief of the personality assessment department, chief of the security service and the chief of the occupational department. Prior to reaching a final decision, an expanded team meets, which also includes representatives of different workshops. The final decision is reached by the director, along with chiefs of services. The convicted person receives a copy of the decision.

As regards the treatment program, the prisoner can be assigned to the open, semi-open and closed department. As part of each of these programs, there are groups with stricter and less strict rules.

The transfer from one group to another requires a repeated risk assessment which is carried out by the educator.

The treatment program is being reassessed depending on the length of punishment. For a punishment of:

- 3 years – it is being reexamined every 3 months;
- 3 to 10 years – it is being reexamined every 6 months;
- more than 10 years – it is being reexamined every year

One of the most controversial pavilions in Serbia is the 7th pavilion of this institution. The word denotes a building which has been isolated

from the remainder of the prison circle by an additional wall. This is where measures of solitary confinement, increased surveillance and isolation are being enforced for persons serving sentences of between 20 and 40 years in prison, as well as for persons who are there for security reasons (as posing a danger to themselves or to others). The latter can write a request to be assigned to this pavilion.

The rooms have 2 or 4 beds, and have television sets. Upon admission, one out of 10-20 prisoners asks to be assigned to the 7th pavilion. There are several prisoners who ask for pavilion 7 while serving their sentences, mostly due to debt-owing and fighting with other prisoners.

During 2010 and 2011, the Helsinki Committee has received over 190 letters and complaints from various prisons in Serbia. Nearly half of these complaints came from people accommodated in this pavilion. As part of the National Preventative Mechanism, the HCHRS was part of the team of the Ombudsman, who has visited this pavilion in December 2011. The report on the results and findings of this visit is available at the following internet page: [www.zastitnik.org.rs](http://www.zastitnik.org.rs)

The institution employs two psychologists, one working at the admissions department, and the other at the department for educational correctional work. Upon assignment of prisoners, the psychologist from the admissions department has no further contact with the prisoner unless it is explicitly requested via an educator.

The psychologist is undergoing transaction analysis psychotherapy education (III year). There is a plan to devise a program for prisoners based on principles of this type of psychotherapy, but they do not employ a sufficient number of educators to actually enforce this.

Lately, the structure of prisoners has significantly changed, and there are more and more persons who are drug addicts. There are now 400 of them. This fact requires significant changes in treatment, professional knowledge and abilities of the personnel and in resocialization programs of prisoners, which is not being done at the time. The treatment remains the same as it was before substance abuse as a frequent social problem. It should also be noted that the living conditions of the prisoners have generally deteriorated because the accommodation capacities and the number of employees remain unchanged, while the number of prisoners keeps increasing.

## SYSTEMIC RECOMMENDATIONS

In March 2012, the Republic of Serbia has been granted candidate status for membership in the European Union.

In the opinion of the Helsinki Committee for Human Rights in Serbia, during the negotiations process, Serbia will face the greatest challenge in the area of the judiciary. This process was similar in other countries which have undergone the pre-accession process. Although as part of the judiciary, the greatest challenges include the judicature the fight against corruption and the rule of law in the general sense the segment of institutions for the execution of criminal sanctions will pose a particularly great problem. The conditions in Serbia's prisons are not humane enough and do not deserve a passing grade. The Helsinki Committee will continue to monitor the condition of human rights in Serbia's prisons in the upcoming period. Until then, we are presenting the decision-makers and public policy makers with a large number of recommendations which apply to the segment of the execution of criminal sanctions, i.e. prisons:

- Initiate a set of trainings for judges across Serbia with the aim of creating a unified and balanced judicial policy on the level of the Republic.
- Ensure a more efficient implementation of the Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions in the Republic of Serbia in the period between 2010 and 2015 on part of the state.

- Urgently enforce the institute of parole release in order for the prisoners to have a fair and transparent way of realizing their legally guaranteed right. Consider the possibility of introducing a committee for parole release. This solution was applied until 2002. After abolishing these committees, the decision-making on parole release was transferred to the courts, which has proven to be an unsuccessful solution for the time being.
- Initiate a discussion in the expert community about the appropriateness of the institute of remand in Serbia. Analyze cases where the judges have set extensive and unjust remand. Analyze cases where Serbia has had to pay damages for extended and unsuitably long remand. Establish a unified judicial policy in custodial practice. Conduct additional education of judges and prosecutors in this issue area.
- Transfer the competence over the health service from the Ministry of Justice to the Ministry of Health.
- The state should encourage alternative enforcement of penal sanctions whenever legal and social conditions are met. The Administration for the Execution of Penal Sanctions, together with all penitentiary-reformatories needs to re-examine all cases where a re-instatement of the sentence into an alternative measure is possible.
- Provide state funding and create conditions for the training and occupational engagement of as many prisoners as possible.
- When selecting personnel for employment at the institute, consider social and emotional competences of the candidates.
- Educate existing experts, or employ those who will be able to work with special categories of prisoners (persons addicted to using psychoactive substances or prisoners with personality disorders).

- Permanently stimulate all personnel to enhance their knowledge and professional capabilities through courses, seminars and counseling; insist on examples of positive management, humane treatment of prisoners, greater efficiency and an engaged approach to their work. •
- Improve control as regards the issuing and enforcement of coercion measures and establish a procedure for determining accountability and sanctioning the perpetrators so as to prevent torture
- Increase the number of employees at the treatment service in order to raise the number of prisoners and educators to an optimal level, and in order to make treatment more efficient.
- Improve the living and working conditions of the personnel by raising their earnings and by other means of stimulation for engaged, conscientious and lawful work.
- In order to prevent burn-out syndrome of the personnel, provide adequate support by offering the possibility of more frequent and shorter vacations, reorganization of work so as to decrease the number of hours of stressful work; by enabling more flexible work planning, better working conditions, continuous education and clear organization goals.
- Whenever possible, personnel of the institutions and social care centers should be stimulated to participate via cooperative work and application not only of direct, but also of indirect treatment, to establish the best possible preparation of prisoners for normal social reintegration of prisoners, particularly in maintaining and improving their relations with their respective families, other persons and social organizations.
- Via media and other means of information, work on dispelling prejudice and attitudes of the public relating to the labeling and

stigmatization of the prison population and reformatory institutions in general.

- Ensure visits of the personnel to other prisons and institutes as a way of exchange of experiences.







