



HELSINKI COMMITTEE FOR HUMAN RIGHTS IN SERBIA

Monitoring of the Prison System Reform

Prison System in Serbia in 2011

KPZ Niš

KPZ Sremska Mitrovica

KPZ Zabela

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Prison System in Serbia in 2011
(KPZ Niš, KPZ Sremska Mitrovica, KPZ Požarevac)

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Prison System in Serbia in 2011

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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 years¹)

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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 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

¹ 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

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 sanctions.

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.

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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 which as 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 re-election 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.

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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 Djordjevic², who has spent six months in prison for abuse of office³, 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.

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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.

² <http://www.blic.rs/Vesti/Hronika/201973/Djordjevic-izneo-odbranu>

³ 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.

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.

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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.

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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 policlinic 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 in-patient 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 psychiatrists' 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-bedsore 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.

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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 mediastinum 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. Anti-viral 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.

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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 (Mahover, 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.

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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 themselves 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.**

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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

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.

RECOMMENDATIONS

In March 2012, the Republic of Serbia has been granted candidate status for membership in the European Union. By the end of 2012, and most probably in early 2013, a date for starting negotiations for membership in the EU can also be expected.

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 preaccession 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, ie. prisons:

a) Systemic recommendations

- 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.
- Urgently apply 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 custody in Serbia. Analyze cases where the judges have set extensive and unjust custody. Analyze cases where Serbia has had to pay damages for extended and unsuitably long custody. Establish a unified judicial policy in custodial practice. Conduct additional education of judges and prosecutors in this issue area.

b) Specific recommendations

- 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 counselling; insist on examples of positive management, humane treatment of prisoners, greater efficiency and an engaged approach to their work.
- 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.