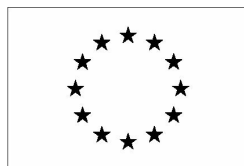


**MONITORING
OF SOME OF PRISON
CONDITION OF THE
PRISONERS, MEMBERS
OF MINORITY GROUPS
(IN WIDER SENSE)...**

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Delegation of European Union in the Republic of Serbia

Aleksandar Cvejić
Verica Milošević
Lidija Vučković

**Monitoring of one part of prison conditions of the
prisoners, members of minority groups (in wider sense)
in which it can potentially come to their discrimination
- On the example of Penitentiary Niš -**

Niš, April 2010.

Aleksandar Cvejić
Verica Milošević
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- On the example of Penitentiary Nis -**

Translators:

Marija Petković
Aleksandra Dedić

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Centre for Human Rights - Niš
Generala Milojka Lešjanina 12/1, Niš
ni_cent@eunet.rs

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Introduction

Through the implementation of the project "Monitoring Prison Conditions in Nis Penitentiary May 2007 -May 2008", financially supported by the European Commission, Centre for Human Rights-Nis observed that the system of execution of prison sanctions does not recognize the specific needs of prisoners belonging to minority groups in wider sense, which actually leads to their discrimination. We have concluded that it is necessary to investigate further and have more detailed look in what it is all about which became the foundation of the project from which this publication is created.

In preparation of this project we included a wider range of NGOs dealing with each of the individual minority groups that, all together, make up prisoners target groups of this project. Thanks to their practical and professional knowledge, combined with our knowledge of monitoring prison conditions, some guidelines were created whose contents are assumed areas of imprisonment in which it can come to discrimination of each of the minority groups.

During monitoring visits, we looked for answers in three different areas. With the first set of questions we searched for system lacks, with other set we searched for procedural lacks that may cause discrimination of prisoners belonging to minorities in a broader sense. The immediate results after each visit are defined system and procedural lacks in relation to each of set target groups. The third set of questions comprises the human factor in terms of identification of prejudices and ways in which they can be manifested in behavior, both among the prisoners and in relation staff to prisoners. In order to have answers to our questions comprehensive, and the conclusions reliable, the assumptions are checked through the answers given by three groups of interviewed: prisoners-members of minority groups in the broader sense, the control group of prisoners (which consisted of all those who are not members of a thematic minority group, and not just members of the majority in the national sense) and representatives of employees in Nis Penitentiary.

The following text does not contain immediate conclusions. Our intention is to make the one who reads this publication draw conclusions by comparing the answers to the questions given by prisoners belonging to minority groups, prisoners and members of the control group and Nis Penitentiary staff.

In further stages of the project identified systemic and procedural lacks are formulated in the appropriate text of amendments to laws and regulations which the prisoners belonging to minorities in the broader sense bring to the equal position with everyone else.

About the project and vists

Project leader:

Centre for Human Rights-Nis

Partner organization:

Sandzac Committee for Protection of Human Rights and Freedoms

Organizations- other Coalition members

Committee for Human Rights Leskovac

Committee for Human Rights Valjevo

Council for Human Rights Bujanovac

Overall objectives:

- 1. To increase competences (level of knowledge, skills and experience) of NGOs (coalition) in the field of democratic reforms*
- 2. Contribution to the prison reform concerning combating discrimination of minority (national, ethnic and religion) and disabled prisoners*

Specific objectives:

- 1. To increase level of education, skills and experience of NGO coalition in the field of: monitoring; European prison standards concerning rights of minority, religion and disabled prisoners; how to draft amendments to laws and sub-legal acts;*
- 2. To increase level of (NGOs` coalition) experience in reform process;*
- 3. Improving life quality of minority (national, ethnic and religion) and disabled prisoners during serving their sentences;*
- 4. To increase the level of exchange of information and specific knowledge from certain areas of acting among NGOs (1) that deal or will deal with the protection of prisoners' rights (monitoring) and (2) NGOs that deal with rights of minorities, (3) NGOs that deal with rights of Roma people, (4) those that deal with rights of religious communities (5) and those that deal with rights of disabled people;*
- 5. To increase the sensibility of widest public regarding representatives of national minorities, ethnic minorities, small religious communities and disabled persons in general and within prisoners' population.*

Method of implementation of monitoring Imprisonment conditions in Nis Penitentiary:

1) Visits:

- Obtaining the authorization of access

- *Establishing the program of visits/ plan for each visit*
- *Methodology of visits (Comparison of: statistics from prison files; answers of prisoners-representatives of target groups; control answers by representatives of majority; answers of the staff from different services)*

Follow up to the visit/s:

- 2) *Visits repetition*
- 3) *Observation and comparison*
- 4) *Conversations: (``free``/ purposeful discourse or an interview)*
- 5) *Reports (Annual and after each visit)*
- 6) *Measures recommended*
- 7) *Questionnaires*
- 8) *Reporting results to international institutions, bodies and organizations*

General information about the institution

Name of the institution: Nis Penitentiary

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

The authorities of jurisdiction:

Ministry of Justice - Directorate for the Execution of Penitentiary Sanctions

The warden (visits 1 and 2): Milan Pavlović

The warden (visits 3,4,5,6): Živorad Branković

General information about the visits:

Date of the visit ``1``: 11.09.2009.

Date of the visit ``2``: 23.10.2009.

Date of the visit ``3``: 22.01.2010.

Date of the visit ``4``: 22.01.2010.

Date of the visit ``5``: 19.03.2010.

Date of the visit ``6``: 31.03.2010.

The aim of the visits:

Monitoring of a number of prison conditions in Nis Penitentiary for a number of prisoners from target groups where they could, due to some characteristics, be discriminated.

Target groups/ prisoners:

``Visit 1``: Prisoners Bosniaks – Muslims

``Visit 2``: Roma prisoners

``Visit 3``: Disabled prisoners

``Visit 4``: Prisoners members of small religion communities

``Visit 5``: Prisoners Albanians

Monitoring team members: Aleksandar Cvejić, attorney, team leader ; Verica Milošević, psychologist; Jasmina Vukovljak, doctor ; Milan Jovanović, lawyer; Sladjana Živković Kostić, economist.

Guset team members: Emir Fetahovic, lawyer, Sandzac Committee for Protection of Human Rights and Freedoms; Bojana Crnjaković, Psychologist, Committee for Human Rights Leskovac;

Aleksandar Milijašević, lawyer, Committee for Human Rights Valjevo; Agon Isljami, economist, Council for Human Rights Bujanovac.

Project coordinator: Lidija Vučković.

Data about institution:

Capacity of institution:

1. Maximum capacity: 1.200
2. Occupation that could be considered optimal (in sense of EPR application): 850
3. Number of prisoners on the day of the visit ``1``(11.09.09.): 1.302
4. Number of prisoners on the day of the visit ``2``(23.10.09.): 1.325
5. Number of prisoners on the day of the visit ``3``i``4``(22.01.10.): 1.357
6. Number of prisoners on the day of the visit ``5`` (19.03.10.): 1326
7. Number of prisoners on the day of the visit ``6``(31.03.2010.): 1371

Number of prisoners, members of target groups on the day of the visit:

1. Number of prisoners Bosniaks/ Muslims on the day of the visit (11.09.09.): 85
2. Number of Roma prisoners on the day of the visit (23.10.09.): 146
3. Number of disabled prisoners on the day of the visit (22.01.10.): at least 10
4. Number of prisoners members of small religion communities on the day of the visit (22.01.10.): at least 1
5. Number of Albanian prisoners on the day of the visit (19.03.10.): 30

Monitoring of a number of prison conditions of prisoners, members of different minority groups in wider sense in Niš Penitentiary

During the first visit, ten Bosniak* prisoners were interviewed, four prisoners members of national majority, two Albanian prisoners and six employees from different services. Bosniaks were the target group of this visit. The control group consisted of prisoners members of national majority and Albanians as members of other minority groups. Answers given by employees are intended to complement the resulting picture.

(* Explanation: The term Bosniak-Muslim means that at the admission to Penitentiary prisoners declared themselves as Bosniaks or Muslims. They originate from the Sandzak region, with the exception of one whose place of residence is in Belgrade. The term does not apply to other persons who may be of Muslim religion and are members of other minority groups (for example, Albanians, Roma)

During the second visit, Team members interviewed seventeen Roma prisoner, three Bosniak prisoners, four prisoners members of national majority and five employees.

The control group of interviewees consisted of Bosniak prisoners (second minority group) and convicts, members of national majority.

During the third visit, team members interviewed: eight prisoners with disabilities (one is extremely short-sighted and hard of hearing, two deaf-mute, one hard of hearing and speaking inarticulately, one short-sighted, one without right lower extremity amputated above the knee, two with difficulties in moving- one uses crutch), seven prisoners who represent a control group of interviewees (selected as members of various minority groups and majority / Serbs, Roma, Bosniaks / as they are all majority compared to minority composed of disabled persons) and five employees.

For the purposes of fourth visit four prisoners were interviewed as members of the target group of this visit (small religious communities). Regarding their religion the interviewees were: Jehovah's Witness, a prisoner who originally declared himself as Jehovah's Witness so that he would later declare himself as a Muslim or Orthodox, and two Catholics –Hungarians by nationality.

At the beginning of the visit we did not have a single name of prisoners belonging to smaller religious communities. With the help of guards we managed to find two probable, one of which during interview declared himself in that way.

Explanation why we use all the replies given by these prisoners for elaboration of the report: We looked for interviewees from Vojvodina because in their case it is more likely that they have met with members of small-non-traditional religious communities (for example Adventists), in order to ask them indirect questions;

The control group consisted of four prisoners, of whom three were Serbs and one Roma. In the group of interviewed employees we talked to two, with one treatment officer and one member of Security service.

During the fifth visit, Team members interviewed: twenty Albanian prisoners, representatives of the target group of the visit, five prisoners constituting the control group (two Serbs, two Roma and one Bosniak) and four employees (two employees from the security service, one doctor and one treatment officer).

During the visit 5 (target group of Albanians), our team also did a brief review related to the understanding of the Serbian language and the ability to read and write on a sample of 20 interviewees:

Four prisoners insufficiently understand the Serbian language, in their assessment up to 50%. Three of them can incompletely read and write in Serbian and one of them can not write at all.

A smaller number of those prisoners (four) completed elementary school while most of them (13) completed high school (third and fourth degree) except for three who are studying at the faculty. There are no illiterate prisoners among them.

I / Identification of system lacks that can cause discrimination of prisoners, members of minority groups (in wider sense)

(*) Answers given by interviewed prisoners members of minority groups

(**) Answers from the control group

(***) Answers given by staff

a) Torture and ill treatment, solitary confinement, means of restraint

(Bosniaks-Muslims)

* All interviewed Bosnians replied that they had not been exposed to physical violence by the staff. A number of interviewees consider that regime of isolation of prisoners is used for physical abuse.

Regarding psychological violence there is a conviction of a number of those with whom we discussed that it was a form of violence which members of security service relatively often use. It is probable that that is not an intention of security service staff during parcels control but the approach itself, when there is no sufficient respect of personality results in strong sense of humiliation among prisoners. As well, parcels' control should satisfy hygiene standards and should not be done with direct contact with hands. This also stands for the food which can be approved as contents of a parcel.

Opinions of prisoners about the relations between prisoners and prison staff are divided. One group believes that relations are bad, that members of security services are harsh in their performance towards prisoners and that such behavior causes fear. A small group of guards is correct. The second group of interviewees considers that relations with the security service are mostly correct, but there are distinguished individuals who behave very badly with the prisoners. One interviewee considered that the premises where Bosnians stay are more often controlled than others.

Interviewees believe that relations among the prisoners in the wing where they are accommodated are very well. It should be noted that this wing housed other prisoners not only Bosnians. The quality of these relationships decreases with decrease of the percentage of representation of their nation, there where they are placed.

Those who have personal experience of staying in solitary confinement generally know provisions of the law that regulates it. Other interviewees generally do not know this area. Their experience is that the rule of daily stays for at least one hour in fresh air during the solitary confinement measure.

The interviewees, almost all without exception, claim that, based on their personal experience and other prisoners' experience, medical examination is always carried out before solitary confinement measure, but never or very rarely during stay in solitary confinement.

A number of prisoners almost know in details provisions of the Law relating to the use of various means of restraint. The other part of interviewees knows nothing about this area.

** Most of interviewees from the control group answered that they were not subjected to torture. The two say they were and as perpetrators they name employees in the security service. Injuries that prisoners speak about are not registered in medical files as such. In our experience, it does not necessarily mean that at the time of medical examination they did not exist.

A part of interviewees does not recognize psychological violence. Others recognize it and believe that they had not been exposed to it.

Most of them consider relations between prisoners and prison staff as bad, while others consider these relationships acceptable..

Relations between ordinary prisoners were rated as correct and from all the answers it is obvious that a strong influence of informal groups is also felt regarding this issue.

Knowledge of the legal provisions governing the issue of disciplinary procedure of sending to solitary confinement is relatively good. Most of interviewees have experience with this disciplinary measure. They all confirm that they were medically inspected prior to this disciplinary measure but never during it. The provision related to daily stays for at least one hour in fresh air is carried out without exception. .

Only a small number of interviewees is familiar with the provisions of law regulating the use of means of restraint.

*** Interviewees, employees, believe that there are no cases of physical and psychological violence against prisoners by staff.

Relations between prisoners and staff were rated as satisfactory. Relations among prisoners depend on their structure.

All interviewees were familiar with the rules of use of means of restraint as well as with the rules of imposition of solitary confinement disciplinary measures.

From all given answers we consider important a doctor's answer in the part that refers to medical examinations during solitary confinement measure. After obligatory examination before solitary confinement measure, he says that he visits these prisoners every day but that he does not do medical examinations. Medical examination is done only at the request of a person in solitary confinement or in the case that he visually determines that there is a need for examination.

(Roma)

* Most of interviewed Roma prisoners were not exposed to physical violence by staff. Those who were say that the experience dates back to the period of rebellion in 2006 and earlier.

Interviewees generally recognize what is meant by psychological violence. There is a smaller number of those who believe that they were subjected to it and say that these are sporadic cases that can not be generalized in terms of systematic abuse by Penitentiary staff.

More frequent experience is that they were sworn, where a sentence with the commonly used verb in curses, contained a supplement of a member of close family whose nationality was defined.

Regarding relations between prisoners and officials from Penitentiary, the opinion of interviewed Roma people are divided. Larger group believes that these relations are generally good or mostly good, while the smaller group states that are moderate or bad. Interviewees who believe that relations between members of security services and prisoners are bad link that to personality and character of certain security service members. Phenomena are not brought in relation to pavilion `` C `` . .

Interviewed Roma prisoners generally consider that relations among the prisoners are moderate and explain that by individual differences among individuals and unwritten rule that

these relations depend on how one behaves and pose himself in any situation that may arise during sentence serving.

A smaller number of interviewees considered these relations bad or very bad. There is a great probability that in one of these cases, bad personal experience derives from the nature and severity of the crime for which they were sentenced (rape).

One interviewee said that, based on personal experience, relations among prisoners are mostly ``spoiled`` by a big difference in material status, from which the following situations arise, in which those poor practically work for wealthier and are often subjected to humiliation and insults (doing laundry for others, buying coffee, receive parcels on behalf of others, which goes up to the acceptance of sexual exploitation).

Roma interviewees are generally familiar with the maximum period for which the prisoner might be kept in solitary confinement. On the question of who decides about placing one in solitary confinement, the majority of respondents stated that this was management, while some say that it was a commission.

All the interviewees, without exception, based on personal or someone else's experience, say that the rule of stay for at least one hour in fresh air, is respected, during the whole period of solitary confinement measure.

Based on personal experience of interviewees, a medical examination prior to measure of solitary confinement is carried out without exception. Medical examinations during this punitive measure, are as well, without exception, not practiced. At the same time, their impression is that the medical examination prior to this punitive measure is superficial and consists of short visual observation and question whether the prisoner is healthy.

In period of this visit, due to huge number of prisoners in Penitentiary, solitary confinement measures are delivered but not executed, as solitary confinement is used for accommodation of prisoners.

Interviewed Roma people generally know in which cases it is allowed to use means of restraint, but that the length of these measures depends on the officer who applies it not on the actual need for its duration. They bring up similar conclusions regarding the use of other means of restraint

.** Interviewed convicts and members of the national majority and Bosniaks from the control group said they were not subjected to physical violence committed by the staff in Penitentiary.

Prisoners, members of national majority, recognize psychological violence. In many cases, they say that they were victims of psychological violence. Under psychological violence they also consider unannounced searches of premises in which they are accommodated and which are very often repeated. They think that too often searches are not any more aimed at finding the illicit items and substances, but that they are aimed at pressure on the convicts from specific rooms and creation of an atmosphere of fear. As another example of psychological violence they stated insults, swearing, humiliation and threats by the staff.

Only one of Bosniak interviewees said that he was subjected to psychological abuse by a commander and it consisted of insults, intimidation, humiliation and threats of physical violence. This incident is not associated to his nationality. The interviewee reported the case at rapport and to treatment officers. His complaint did not give any result.

Prisoners, members of national majority described relations between prisoners and staff as poor and always under tension. They also said that the behavior of staff differed from shift to shift, i.e. concrete commander.

Different replies were obtained from interviewed Bosniaks. Two interviewees stated that relations between prisoners and staff are correct and generally depend on prisoners' behavior. One interviewee said that staff does not have the same treatment of all prisoners. Prisoners who

are from wealthier families and betrayers have better treatment and their behavior is neglected, while they are too severe with some individuals and react to minor things.

Interviewed members of national majority said that the relations between the prisoners are significantly affected by prison overcrowdedness. Overcrowdedness increases tension that would not exist if the number of prisoners was lower. They also emphasize that some prisoners intentionally make incidents that disturb the relations between the prisoners because it indirectly causes gaining a better position in the hierarchy of informal groups. They also say that they feel insufficiently safe from other prisoners- drug addicts during abstinent crisis.

Interviewed Bosniaks have different experiences related to relationships among prisoners. As examples of bad state of relations they claim expressing religious intolerance during the holidays (not extremely exposed), and incidents arising from the debt relationship in which prisoners- drug addicts enter and afterwards they can not regulate them. Drug addicts also often steal from other prisoners.

Interviewees belonging to national majority are well introduced with regulations governing the imposition and execution of disciplinary measure of solitary confinement. However, they point out that members of the security services have too big influence on disciplinary commission when deciding. Bosniaks are also familiar with the conditions under which they could be placed in solitary confinement.

Interviewees belonging to national majority say that medical examination prior to placement in solitary confinement is formal and that later visits by a doctor are very rare. All the prisoners during their stay in solitary confinement accomplish their right to spend an hour a day in the fresh air.

Prisoners- members of national majority are introduced with the cases in which use of means of restraint is allowed and they say that this means are rarely used.

Means of restraint, in their opinion, are applied too often, without reason, and in excessive intensity. Means of restraint may be used until the prisoner gives resistance, however, in cases known by prisoners, these means were used based on personal estimation of security service members, no matter whether the resistance stopped or not

Interviewed Bosniaks know under what conditions the use of means of constraint or other means of restraint is legal. They do not have personal experience and did not witness use of any of these means. However, later one of them in answer to related question said that during the protest against bad housing conditions in the `` C `` pavilion, means of restraint were used against him.

*** Interviewed employees consider that there was no physical violence towards prisoners by staff, explaining such a unique position by that ultimately; they do not want to lose their job.

They claim that there is psychological violence towards prisoners.

Interviewed employees estimate staff's attitude towards prisoners as fair.

In terms of relations among the prisoners, they consider that even among them there is a significant tension caused by at least three factors:

- 1) Prison overcrowdedness
- 2) Inability to sublime energy through work, physical and sports activities
- 3) The number of drug addicts in total population and all the problems arising from their condition.

Employees say that means of restraint are applied by the law and very restrictively.

(Disabled persons)

* All interviewed disabled prisoners stated that they were not exposed to psychological and physical violence by the staff

When speaking about the relation between prisoners and the staff, none of interviewed prisoners had remarks. One of them hesitated to reply but, considering other replies one can conclude that relations are correct.

All interviewees but one state that relations among prisoners are correct. The prisoner, who stated that the relations are bad, qualifies them in this way because there are numerous incidents which are consequence of debt made by drug abusers during abstinent crisis. As well, he says that these incidents have lately become more frequent than they were in previous period.

Seven out of eight interviewed have never been in solitary confinement and they do not have even indirect knowledge of the way in which this disciplinary procedure is performed. Eighth from interviewed, who was in solitary confinement is deaf and dumb, illiterate and cannot use sign/gesture language. We indirectly communicated with this prisoner by help of another prisoner who was not trained for mediation in communication with deaf and dumb person. From communication with that person it was visible that he was not quite successful in conveying information obtained from the prisoner as well as he was not sure that the prisoner understood him. This deaf and dumb prisoner was sentenced with a disciplinary measure of solitary confinement in duration of 10 days. From previously mentioned reasons we were not able to get information about fulfillment of procedural conditions in disciplinary procedure related to his rights.

All interviewed prisoners said that they had no answers to questions related to use of means of restraint. As well, they knew no one who experienced use of means of restraint, nor they saw that.

** From the control group of prisoners two said that they were exposed to physical violence committed by staff, while one said he had not been. Background for use of force was a fight among prisoners and in the other one was calling up the commander after the lights were turned off at 11. Forms of use of force included kicks and punches and several hits with a bar, on the back and head as well as hand-cuffing to radiators in the hall. They had visible contusions like bruises and swellings on the back and on the head.

When asked about being exposed to psychological violence, interviewed prisoners answered that they had never been exposed to that kind of violence. However, from their answers it could be concluded, for sure, that they had been subjected to that kind of violence but they could not recognize it as such.

Regarding sentencing a disciplinary measure of solitary confinement, interviewees from the control group are quite well acquainted with the reasons for sentencing this measure, with maximum duration and about that who decides about accommodating in solitary confinement. They say that during this measure, prisoners in solitary confinement, have right to an hour of exercise in open air, daily. When speaking about medical check, they state that it is done before sending to solitary confinement and that is mostly superficial. During this measure no additional medical check up is done. They don't have direct knowledge about cases in which disabled prisoner was sent to solitary confinement except for one interviewee who under this imply sending a prisoner suffering from asthma to a moist, non-conditional solitary confinement.

Regarding permissibility of use of restraint measures, one interviewee considers that use of these means is allowed in cases when a prisoner gives resistance to a guard while the others do not know exactly.

Restraint measures are used against one interviewed prisoner from the control group, but neither he nor other against whom restraint measures were not applied, knows that after being exposed to restraint measures, one had to have a medical check up. Everyone thinks that restraint measures could be used until the resistance stops.

*** Interviewed employees state that there is neither physical nor psychical abuse of prisoners by staff. They emphasize that all services (security, treatment and health care) are

professional as well as that correct with sporadic conflict and excess situations, whose existence is considered normal for an institution of that kind.

All interviewees know the contents of legal procedures when sending a prisoner to a solitary confinement, length of stay, obligation of medical check up and ensured walk in fresh air lasting for 1 hour.

Regarding restraint measure all interviewed employees say that use of such means is allowed in cases of endangering one's own or someone-else's life, and normally, when leading the prisoner out of institution.

(Small religious communities)

* Interviewees from basic group say that they were not exposed to direct physical violence committed by prison staff. Half of these interviewees state that they were subjected to psychological violence. From their answers it could be concluded that they do not make a sufficiently clear distinction between psychological violence, as it is defined by international standards and domestic legislation, and mostly dehumanized way in which prison officials in practice, apply and enforce certain parts of regulations on the house rules.

Interviewees are split in answers to the question regarding the relationship between prisoners and prison officers in Penitentiary Nis. Two of them believe that these relations are bad, one that they are solid and one that are good. Everyone from this group stated that, according to their knowledge, there were hunger strikes and self-injuries in response to illegal or unjust decisions of Directorate

In terms of relations among prisoners, three interviewees believe that these relations are bad, explaining that by regional grouping and drug abuse, while one believes that these relationships are generally good.

One believes that there are no verbal conflicts, while others say that verbal conflicts are relatively frequent and that they end up in fight. Only one from this group said that Penitentiary authorities react to violence and punish perpetrators in time. There is a split opinion about the behavior of officials- two interviewees from this group consider them impartial when it is about conflicts among the prisoners and two, that they are scared.

In terms of behavior of members of certain services, interviewees from this group exclusively name the members of the security services and mostly believe that their behavior is generally not good in relation to prisoners. Three interviewees from this group do not feel safe among other prisoners, while one believes that he is safe.

None of the interviewees was subjected to violence by other prisoners. Three of them believe that there is no expressed violence which institution services could not keep under control. Fourth prisoners from this group believes that such violence exists but is unable to specify the type of violence and action i.e. inaction of prison services.

None of the interviewees served the disciplinary measure of sending to a solitary confinement, while one of them knows the conditions for imposing this measure, its maximum duration, as well as who decides on sending to a solitary confinement, while the other three know nothing about it.

One of them believes that obligatory medical examination prior to solitary confinement is not enforced, one that is done and two have no knowledge about this issue.

They all say that the right to hour of exercise in fresh air during the day is mostly respected. This also applies during solitary confinement measures, although one of them says that this right is slightly narrowed because the period spent in the fresh air is a little bit shorter than the legal minimum.

None of the respondents in this group knows in which cases the use of means of constraint is allowed.

One was a witness of use of means of restraint towards one prisoner but he does not know under what circumstances this measure could be applied and for how long it could last.

** Two of four interviewed prisoners from the control group were exposed to physical violence committed by officers. One of those two did not want to speak about it any further because he believes that violence was caused by his responsibility.

Another prisoner who was subjected to violence said that the incident occurred during a protest in January 2009, that the perpetrators were members of the security service. There were no witnesses because he was taken to the basement and beaten for about half an hour.

All interviewees say that they were not subjected to psychological violence by officers.

Two interviewees think that relations between prisoners and officers are bad. The third one states that they could be better and the fourth one says that they are correct. They all say that in the previous period there were hunger strikes and self-injury cases as a protest for, according to their opinion, illegal and unjust decisions of Directorate.

In terms of relations among prisoners two prisoners believe that their quality depends on the personality of prisoners' themselves, one did not declare about this and one believes that relations are bad. They say that verbal conflict between prisoners are relatively frequent and usually end up in fights. Physical attacks are relatively common. Officers are not present when these fights take place and thus they are not reported in order to avoid "betraying". They consider that victims of such attacks are mainly additionally punished by separation in the Department under special surveillance.

All interviewees from the control group are generally well acquainted with the provisions of regulation on house rules that are related to a disciplinary measure of solitary confinement. They say that prisoners sent to solitary confinement still have the right to spend an hour in the fresh air during the day. Most believe that medical examination is necessarily done prior to a measure of solitary confinement, while one thinks that this examination is periodically not done. None of interviewees from the control group was subjected to means of constraint but they were all witnesses of use of these means on other prisoners.

One of interviewees from the control group does not know under what conditions, officials may use restraint, nor for how long the means of restraint could be used. Others believe that restraint can be applied for the attack on officers, expressing forms of resistance, fighting and so on. They do not declare themselves more closely about the length of the measures of restraint, but are limited to the formulation `` during the attack or resistance``.

Two interviewees know about the attacks on members of security service and mostly relate these attacks to the `` C `` Pavilion, while the remaining two do not know of such attacks.

*** Interviewed staff believe that relations between prisoners and staff are generally correct, but sometimes there are incidents of varying type and intensity. They believe that there are no serious hunger strikes and that prisoners manipulate when they announce hunger strike. They say that the strikes end up in two or three days. Self injuring in response to the unjust decision does not exist, and it is only about psychopath structure of personality where self-injuring is a symptom of disease

The most dangerous are prisoners' physical attacks on employees, such as the most recent example of attempted murder of a guard with a broken mirror because the guard took away his mobile phone.

Employees are, in their work, strictly professional and impartial. The problem of Health care service is that there is no doctor on duty at night, but only nurses who can not provide full medical assistance. It is the organizational issue but prisoners perceived it as a bad relationship of this service to them.

Security service does not have enough security staff compared to the number of prisoners. This prevents good organization. This service is technically very poorly equipped

(almost no equipment at all). All this results in a big number of hours that employees spend with consistently high load, which leads to stress and burn because they are trying to do their work professionally in these aggravating circumstances.

Respondents say that relationships among prisoners are characterized by hostility because their relationships are defined only by certain interests. General climate among prisoners is steady, i.e. constantly under tension.

Verbal conflicts among prisoners are often and mainly end up with that, but sometimes it comes to physical conflict.

Physical violence among prisoners are very often, daily from 4 to 5 cases in the prison circle. It should be emphasized that most prisoners do not report mutual physical conflicts in order to avoid punishments. If such a conflict is reported to any officer (or the physical force is applied by the staff), a disciplinary procedure is conducted. If necessary, after assessment, prisoner is separated in the Department under special surveillance if needed.

All the answers about solitary confinement disciplinary measures and use of restraint measures are in accordance with valid law

(Albanians)

* All interviewed Albanian prisoners said that they were not subjected to physical violence by Nis Penitentiary officers, except one, during the rebellion in 2006.

All the prisoners to whom Team members talked to, recognize what is meant by psychological violence. Three interviewees in this group say that they were exposed to psychological violence, which was reflected in insulting on national basis.

Most prisoners in this group believe that relations between prisoners and prison officers are bad. The two say that these relations are medium and only one says that relations between prisoners and staff are good. As for the relationship among the prisoners, interviewed Albanian prisoners mostly consider that they are bad or mostly bad, two of them think that they are good and two other think that they are medium.

Interviewees generally know what the maximum period that a prisoner can spend in a solitary confinement is. In addition, precise knowledge of the maximum length of disciplinary measure in solitary confinement have those prisoners to whom this measure was imposed while the other findings in this regard they receive from other prisoners. They believe that the decision on sending to a solitary confinement is brought by Management of Nis Penitentiary while to further questions they reply that those are either Warden or Disciplinary Commission..

Rule on the stay of for at least one hour in fresh air every day is respected also during the discipline measure of solitary confinement. All participants without exception believe that the medical examination prior the disciplinary measure of solitary confinement is always and without exception conducted. Also without exception, they state that medical examinations during the stay in solitary confinement are not conducted. The majority of interviewees consider that the measure of sending to the Department under Special Surveillance is imposed quite frequently and without reason, while a smaller number does not give a clear answer to this question.

Around half of all interviewed Albanian prisoners know in what cases the use of means of restraint is allowed as well as other means of constraint. Regarding the duration of application means of restraint interviewees give answers that can be reduced to their feeling that restraint means are applied for as long as the officer which uses these means of restraint estimates. Most of them are introduced with in which conditions the use of restraint means is allowed.

** Two from five interviewed prisoners from the control group answered that they were exposed to physical violence committed by staff. In both cases the violence consisted of slapping, punching and kicking. Both prisoners suffered slight injuries from punching and got bruises and

swells on the face, head, stomach and legs. They stated that there were no reasons for the use of physical restraint.

None of these prisoners was subjected to psychological violence or was not able to recognize it.

When asked what are the relations between the prisoners and the staff three of them said that they were bad while two of them described them as mostly fair. All interviewees described relation among prisoners as bad. As the main reason for bad relations they pointed out consumption of drugs or relations related to buying and selling of narcotics.

Interviewed prisoners showed a superficial knowledge of rules that regulate the duration of solitary confinement measure and bodies that decide on this measure. In all cases, prior to the solitary confinement, prisoners are subjected to medical examinations, while medical examinations during the stay in solitary confinement are very rare. They believe that sending to the Department under Special Surveillance is too frequent and in too often unjustified. One of them said that he was sent to a solitary confinement without being given the decision of the measure. All the interviewees say that this measure is imposed without justified cause. When it comes to use of means of constraint, two interviewees knew the conditions under which prison staff have a right to apply them. One interviewee saw it himself. They did not know whether in this case, people who were treated in this way have access to a doctor. Prisoners generally know until when restraint measures could be used but they say that the staff does not act in accordance with the rules, but that it depends on them when the use restraint means would stop, regardless of whether the resistance has ceased or not.

*** Interviewed employees said that there is no either physical or mental torture of prisoners by staff. All employees are primarily professionals and do not want to lose their job due to violation of service rules.

They estimate relations between staff and prisoners as correct. Relations between prisoners are dependent on informal group activities and conflicts that result from debts.

Within the total prison population stratification is made based on regional and religious affiliation. When it comes to conflicts between these groups, even though it may formally seem that this is a conflict on national or religious grounds, it is more likely that the cause lies in the realization of a much simpler financial goal or interest.

Interviewed staff believe that all prisoners are introduced with the legally prescribed duration of solitary confinement sentence. Medical examination must be done prior to sending a prisoner to solitary confinement. During prisoner's stay in solitary confinement, doctor visits him once a day and medical examination is done only if requested.

Use of means of constraint and restraint is prescribed by law which employees respect.

According to the answers of all interviewees from different minority groups there is no physical violence by prison officers to prisoners, i.e. they were not subjected to this kind of violence. There is psychological violence from officers to prisoners, it is not being implemented systematically and it is mainly reflected in the insulting behavior, especially exposed towards the Roma, as well as insults on national basis, which is expressed towards Albanians.

Relations of prisoners and staff are middle or bad.

Relations of prisoners with other convicted prisoners are generally good or middle. Occasionally, there is an opinion that the quality of these relationships decreases with percentage decreasing of representation of the nation which the respondent belongs to. This does not apply to interviewees who belong to minority groups in the wider sense (disabled prisoners and probably members of small religion communities).

Familiarity with the rules regarding the disciplinary measure of solitary confinement is mostly insufficient. The rule of staying in fresh air for at least one hour a day is consistently respected during the disciplinary measure of solitary confinement. Medical examination prior to sending to solitary confinement is always done and during this measure never.

Familiarity with the rules regarding means of restraint is mostly sufficient, sometimes weak and largely depends on whether the interviewee was a witness or has personal experience in this matter.

According to the answers of all subjects belonging to control groups, physical violence by prison officers to prisoners happens occasionally. Psychological violence in relation officers to prisoners either does not exist, or it is not recognized as such. The only different answers are from the control group in which there were Bosniak prisoners. This control group recognizes psychological violence and was occasionally subjected to it. It is mainly reflected in curses, threats and humiliation.

Relations between prisoners and staff are generally bad or middle.

Relations among prisoners are bad or middle.

Familiarity with the rules regarding the disciplinary measure of solitary confinement is mainly good. The rule of residence in fresh air for at least an hour a day is consistently respected during the disciplinary measure of solitary confinement. Medical examination prior to measure of solitary confinement is always carried out, but sometimes superficially, and for the duration of these measure very rarely, only occasionally or never.

Familiarity with the rules related to means of restraint is medium or low, depending on whether the respondent was an eyewitness of application. Means of constraint are rarely used, while other means of restraint are used often and without reason. The duration depends more on the one who uses these means than on law.

All answers given by employees related to the procedures prescribed by law and by-law acts say that there is absolute compliance of practices and laws, even when it is about a mandatory medical examination during the disciplinary measure of solitary confinement.

The relations between the prisoners and officers are correct.

Relations between prisoners are dependent on informal group activities and conflicts that derive from debt and generally they are always under tension.

b) Protection measures (information, disciplinary procedures, legal assistance, prisoners' complaints, and separation of prisoners)

(Bosniaks)

* All interviewed prisoners from this group were categorical in their answers that no information about their rights and obligations while serving their sentence were not provided at the admission to Penitentiary. Most of interviewees also agreed that copies of house rules were not posted to a visible place in Penitentiary.

In terms of punishable behavior, all prisoners to whom our Team members talked, show poor knowledge reduced to mostly sanctioned prohibited acts and, above all, to a possession of mobile phones and drugs, fights and improper addressing to members of the security service. Interviewees with personal experience in disciplinary procedures have solid knowledge of the course of the procedure and their rights and obligations in it.

On the other hand, the mechanism for submitting complaints against penitentiary officers represents completely unknown matter. A number of them submitted complaints using the mailbox for complaints and they claim that there were no results. They assume that the complaint did not reach those to whom it was intended.

In terms of formal separation of prisoners in categories, all interviewees believe that this separation was completed in full. In terms of "informal" division, under which they include grouping by ethnicity, they consider that this separation in case of Bosnians was done almost completely.

** A part of the control group (members of national majority) of interviewees said that, at the admission to institute, they were verbally and poorly informed about their rights and rules to be respected while sentence serving and that, if they wanted to know them more in detail, they can read posted house rules.

Another part of the control group of interviewees (Albanians) have experience that they received information in writing and verbally, and that it was checked whether they understood the house rules.

All members of the control group know what belongs to the disciplinary offenses group. Most of the prisoners know disciplinary procedures, authorities which decide and rights they have in the procedure. Most prisoners believe that the outcome of the procedure is predetermined and that in most cases it would be negative for the prisoner.

They know that there is a possibility to get free legal aid, but they do not use due to same conviction, as well as they do not expect that the outcome of disciplinary procedure would be in favor of prisoners. All prisoners are introduced with the possibility of lodging complaints to the warden by using the mailbox for complaints and that only treatment officers have the key. From all interviewees from the control group there was only one who submitted a complaint to the manager, the Directorate for Execution of Criminal Sanctions and to the Ministry of Justice. He also received a certificate that his complaint was sent and following answers to complaints.

Most of the interviewees considered that isolation in the Department under special surveillance is done for security reasons.

*** All interviewed employees think that the prisoners were informed of their rights and obligations at the admission in institution, both by the treatment officers and by the staff. Written house rules is available and posted on a visible place, but prisoners tore it and that is why it is occasionally not available.

Required information can be obtained from each employee if requested.

As far as separation of prisoners is concerned, interviewed employees say that there is no separation of prisoners by categories except for security reasons.

(Roma)

*(NB!) Out of seventeen interviewed Roma prisoners, thirteen were literate, two illiterate and two partially literate (reading difficulties, know to write their signature, but in the case of writing a letter or other longer text they ask for another's help)

Out of seventeen interviewed Roma prisoners, sixteen are fluent in the Serbian language. One lived abroad and used German while he hardly spoke Serbian.

At the admission to Penitentiary, most interviewees said that they were not provided clear information regarding their future stay in the institution, but only superficially verbal explanation that they should behave well. They are introduced with house rules mainly by other prisoners, and during his stay in the admission department where house rules are posted.

Most interviewees said that in their wing - pavilion there are posted house rules and can be consulted at any time. Those respondents who have difficulty with reading do not know what is written in the House rules but they are well acquainted with the rules of behavior and they learned them from other prisoners. Literate interviewees know well the contents of the posted house rules.

A number of interviewees knows well what kind of behavior is punishable and makes difference between minor and hard violations of discipline. The other part of interviewees express poor knowledge about punishable behavior which mainly comes to that it is punishable to possess a mobile phone or to fight.

Those who were disciplinary punished are sufficiently familiar with the course of the procedure and their rights and obligations. At the same time, most consider that measures imposed in disciplinary proceedings are inadequate compared to committed offenses and that they were too strict. Regarding the process of lodging complaints, most of interviewees did not use this right and those who did believe that this right exists only formally, and that there could be no positive results in favor of a person who submitted the complaint.

Roma prisoners do not name specific cases of separation and grouping based on national basis, but they are mixed with other prison population. None of the interviewees mentioned that there was a need to separate Roma prisoners from the others. On the other hand, according to interviewees' statements, the majority of Roma prisoners is located in the pavilion `` C ``, particularly in the `` 1 `` wing that has 74 convicts out of which about 50% are Roma.

** Interviewees, members of national majority, pointed to weak information of prisoners at the admission to Penitentiary. Information is brought down to a conversation with some of the staff from the admission department, in which they introduce them with basic rights they have in the institution, relation to the staff and other prisoners. House rules are posted on the wall. In the pavilion, house rules are posted on the bulletin board. Interviewed prisoners say they are not clear enough.

Bosniaks from the control group say that at the admission to the Penitentiary they received information about house rules and rules of conduct. All of them said that this information was available on the bulletin board where the house rules were posted. One of them said that there was no posted information about to whom they should address if they are subjected to physical abuse by the staff.

All interviewed Bosniaks said that house rules were clearly formulated. As behavior and acts that are punishable, they name possession and use of drugs, telephone, participating in fights and possession of sharp objects.

Interviewees from the control group, members of national majority, are familiar with basic rules governing disciplinary procedures, offenses, measures, about their rights in the proceedings (such as. information about the charges) and the possibility of exposing defense. They express doubt that the disciplinary procedure would establish the truth because what is believed in are statements given by the prison staff.

Bosnians interviewed say that management decides about punitive measures based on written guards' statements. After discussions with the prisoner who made an offense, it is always believed in the statement given by the commander. Prisoners are offered the opportunity to defend themselves and it is possible to engage an attorney- However, their opinion is that the nature and length of the imposed sanctions depend on the financial status of prisoners.

Prisoners from the control group, members of national majority, believe that lodging complaints is easily accessible to any prisoners. The way in which they submitted the complaint was via treatment officers, head to the warden. The outcome was generally not positive for the prisoners, except in the case of a commander who was moved to another pavilion because he destroyed personal belongings of a prisoner during search.

The possibility of external lodging complaints is rarely used due to lack of funds.

Bosniaks believe that the process of lodging complaints is easily accessible to every prisoner; all of them stated that the mechanism of filing complaints is available, but they also pointed out that among the prisoners a lot of individuals did not know the procedure for lodging complaints. They say that there were complaints whose outcome was positive for prisoners, but not because of torture but because of less significant violations.

One of interviewees said that the prisoners avoid to use the right to write complaints because as a consequence they get worse treatment by a commander. ``It is worse for us, we cannot compete with them`` (quote).

Interviewees from the control group, members of national majority, stated that there is no special separation of Roma prisoners, but that they are placed in all pavilions.

Bosniaks say that there is no separation and disapprove the fact that all prisoners regardless of the crime committed, spend their leisure time in the same room.

*** Interviewed employees say that the first informing of prisoners is done in the admission department in two ways - verbally by the staff or by written rules of House rules posted in the admission department. .

Bearing in mind that illiteracy is recorded in the same place, house rules are verbally and thoroughly explained to illiterate prisoners. Later, after accommodation in pavilions, re-informing about house rules is done by treatment officers. None of employees said anything about mutual informing of prisoners about house rules. One of them said that each room gets written house rules, but that it is not kept for a long time.

Regarding isolation of prisoners, interviewed employees named two kinds of isolation. First one is done by the staff, for safety reasons. Prisoners at risk from others, because of conflict, debt, etc., are placed in the department under special surveillance. In this way, department under special surveillance lost its genuine function-enhanced supervision of a prisoner who made the offense. Now the department under special surveillance has become a shelter - asylum for prisoners.

The other kind of isolation is done by prisoners, by grouping. The reason for grouping can be: territorial belonging (Čačak, Kraljevo,), ethnicity, or interests (in terms of power) and organization of informal groups.

Employees believe that ethnicity is a stronger reason for grouping in comparison to any other. For example, Roma prisoners will group themselves no matter whether they come from Čačak, Negotin, Nis.....

(Disabled prisoners)

* Out of 8 interviewed disabled prisoners seven are literate and one is illiterate. Out of those eight two are deaf and dumb. One of those two is literate and can use sign/ gesture language and the other one is illiterate and cannot use sign language.

Majority of interviewees inform themselves about their rights and obligations during sentence serving in Niš Penitentiary by house order for which they consider it is understandable enough. Smaller number of prisoners is informed only verbally and superficially, at the admission to Penitentiary. Interviewed prisoners gave different answers about the way in which they were informed about their rights and obligations during their stay in Nis Penitentiary at the admission in the institute. Those with physical disability say that they got information verbally while deaf and dumb including one illiterate and blind say that they got information in written form. All interviewees said that house order was set although some of them does not know where. Interviewees know the contents of house order.

When being asked about punishable behavior they give general answer that that is breaking house rules that consider possession of mobile phones and narcotics, betting and fight.

Disciplinary procedure was led only against one person, but due to extremely limited possibility of communication we could not get information about the procedure and fulfillment of conditions for its legal conduction.

None of these persons used their right to submit complaint to work of Nis Penitentiary staff. One interviewee considers that he could, as elderly person, be accomodated in a special division where he does not have to fight with others.

** Interviewees from the control group, when being asked about the information they get at the admission to the institute, say that they get very short infomation, verbally.

They say that house rules are not exposed in visible place and that they cannot be consulted at any time, as well as they are not clearly fomulated.

They are superficially introduced with punishable acts from their own or other prisoners' experience. They mostly state attacks on offices, fights, possession of cellular phones as well as punishable acts and behavior.

They believe that the Warden decides on a punitive measure in each case and more based on commander's report than based on their defence. Those who have experience with disciplinary procedure consider that they were given opportunity to defend themselves, were verbally informed of the charges against them, with the fact that officers who participated in the procedure did not specifically check whether these prisoners understood the nature of the charges.

Regarding the nature and length of the imposed measures they consider that measure of solitary confinement is too often imposed, while sending to the Department under special surveillance is also very frequent, without any limitation of duration.

Only one of the interviewed prisoners from the control group used the right of complaint in the way that he complained about behavior of security service member to his treatment officer. He did not receive feedback from the treatment officer about the result of lodged complaint. Among all interviewees there is clearly expressed feeling of uselessness of lodging complaints and disbelief in positive solution in favor of a prisoner who submits them.

Regarding the type of criminal act for which the prisoners serve sentences, they consider that there is no dissociation, regardless of the severity and type of act committed, while there is separation of prisoners by grouping according to nationality.

*** Interviewed employees, without exception, declare that, at the admission, all the prisoners are introduced with the house rules which include the rights and obligations of prisoners. Besides that, written house rules are put in plastic sheets and exposed in each pavilion. In their opinion, prisoners are very well aware of their rights, especially when they come into a situation where they need them or when they consider that their rights have been violated.

Interviewed employees consider that prisoners are familiar with the way of lodging complaints, appeals as well as with the manner of initiation and conduction of disciplinary procedure. Asked how disabled prisoners, taking into account type of disability, lodge complaints when they want to, they say that another prisoner does that on behalf of that prisoner, of course if he trusts him. If he does not trust him, he asks the treatment officer for plea rapport i.e. to be received by the Warden. To additional question how deaf-mute are assisted they say that they do not know.

Free legal aid in the prison, as well as legal assistance in general, is available to all prisoners without discrimination, in any way and in terms of medical fitness. As far as the separation of prisoners is concerned, employees think that the existing conditions (overpopulation of Penitentiary), it is not possible to single out any group of prisoners, on any basis. They emphasize that the separation of prisoners by type of crime i.e. the length of stay in Penitentiary, health condition i.e. psychophysical status would be of great positive importance for easier and more efficient work in the prison.

(Small religious communities)

* Regarding information about their rights and obligations during the sentence serving, three interviewees from basic group state that their main source of information are House rules, while the fourth one says that no information is available to him. Those who are informed about their rights and obligations at the admission stated that they were read a certain part of the house rules.

All interviewees, except one, stated that the house rules were displayed in a prominent place, clearly formulated and could be easily consulted at any time.

All of them consider that supervisor (in written form) decides about specific punitive measure for violation of house rules.

None of the interviewed prisoners from this group was not in a position that a disciplinary procedure is led against him. Generally, they have very little or no knowledge of the functioning mechanism for submitting complaints against officers.

On the question which behavior and which acts are punishable, interviewees give only a general answer, that there are punished because of violations of house rules, but without closer stating of punishable behavior.

** Two interviewees from the control group said they did not get any information at the admission to Penitentiary Nis. The other two say that they were given the information generally and verbally. Regarding the house rules they say that they are not exposed in a visible place and that they cannot be consulted at any time without difficulties. All of them believe that house rules are not clearly formulated. As punishable behavior they list fights, attacks on officers, possession of mobile phones and drugs etc. One of them believes that possession of drugs is not a punishable offense if you know the right person.

These interviewees say that disciplinary commission and Warden decide about punitive measure because of violation of House rules. Those among them, against whom disciplinary procedures were conducted, state that they were given the opportunity to defend themselves and as a punitive measure one of them was sent to solitary confinement while the other one got a reprimand.

Interviewees from this group are generally not familiar with mechanism of submitting complaints to the work of officers besides one who believes that this mechanism does not work. Neither this one knows which applications could be submitted by persons deprived of liberty or how the process of lodging complaints looks like. In terms of efficiency of appeal procedures, two interviewees answered to this question - one thinks that the appeal procedure is not effective and the other one has even worse opinion.

*** Interviewed employees believe that all prisoners upon the arrival in institution, in Admission department, get verbal notice of their rights and obligations. Rules in written form are posted in each pavilion.

Employees say that prisoners are aware of their rights relating to disciplinary procedures, appeals and complaints, as well as opportunities to obtain free legal aid by Penitentiary.

Separation of prisoners could not be realized at any basis, although it would be necessary. Asked whether there are prisoners which stand out for something particular, one answer was that there are talented chess players, sportsmen and those gifted for painting and carving. There are rare but they exist.

(Albanians)

* Most of interviewed Albanians said that they were given information related to their rights and obligations verbally in Serbian language, at the admission to Nis Penitentiary. A

smaller number of interviewees in this group were given the house rules in writing in the Serbian language and Cyrillic alphabet. House rules are displayed in a visible place. A number of interviewees in this group said that it is difficult to understand them and that they are physically damaged - torn.

Most of interviewed Albanians, as criminal conduct, point out fighting, declining orders and possession of prohibited items and objects (mob. tel. and drugs). Prisoners who were disciplinary punished have a solid knowledge of the disciplinary procedure and their rights and obligations. At the same time they consider that often imposed measures are too strict. With regard to the mechanism of lodging complaints, they generally consider that it functions poorly or not at all, and those who used their right to lodge a complaint especially underline this. They did not hear that there were complaints where the outcome was positive for the prisoners. One of interviewed Albanian prisoners said that even after many attempts he did not manage to get a response from the Warden on the complaints he sent to him. He showed a copy of his request for a rapport at Warden, to our Team member, where a treatment officer wrote that the Warden "stopped each requested rapport at the Warden, and that all complaints and appeals should be sent to heads of certain Services" This means that a person who decides about a complaint may be a person to whose action a prisoner complains.

** Interviewees from the control group said that at the admission to the facility they did not get any information. Medical rules are posted on visible places on each floor. One prisoner said that on his floor there was a copy of House rules but that it was a version of a few years ago. Medical rules are, according to prisoners, clearly formulated, but there is a number of prisoners who cannot understand the rules.

As behavior and acts for which disciplinary procedures are carried out they listed fight, possession of mobile phones and narcotics, not making beds, lack of personal hygiene (they do not shave) and staying in bed right after wake up alarm.

Disciplinary procedures are conducted on the basis of written reports of supervisors while the commission decides upon penalties. Prisoners were given the opportunity to defend themselves in disciplinary procedures, and the sentence they were imposed was in most cases solitary confinement. Disciplinary measure of reprimand is rarely applied. Interviewed consider that their rights in the process are formally available, but they have no genuine possibility of defence. All, except one interviewed did not use the possibility of lodging complaints. A prisoner who wrote the complaint has not yet received a response. They also did not use the possibility of external submission of complaints to the work of the institution.

*** Interviewed employees said that all prisoners are given information about their rights and obligations immediately upon the admission to the Admission department, verbally. The House rules are exposed in each pavilion. Besides that, for any closer explanation, prisoners can contact their treatment officer.

All the prisoners were informed about the behavior and actions which are punishable even with the way how the disciplinary procedure is initiated and conducted. They also know the way of lodging complaints and appeal. They receive the information about that both from officers and from other prisoners.

Informing of convicted persons at the admission to the institution is, according to the responses of members of target groups, mainly verbal, in Serbian language and superficial. There are cases of informing in written form, mentioned by some of the prisoners with disabilities, who say that they got information verbally, while those deaf-mute, including one illiterate and blind, say that the information was given in writing. House rules are usually exposed in a prominent place in the Serbian language and written in Cyrillic, but some copies are torn and hard to read.

Criminal conducts are known in general. They know the disciplinary procedures, depending on whether such procedures were conducted against them. They are superficially familiar with the right to lodge complaints or they do not know about it at all. Those who used this right doubt in appropriateness of lodging a complaint because they have no knowledge that the decision has ever been positive for the prisoner.

Representatives of the control group consider that the information received at the admission to Penitentiary Nis is verbal, superficial and insufficient. House rules even when they are visibly exposed are not always clearly formulated. They are generally familiar with the basic rules relating to disciplinary procedures, but they do not believe in a positive outcome for the prisoners. The same applies to the right to lodge a complaint, provided that this right is rarely used by the prisoners because of lack of faith in the possibility of success, and some believe that the filing of the complaint leads to poor treatment of prisoners by staff.

From employees' replies it can be concluded that all information is easily accessible to the prisoners from the moment of admission, that they are introduced with the House rules, that they are familiar with the way in which disciplinary procedure is conducted and the rights they have, etc ...

c) Regime and activity (access to information, exercise and recreation, leisure activities, religion, work)

(Bosniaks)

* Interviewees say they have partial access to electronic media, which is primarily related to television. In terms of printed media, the Department no longer provides free newspapers but they have the ability to subscribe themselves to it, if they wish.

Equal exercise as football, basketball and use the outdoor gym is available to all the prisoners, under the same conditions. Other free activities comprise chess, dominoes and other similar games.

In terms of religion, interviewees say that from religious services only services for the Orthodox believers are relatively regularly performed. They do not know that there is possibility for the appointment of a permanent representative of a religious community and what are the conditions for his appointment, they do not know about possibility of visits of these representatives, nor when (and if) they had happened before. They consider that there would be interest for performing religious services among the prisoners.

Material conditions which currently exist (or do not exist) do not allow the performance of integral parts of the Muslim religious services such as namaz (prayer) and preparation for prayer (ritual washing). For practicing successive stages of the Muslim religious ritual, it is necessary to provide premises with appropriate hygienic conditions, so that it would be intended for prayer.

Conditions prescribed by other religious rituals, Ramadan fast, are adequately enabled. Possibility of taking meals for Muslim prisoners is isochronous with the religious regulations. In addition, during the fasting, it is allowed to receive parcels more often, to use the hot plate for cooking in the rooms and delivery of food to rooms in advance, for night meals.

Meals that fulfill religious standards of Muslim nutrition are prepared in the kitchen on daily basis

In terms of the right to work, all interviewees were well informed of this right, but the experience is that possibilities for work in Penitentiary and out of it are weak or they do not exist

at all. All of them are interested to do any job and think that the higher occupation would represent a key contribution to alleviating occasionally tense atmosphere and creation of an environment similar to that of freedom.

** Part of the interviewees from the control group is accommodated in the Department under special surveillance and they have no access to television and newspapers. They, however, have their own radio transistors in the cells. Others from the Department under special surveillance have no source of information at all.

All interviewees from this group (Department under special surveillance) have right to one hour walk in the circle. They have no possibility for exercising and recreation. Regarding free activities, all the things available to Bosniaks are available for them, too.

A part of the interviewees from the control group (members of the national majority) is well acquainted with religious rights, which they have as prisoners: the right to visit by the priest, and attendance to religious ceremonies during religious holidays. They also do not know what the procedure is, unless there are already visits by a religious representative, by which the prisoners can ask for appointment of religious community representative who would visit them on regular basis.

During their stay in the Department under special surveillance they are in fact abridged of their right to fully exercise their religious rights. During the stay in the pavilions (A, B and C) they can also attend the liturgy and use their right to visit a priest which is organized periodically.

The second part of the control group of interviewees were Albanians of Muslim religion. These interviewees do not know and say that no one until now has not introduced them with the possibility of the appointment of representatives of their religious community, for which there would be interest.

Everything said that relates to rituals related to Ramadan is identical with the statements of Bosnians.

The first part of the control group expressed a great wish to work within the institution, but there are no conditions for that. They believe that the work would improve the quality of their life in prison. The second part of the control group was not interested for work.

*** All interviewed employees said that the Department no longer provided print, and television is available to everyone.

They said that group sports are available to prisoners, such as basketball and football, and fitness but in the open air. Chess and dominoes are available as leisure activities.

Neither these interviewees are familiar with the procedure by which prisoners can initiate appointment of religious representatives, if they wish.

Interviewed employees say most prisoners want to work, but that abilities for work are limited.

(Roma)

* Roma interviewees stated that they had good access to electronic media (radio and TV). Regarding printed media, the fact that they are no longer provided with free samples of newspapers they realize as a restriction that occurred after the change of former warden.

Regarding sport activities they can play football, basketball or lift weights made by hand. Additional comment of one of interviewees is that they can play football (` D `` Pavilion), but they do not have a ball. Other leisure activities are chess, dominoes and dice. One of the respondents thinks that playing cards for entertainment is unnecessarily forbidden.

In religious terms, Roma interviewees belong to Orthodox or Muslim religion with a smaller number of them who declared themselves as atheists. At the same time, those who are

religiously committed do not show particular interest in religious rites and practice of customs of religion to which they belong.

In the opinion of these interviewees, there is a right to work but only formally, since in Nis Penitentiary there are almost no opportunities for work. Some of interviewees associate the accomplishment of the right to work of officers in Penitentiary in sense that the right to work is allowed only to those who do not complain to actions of officers.

** Interviewees from the control group, members of national majority, said that they had good access to watching TV and listening to the radio program, while the right to free newspapers was abolished. They pointed out that they have opportunity that families deliver newspapers and magazines in parcels.

All the prisoners who are not in the department under special surveillance have right to free two-hour walks in the circle that can be used for exercising sports activities. Prisoners in the department under special surveillance have right to an one-hour walk in a circle. Free activities are limited due to lack of funds. Prisoners would like to exercise some free activity, but there are no conditions for that. They say that those who wish can attend religious services but that prisoners rarely use that right.

Prisoners from pavilion ``C`` do not have opportunity to work even though some of them want. Prisoners from the pavilion ``A`` and ``B`` have greater possibilities to work, while work obligation is anticipated for prisoners from a semi-opened part, if they want to maintain this category.

Interviewed Bosniaks consider that all prisoners have access to the media (daily stay in TV room), but state that this right is somehow foiled from the moment when the management stopped providing free newspapers. From the available sports activities they bring out football, basketball, use of gym (use of gym is forbidden in " C `` pavilion).

Government encourages prisoners to get involved in sport activities by organizing tournaments in football and chess, in which prizes are provided for winners - money, facilitating visits by special preferences of prisoners...

All prisoners are entitled to two hours stay in fresh air and they use it. Prisoners from the pavilion ``C`` consider that they do not have good conditions for performing religious services and that there is no adequate space for prayer in the pavilion. They are not interested in working.

*** Statements given by the staff are similar to those of control group.

(Disabled prisoners)

* All interviewed prisoners said that they had good access to electronic media.

None of the interviewed disabled prisoners works. Those who are not incapable of working would like to work

** In terms of access to information from the outside, interviewees from the control group consider that the main deficiency is that prisoners who are in the Department under special surveillance do not have TVs in rooms where they spend the whole day, except for an hour walk in the fresh air, which additionally hinders the situation in which they are.

One of interviewed prisoners said that he has a hobby - painting. As a proposal for leisure activities he suggested formation of working groups and holding sessions in which the prisoners could talk about their problems and therefore easier overcome them. Those who are in Penitentiary said that there was a football pitch but that they do not have the ball. Other prisoners outside the Department under special surveillance have opportunity to play football and rarely basketball. They have no hobbies.

Opportunities for work in institution are minimal or they do not exist at all. None of the subjects in the control group works.

*** Staff point out that there is cable TV in each wing. One of the interviewees emphasized that the prisoners are allowed to bring their own DVD.

Of sports activities, as recreational, those available are: basketball, football, exercising in an improvised gym and chess playing.

Regarding hobby there are painting and carving, in smaller sections.

Only a small number of prisoners are given possibility to work. Boilers and furniture from knitted plastic are currently being made in the industrial plant. Interviewed employees think that giving possibility to work to most of the prisoners would significantly improve the climate among the prisoners as well as their overall behavior. Structured and useful spent time would increase the level of satisfaction and thereby reduce aggression and tendency to conflict situations.

(Small religious communities)

* In terms of access to information, interviewees from the main group think that they have relatively good access to television as the primary medium and poor or no access to printed media. They say that they do not have access to the library.

All of them say that the rule of at least one hour of physical activity in the fresh air a day is consistently respected.

The following sports activities are available to prisoners: basketball, football, gym, chess etc.

Regarding the availability of religious services, the interviewees in this group consider that religious services for Orthodox believers is mainly performed, and that there is considerable interest of prisoners for it. None of the interviewees from the basic is visited by the priest of his religious community.

Interviewees believe that opportunities for work are poor, but that they exist. In their opinion, Security service decides about the allocation of working positions.

The majority of respondents did not know what kind of education is offered by Nis Penitentiary. One of them knows that, at the moment, there is a course for welders as well as some other courses. They all say that there is great interest for education.

** Interviewees from the control groups say that access to TV is in principle free but that channel selection is poor and insufficient.

All believe that the rule of at least one hour of physical exercise in fresh air a day is consistently applied, but that in general they spend so little time outside their rooms. Football, basketball and weightlifting are available sports activities.

Religious services are conducted regularly and they believe that the average number of attendees has been gradually growing..

All of them say that possibilities for work within institution are bad or they do not exist at all. To few available jobs prisoners are allocated, without respect of objective criteria (`` mainly for the money or by arbitrary decision of Security service``).

Those interviewed say that Penitentiary Nis does not offer any type of education to prisoners and they show no interest in education.

*** Interviewed employees say that prisoners have access to TV with cable reception. All, without exception, spend an hour in the fresh air, except for prisoners accommodated in the Department under special surveillance, who, except that one hour, spend the rest of the day in

their cells. In other pavilions prisoners spend most of the day out of their rooms, in the living room and in hallways.

Religious services are organized to major religious holidays and about 10% of prisoners attend them. There are no regular services.

From leisure activities those available are basketball, soccer, chess and access to an improvised gym. Regarding hobbies, there are conditions for painting and carving, for which there is interest of about 5% of prisoners. The organization of these activities is in charge of an officer for sports activities.

Direct access to the library is not possible. Books are delivered by a "pavilion librarian". The institution does not offer any form of education nor it work on promoting education. Opinion of staff is that prisoners are generally not interested in education.

There are modest opportunities for work. Employees believe that the possibility of engaging a larger number of prisoners in work would be very useful for prisoners and staff.

(Albanians)

* Interviewed Albanian prisoners consider that access to electronic media is good. However, none of the programs is available in Albanian. An important part of information about events outside the prison, the prisoners get from visiting relatives. All interviewees agreed that family visits mean a lot to them. As a special problem they point out factual disabling of visits from their relatives who live in Kosovo and have documents issued by the UNMIK administration, which they cannot use for travelling. In this way, contacts with their closest relatives are disabled.

Regarding sport activities football and basketball are available, while available leisure activities are chess and dice.

Religious rights of Albanian prisoners are, according to the interviewees from this group, mostly respected but with certain limitations. Occasionally there is not enough water necessary for a particular part of the ritual, and so far there are no adequate premises to perform the ritual. The impression of interviewer is that a great number of interviewees is very much interested in regular performance of religious rites and for as often as possible visits by officials of the Islamic community.

In terms of opportunities for work within the institution they agree that the opportunities for work are poor or they do not exist at all and that the competition for every good job is big.

They say that there are no opportunities for education in Nis Penitentiary but that interest, although not very exposed, exists.

** Interviewees from the control group told that access to electronic media is bad. On each floor, in all the pavilions, there is a TV room except in the Department under Special Surveillance. Prisoners from the Department under Special Surveillance have a right to listen to the radio in their rooms but big problem is that there is no electricity in the rooms and wireless receivers have to operate on batteries which are too expensive and difficult to obtain.

They receive magazines and newspapers in the parcels sent from home. Interviewees who have contact with their family use their right to a visit by their family once a month for three hours. Free - marital visits last for two hours and mean a lot to convicted persons. One of the interviewees drew attention to the problem that the rooms that are used for family visits (children, family) are connected through the bath rooms with rooms for free marital visits and do not have good sound isolation. Therefore, it would be good to have family visits in connected rooms as well as marital visits in connected rooms (and which may be one next to each other).

Free activities are available to all prisoners and in most of the cases these are football or chess. All prisoners, including those in the Department Under Special Surveillance- and in solitary confinement, have right to an hour of walk "in the circle" and then they can organize

themselves. Interviewees say that there are no conditions for practising hobbies and that for many of them would like that because it would make their sentence serving easier.

Members of the Orthodox religion in Penitentiary may attend the liturgies that are periodically held while Muslims do not have organized religious ceremonies. They pointed out that visits of Imam are very rare and expressed desire to be more frequent.

Interviewed pointed out that in the closed part of Penitentiary there are no opportunities to work although they are interested in working. Since two of interviewees have experience of staying in the semi-open part they say that work is mandatory there so that they could keep the status-category. Salary is symbolic, there are injuries at work but they are rare. All interviewees said that there were no opportunities for education at the moment but that they would like to acquire certain skills that help them in freedom.

*** Interviewed employees say that only TV is available to prisoners from all the means of information.

All the prisoners, without exception, are enabled to have all kinds of visits, in accordance with law.

From sports activities prisoners are given possibility to practise football and chess. In the framework of sport activities they can practise weight-lifting and body-building, while they play chess less often than before. Only a few prisoners are engaged in painting or carving. Everyone without exception is allowed to stay in the fresh air for an hour, once or twice a day.

Right to religion is guaranteed to all no matter religious confession. The only limits that exist are in the form of objective material deficiencies.

Staff believe that a number of prisoners employed is very small compared to the number of those interested. One of employees says that approximately 20% of prisoners employed in the industrial area are interested in education in terms of becoming qualified to practice and crafts - welders, locksmiths, carpenters, plumbers.

Education

(Right to education and availability of education in function of reduction of poverty)

(Roma)

Interviewees Roma prisoners: (based on completed grades of primary school and level of education):

- Two interviewees were without education;
- One completed two years of primary school;
- Three of them completed four years of primary school;
- Two completed six grades of primary school;
- Seven completed primary school;
- Two completed high school, one of them completed three years school;

(The level of obtained knowledge through education was not checked.)

Only five of interviewed seventeen prisoners were not interested in general and vocational education.

At this point in Nis Penitentiary there is no possibility for any kind of education because there are no adequate facilities since the school was burnt in the rebellion in 2000. We have been repeating the same sentence in different reports for years. Renovation of school is not planned although Law on execution of prison sanctions (Article 110) guarantees the right to education of prisoners.

TV programs are available to interviewees from the target group of the project but none of them is in the language of a minority (although there are programs in Roma language) and are not adapted to the ways in which people with certain types of disabilities can undisturbed follow the program. The right to information has been partially denied to prisoners who are in the Department under Special Surveillance

Orthodox believers have the possibility of relatively frequent participation in religious services. Regarding the Catholics, we do not have any information of this kind, except for the one that they do not know who the Catholic are, among themselves in Penitentiary.

The right of Muslims, as the largest minority religious group, regarding special meals in accordance with their religion, is respected while they still lack the material conditions necessary for the performance of religious rites.

Mostly all interviewed are interested in work in the prison, including those capable of working from the target groups of disabled prisoners, but there is a small number of available jobs.

In terms of sports and leisure activities we list the answers of all respondents from the target and control groups in one place.

Of sporting activities available to prisoners there are football, basketball and gym in the open. This possibility is denied to prisoners saying in the Department under Special Surveillance. As leisure activities the prisoners can practice chess, dice and dominoes. Prisoners with disabilities are completely denied the right to sport, recreation and leisure activities.

Answers given by employees are in line with the responses given by prisoners, in terms of leisure activities, sports and recreation, and opportunities for work.

d) Availability of medical care

(Bosniaks)

* General opinion of all interviewed prisoners was that the quality of medical services was not good enough (superficial examination, selected therapy depends on the price of drugs, ...). Primary health care is available to them, while the specialist examinations represent a problem. According to a number of interviewees, additional medical examinations are waited for up to 6 months which may affect worsening of their health.

Current supply of drugs within the Institution is insufficient. Prisoners are mostly prescribed sedative drugs for pain while most of other drugs are purchased outside the institution. To receive these drugs the prisoners must have a prescription prescribed by a prison doctor and to show it to a security staff when receiving a parcel..

Special problem according to a number of interviewed persons is the availability of dental care. In some cases prisoners wait for dentist intervention up to one month. They also claim lack of professional attitude by a dentist, for example, they speak about the case when a dentist did not manage to pull out a tooth (broken tooth) and the root should have been removed surgically by a specialist. The prisoner waited for specialist's intervention for almost one month.

One of the questions asked was what interviewees thought- would a doctor register injuries caused by torture in the medical file. The general impression of all interviewees, except one, is that doctors in Penitentiary would not register consequences of torture.

** The first part of the control group (representatives of the majority), claimed that they were not satisfied with medical treatment, primarily in terms of timely availability of general practitioners, dentists and psychiatrists

The other part of the control group of interviewees (Albanians) have no objections to the timeframe in which they were medically inspected, except when the examination is simultaneous with TV broadcasts of football matches and similar events of vital importance for the development of the medical profession. They believe that the psychiatrist's examination was too long waited for. An exception is an interviewee whose experience is that it, even suffering from heart disease, has not been examined by Penitentiary doctor, which is necessary for him to be sent to the cardiologist.

These interviewees had no objections to the availability of specialist examinations.

None of the interviewees also had no objections to the possibility of obtaining prescriptions for medication nor the later provision of medicines.

One of interviewees placed in Department under special surveillance, because of terrible toothache he had, kept ringing all day long, trying to provide dental examination. The guards responded to ringing. They said that the prisoner should wait until the next day for the dentist and went away. Due to a strong toothache which does not tolerate waiting, he rang again, which was followed by use of means of restraint. The prisoner was injured, and the injury was written in his file but lighter than the one that he claims.

One part of interviewees from the control group (members of the national majority) do not believe that doctors would register an injury which is a result of torture and one of the interviewees explicitly states that in his case injuries were not reported. The second part of the control group (Albanians) think that doctors would do their job professionally.

*** Interviewed employees say that medical examination is provided extremely simple. It is necessary that a prisoner reports to a security service or anyone from the staff after what he would be taken to the doctor. In this way, the availability of doctors is considered complete.

The supply of medicines is done centrally, which means that all drugs that are on the positive list are always available. The institution is, in the framework of its abilities, trying to obtain medication from the negative list for the prisoners or they buy them themselves by help of their families.

Examinations by specialists such as examination by a psychiatrists, ophthalmologist, internist and radiologist are provided twice a week.

Any type of injury, doctors write in the patient's medical file and in the book of injuries including a detailed description of each injury. Prisoners can ask examination because of injuries, themselves, or they are inspected by a doctor if he in situ suspects that there has been an injury

(Roma)

* All interviewees say that at the admission to institution they were examined by a doctor. The experience of interviewees regarding detailed medical examination is different. Thus, some claim that examination was general (measuring pressure, check whether there are physical injuries, eye examination and questioning of the prisoners about the history of the disease) and others say that examination was more detailed and included blood and urine tests. Based on the comparison of interviewees' length of stay in penitentiary we conclude that examinations at admission are better and more detailed in the last two years.

According to statements of all Roma interviewees primary health care is available to every prisoner, based on personal request, once in a week. On defined week day a prisoner who wants to, applies for medical examination. Examination is performed in the order established by the registry number of prisoners in the next few days. Availability of specialists and dentists is a bigger problem. Drugs in prison can only be received with a prescription (in the prison pharmacy

and by mail from outside), but which, due to these procedures, causes that waiting to receive adequate therapy is longer than usual, . Interviewees think that the pharmacy is not sufficiently supplied with medicines that are needed for diseases which prisoners usually suffer from. For example, one prisoner said that ordinary nose drops, in case of cold, must be sent by family. The other one, suffering from diabetes has great difficulties to obtain necessary medicines since he has no family that would send required medicines.

To hypothetical question, asked to interviewees, what do they think- Would a doctor in Penitentiary register in medical file injuries caused by abuse by officer, the majority of interviewees were implicit that they consider that such injuries would not be registered. One said that he thought that injuries inflicted by another prisoner would be registered.

** Interviewees from the control group, members of national majority, said that at the admission to Penitentiary a general internal examination is done which is not, as they think, sufficient to determine health condition of the patient.

Control groups of Bosniaks said that at the admission they had detailed medical examination.

Interviewees from the first part of the control group described the procedure of applying for a medical examination (during sentence serving) in a similar way as interviewees from target group-Roma. Their opinion is that this procedure does not provide timely medical examination. In case of emergency intervention they address security services staff who take them to a doctor on duty.

Specialist examinations are hardly available. Period from application until specialist examination is from three to four months. By all accounts, only a small number of prisoners accomplish the right to specialist's testing, examination and treatment. For example, in June this year one of the interviewed convicts was stabbed with a knife, with which a prisoner with confirmed diagnosis of hepatitis had been stabbed before him. He asked to be tested for hepatitis C, as in the case of early determination of disease there is much greater possibility of healing. Medical Service refused him with explanation that testing is too expensive (more than 10,000 dinars). Another interviewee, also known for the case at the court in Strasbourg (related to non provision of dentures and reading of his correspondence by the prison authorities), injured his knee at work, in October 2007. Since then, he has been asking for provision of operation so that a broken meniscus could be taken out from his knee. Because of months of the refusal by medical services and management of Penitentiary to provide a surgery, he lodged a complaint to the Municipal Court in Nis, in June 2008. The procedure is in progress.

All the interviewees also particularly pointed out their dissatisfaction with the work of dental service because it is hardly available and a dentist does not perform all necessary intervention. One of the interviewees said that the work of dentists is brought down to tooth extracting.

Interviewed Bosniaks said that they are regularly, once a week, examined by a general practitioner. If there is an urgent need, they can get extra medical examination.

As for specialist review, they complain to the efficiency and complain that for an examination by a medical specialist, psychiatrist, psychologist, dentist, ... is waited up to three months.

Interviewees, members of national majority said that doctors almost never perform examinations on their own initiative of prisoners in order to determine the disease or injuries, which among other things, may be a result of torture. In case of torture, they believe that doctors either would not record the injury in medical file or would register them as lighter. One of them brought up an interesting experience that physical violence by the staff towards prisoners happened after medical examination. ``First they take us to a doctor and after that they beat us``.

Interviewees Bosniaks believe that doctors do not register body injuries which may be result of torture in medical files. One interviewee even said that if he complains to the doctor of

body injury caused by the staff he gets insulted by the doctor and comments that he asked for that himself.

Interviewees ``the majority`` group said that the supply of prison pharmacy is relatively poor. One of interviewees said that they had to wait for a medicine from three to four months and that they rely on medicines delivered by their families.

All Bosniak interviewees said that they find necessary medicines in prison pharmacy. If prescribed medicines could not be found in prison pharmacy they buy them within the prison from other prisoners for cigarettes.

*** Interviewed employees told to a team member that prisoners are medically examined at the admission- the examination consists of taking family and personal history of disease, internist examination, eye examination and laboratory testing (blood and urine). Regular medical examinations are not scheduled, but submitted prisoners' requests for medical examination are systematically planned and conducted. If the convict asks for an emergency medical aid, he is taken to the doctor the same day.

If there is a need for specialist examination, the one that does not exist in the prison, the prisoner is sent to health care institutions outside the prison for examination.

All types of injuries (caused by injury at work, self-injuries or injuries caused by other prisoners or officers) are recorded in detail in prisoner's medical file and in book of injuries.

(Disabled persons)

* At the admission a number of interviewed prisoners- those with physical disabilities had general medical examination. A medical problem was identified and prisoners were sent to a medical specialist.

Other interviewees with disabilities said they had been medically examined but the manner and how detailed examination was can not be determined with certainty because of the limited ability of patients to understand complex medical terminology and their extremely weak abilities to inform the others about that.

The procedure of access to a doctor for these prisoners is the same as for others. The problem mentioned by two others is that they were not provided required rehabilitation. They get medicines without problems. They complain that they don't have access to a psychologist and they need him.

** Interviewees from the control group say that medical examination at the admission to institution was superficial.

There is an official procedure for scheduling medical examinations, which is same for all.

Medical assistance of general practitioner and medical specialists is not easily available.

Medicines are partly received in the medical service of Nis Penitentiary. They have no objections to the availability of drugs and if they cannot be obtained within institution, they receive them in parcels from home.

*** Employees say that at the admission to institution a general medical examination is performed and it is detailed.

What is needed is that a prisoner only asks an employee for medical assistance and it will be available in the shortest period of time. The longest waiting period is half a day, until the arrival of a doctor to whom the prisoner is assigned.

As far as specialist examination is concerned, the situation is more complicated. There are no medical specialists in prison and scheduling requires a lot of time. Outstanding example of this is the case of two prisoners who suffer from sclerosis multiplex, and have not been receiving therapy for months because it can only be prescribed by medical specialist and scheduling is

difficult Drugs can be partly obtained in prison and partly sent to prisoners by family, with the approval of medical service.

(Small religious communities)

* Access to medical services is generally free. Some interviewees from the main group say that the actual limitation of this right occurs when their doctor is temporarily absent due to vacation or for other reasons. This period may take a month. Supply of drugs is generally weak, except when it comes to widely-known drugs such as Diklofen and Bruphene, which, in the opinion of these respondents is too often used. Other drugs are obtained mainly from home. From time to time they notice that the drugs they receive from medical services expired.

They consider that medical examination performed at the admission to institution is routine and superficial.

** Interviewees from the control group believe that prisoners have relatively good access to the doctor but that the level and quality of medical care is poor or none. The opinion of interviewees is that the medical examination at the admission to the institution is superficial.

Before being sent to a solitary confinement medical examination is necessarily carried out but during the measure serving health condition is not checked i.e. according to a statement given by one interviewee, medical examination during solitary confinement is done only if a prisoner is on a hunger strike. Examinations aimed at checking the addiction to psychoactive substances are never carried out. Supply of medicines is generally poor and medicines are in most cases obtained from the family.

*** Interviewed employees say that at the admission of prisoners a general medical examination is done. Obligatory examination is carried out prior to sending a prisoner to solitary confinement, and also once a day during prisoners' stay in solitary confinement. Regarding supply of medicines, some are provided by institution while some have to be delivered by prisoner's families.

Medical examinations related to addiction to psychoactive substances do not exist and are needed.

(Albanians)

* Most of Albanian prisoners were examined by a doctor at the admission to Penitentiary Nis. A number of interviewees said that the examination was only superficial while with others the examination included blood tests as well. A number of interviewees did not undergo any examination at the Admission.

Interviewed Albanian prisoners are explicit that Penitentiary Nis never carries out inspections to detect possible injuries and prevention of torture. All interviewees believe that doctors in Penitentiary Nis prison doctors would not record injuries caused by the officers from Penitentiary Niš in the medical records.

One interviewed prisoners said that he has a heart disease that is found by a medical specialist, but that, based on his statement, does not receive any treatment.

** Interviewees from the control group told that, at the admission of prisoners to the institution, there is always a medical examination but that it is formal. When determining the solitary confinement measure medical examination of a prisoner is always done but, during the measure the examinations are quite rare. Addiction to psychoactive substances is rarely checked.

All the interviewees, except one, said that in the case of torture doctors would not record prisoner's injury in medical file.

They point out that there is a great problem of scheduling the medical examination because between scheduling and medical examinations there are more than two weeks and it is not rare that a prisoner gets better in that period. Drugs for the treatment of prisoners of disease can be obtained from a doctor only if it is a cheaper medicine. For more expensive drugs prisoners have to turn to their families so as to receive them in parcels.

Examinations to detect injuries (prevention of torture) are never done.

From the replies of prisoners it can be concluded that they are very dissatisfied with medical services, particularly availability of doctors.

*** Interviewed employees said that compulsory medical examination is done at the admission of prisoners to Penitentiary. Examination is thorough and consists of taking family and personal health anamnesis, general medical examination of ophthalmologist, dentist and psychiatrists. Analysis of blood and urine are also done mainly due to detection of diabetes. The analysis for the detection of hepatitis C is performed only rarely, sometimes at personal request. Testing to opiates is done from time to time. Prisoners on the so-called methadone program (there are 20 of them), undergo testing to opiates once a month.

Specialist psychiatrist hired a part-time. He comes three times a week and then he does medical examination of 15 patients. Patients receive drug therapy regularly. Drugs from positive list are provided by institution while other drugs must be provided by prisoners' families.

Examinations aimed at detection of possible torture in order to prevent it are not done as special, but all prisoners who have vague symptoms are examined in detail. The consequences of torture would be registered in medical file with a detailed description which would be registered in book of injuries.

Prisoners' medical inspections are scheduled by medical service. If a prisoner asks the guards for medical help, his request is fulfilled in shortest period of time.

Respondents from the target group of the project are medically examined at the admission to Nis Penitentiary by a doctor, while detailed views vary from case to case.

Primary health care is relatively available to prisoners, while the examination of medical specialists is waited for too long.

The work of dental service can hardly be qualified as good enough.

Basic cheaper medicines are available in Penitentiary pharmacy, and other medicines are supplied by family members.

Most of them generally believe that the doctors from Penitentiary would not register in the medical records injuries caused by prison officers' abuse.

There is a question regarding completeness of anamnesis recorded by a doctor in the case of prisoners who do not speak Serbian language well enough or they are deaf-mute, without the assistance of appropriate interpreter.

The sense of responses of interviewed prisoners from the control group is identical to the responses of prisoners from the target group of the project.

Interviewed employees consider that prisoners undergo a detailed medical examination at the admission to prison, that primary health care is fully available to the prisoners, that specialized medical care is available outside the Penitentiary is available when needed, that doctors register injuries that were made by officers in medical records of prisoners, etc ...

e) Material conditions / food

(Bosniaks)

* Daily meals in the kitchen satisfy Muslim religious rules. For members of the Muslim religion there is a special menu, which does not contain pork meat products. During fasting additional requirements in terms of ingredients, preparation and eating schedules are met.

(Roma)

* Daily nutrition, according to Roma interviewees is satisfactory when speaking about the quantity but does not meet quality. Seasonal salad is always provided in sufficient quantities. Meat is of poor quality. The biggest problem is the complete lack of milk and dairy products. When speaking about fruit, there are apples on the menu, once a week. Holiday menus are a little bit richer in that they include good-quality meat and cakes. One interviewee said that the food is excellent, but sometimes it has hair in it.

Because of such nutrition in Nis Penitentiary, the majority of interviewed Roma are referred for additional nutrition to be provided by parcels sent by families. An additional problem about supplementary food parcels is a ban on delivery of home-made food (cheese, cream, sarma, stuffed peppers and cakes), which greatly restricts both the content of parcels and variety of additional nutrition.

** Interviewees from the control group, members of majority, have different opinions about the quality and quantity of meals. One said that the food is great, two described food as "prison" and one said that the meals are insufficient and of poor quality. They believe that there is not enough dairy products and fruit while the salads are served regularly. Holiday menus exist and prisoners mostly relate them to New Year.

Interviewed Bosniaks are satisfied with the quantity and quality of food. Religious restrictions in nutrition are respected. Only one respondent said that there is not enough dairy products. There are holiday menus.

All interviewees, members of the majority, said that have right to receive parcels but that those poor or without families do not use this right. Parcels are of great importance to them as a supplement for the food from the prison kitchen. Canteen is poorly supplied. Interviewed Bosniaks accomplish their right to receive parcels regularly. They have no complaints.

(Disabled persons)

* Accommodation: prisoners who, regardless of the type and degree of disability they have, (except for a prisoner who does not have one leg and who is still in the Admission department) are all accommodated in rooms on higher floors in different facilities.

Meals: Two blind prisoners are served meals in room and another prisoner feeds them. Interviewed with physical disabilities, mobility difficulties, in order to consume a meal have to go to a dining room for breakfast, lunch and dinner.

Moving: Blind prisoners walk exclusively with the assistance of other prisoners.

Hygiene: Blind prisoners bathe/ shower and shave with the assistance of another prisoner.

Toilet: Both blind prisoners use makeshift which is discharged voluntarily by another prisoner.

All these prisoners are accommodated in an easily accessible first bed.

** Interviewees from the control group do not have direct contact with disabled prisoners. They believe that such persons are probably accommodated in prison Long Term Care. In terms of food, they consider that it is of medium quality, quantity and diversity. They consider that salads, vegetables and especially dairy products and fruit are very rarely on the menu. Special dietary requirements for religious reasons are consistently respected.

The families are allowed to bring food, but the main objection of the interviewees is that the list of forbidden food, particularly home made food, is too long and that limitations in that sense are unnecessary.

They consider that physical condition of the premises in C Pavilion, which was the main reason for last year's (2009) protest of prisoners, is still very bad. Immediately after the protest redecoration of some rooms was started but it all ended up with one or two rooms painted and partial renovation of showers. Their impression is that they are deceived in this way and cheated as to break the protest. Number of prisoners in C Pavilion is now higher than before the protest was started up.

*** Interviewed employees say that disabled prisoners are accommodated in: Long Term Care, which is on the floor, in the other Pavilion- so-called clinical department, in B and C pavilion where there is an improvised ramp or in the third pavilion, which is a semi-open type. Prisoners who cannot take care of their hygiene are assisted by other prisoners, by their own will. Food is being brought to hardly mobile patients who are accommodated in the Long Term Care.

Employees are not able, due to the large volume of work and lack of specific qualifications to work with disabled persons, to offer them additional and necessary assistance. Perhaps the only exception is the Health service whose engagement is reflected in more frequent visits to disabled prisoners accommodated in Long Term Care.

(Small religious communities)

* Interviewees from the main group in the majority believe that the prison nutrition is not satisfactory, neither by its quality nor by quantity. Generally there are salads and vegetables, while dairy products are in very small quantity and generally of poor quality. There are seasonal menus and they include among other things a slightly better quality food including cakes. They consider that dietary requirements related to religious reasons are respected, but one of the interviewees said that these limitations are consistently carried out only for Muslims.

All respondents in this group know of the right to receive parcels. One said that there is no one to send a package to him.

** In the opinion of interviewees from the control group, the food in Penitentiary is of a medium quality with a visible lack of milk and dairy products. There are special Christmas menus.

*** Interviewed employees say that the quality of everyday food is not bad, regarding the content of daily meals. There are salads and vegetables and dairy products - according to regulations. There are seasonal menus, which are slightly richer than ordinary, with a cake in addition. Requirements associated with requirements for religious reasons are respected. Conditions for receiving parcels are regulated.

(Albanians)

* According to the interviewed Albanian prisoners food in Penitentiary Nis is generally of middle or poor quality. A number of prisoners in this group believe that quantity of meals is insufficient, as well. Limitations in diet for religious reasons are consistently respected. The biggest problem is the ban on delivery of cooked food from home, which practically prevents the possibility of additional high-quality supplement food provided by law.

** Interviewees from the control groups say that food is either of middle or poor quality and that is monotonous. The food is insufficient for prisoners' nutrition, and most of them complements the food with the parcels they receive from home. The time between meals is appropriate. Restriction in diet related to religious reasons is always respected. Families of prisoners regularly send parcels and they can only send industrial pre-packaged food. Food in prison is not tasty, while there is almost no dairy products, salads and vegetables. There are Holiday menus and they are usually heavier and of better quality.

*** Interviewed employees said that food for the prisoners is balanced and that meals are well-distributed (timely). The requirements in nutrition related to religious customs holidays are respected. For prisoners who perform hard physical work (for example loading 5 tons of flour) are provided additional food, enhanced meal. The parcels they receive must not contain home-made food. When visiting, a family is allowed to bring food to a prisoner but only that which is allowed.

It is important to mention that when employees work on Saturdays, Sundays and holidays, in the shift after 17h, during their shift, which lasts 12 hours remain without any food. Common nutrition does not work and bringing food from the outside is strictly prohibited.

Material aid and hygiene parcels

(Roma)

* One third of all interviewed Roma is of poor financial status and their families receive family benefit. Two patients have no family. Given that they are poor they do not receive parcels regularly.

A hygiene parcel that should be provided by institutions on request was requested by one of interviewees and he did not get it. Another respondent thinks that if he gets parcels from home, he cannot get additional one from institution and he needs it. This group of respondents stated that there are other prisoners who do not receive parcels from home, they are in poor financial situation and do not receive hygiene parcels from institution.

The general opinion of respondents from the target and control groups is that the food in the Nis prison generally meets the quantity but not quality. They believe that there is prevailing lack of milk, dairy products, salads and fruit.

Specific requirements in the diet for religious reasons are respected in full.

Prisoners with disabilities, regardless of the type and degree of disability they have, (except for a prisoner without one leg, still staying in the Admission department) are accommodated in rooms on different floors of buildings.

To two blind prisoners the meals are delivered in the room by one prisoner while the other one feeds them. Interviewed with physical disabilities, mobility difficulties, in order to consume a meal have to go to the dining room for breakfast, lunch and dinner.

*Blind move only with the help of other prisoners.
Blind bathe, shower and shave with the help of other prisoners
Both blind prisoners use makeshifts voluntarily discharged by other prisoners.
All of these prisoners are bedded in an easily accessible first bed.*

*Interviewed employees consider that food for prisoners is of good quality and contains meat, salads, milk and dairy products in quantities prescribed by law.
They state that when employees work on Saturdays, Sundays and holidays in the shift after 17 hours, they stay without any food because kitchen does not work then, and bringing food from outside is forbidden.*

II / Identification of procedural lacks which can result in discrimination of prisoners, members of minority groups

- (*) Answers given by interviewed prisoners members of minority groups
- (**) Answers from the control group
- (***) Answers given by staff

a) Disciplinary procedures against the convicted person and legal assistance

(Bosniaks)

* In terms of disciplinary procedures against the prisoners, interviewed prisoners against whom such procedure was conducted, believe that their rights are generally respected in the procedure but with significant exceptions. In this sense, the biggest observed drawback is that these persons are not left enough time to prepare their defense, nor they were informed of their right to free legal aid by a lawyer from Penitentiary.

The impression of the team members who interviewed Bosniak prisoners is that they, to the great extent, understand their rights and responsibilities during disciplinary procedure. One of the interviewees was not sure that he knew what the second instance decision meant.

** Most of the interviewed prisoners from the control group are introduced with rights that they have during the disciplinary procedure. They believe that their rights are generally respected, while some interviewees did not know they have the right to free aid from Penitentiary. A smaller number of prisoners said that they received summons only at the start of disciplinary procedure but they did not receive request for starting it up, which prevents prisoners to get familiar with the act he was charged with and to appropriately prepare the defense.

Most prisoners in this group do not use their right to appeal and as a reason they claim that they have no confidence in the bodies which conduct disciplinary proceedings because those are either persons who are employed by the Department or persons who submitted request for initiation of disciplinary procedure. The impression of the team members who interviewed this group is that prisoners have a good understanding of rights and disciplinary procedure.

In this part of the research we tried to check whether through the process of disciplinary procedure it comes to discrimination against Bosniak prisoners as representatives of a minority group that has its own characteristics and cultural requirements.

The impression is that the obstacles and problems that prisoners face in accomplishment of their rights during the disciplinary procedures against the prisoners and accomplishment of right to legal aid are generally generic for all the prisoners.

We assume that elements of potential discrimination could lie in more frequent use of another script i.e. insufficient good governance with Cyrillic script (one of interviewed Bosniaks was not sure whether he belonged to “B” or “V” category - he belongs to V category), which certainly is not without any influence to final outcome of individual disciplinary procedure.

We do not have enough information based on which we could claim with certainty whether there are or there are not unequal criteria during when conducting disciplinary procedures against members of the Bosniak nationality compared to other prison population. The same applies to the imposition of disciplinary measures.

One of interviewed prisoners said that most disciplinary measures that are imposed during disciplinary procedures are probation or reprimand. This is because in the Department under special surveillance there is more space for application or isolation measure and the same applies to all prisoners.

(Roma)

* Interviewed Roma prisoners against whom disciplinary procedure was taken in Penitentiary claim that they did not have enough time to prepare their defense and that they were not informed about the right to free legal aid by a lawyer from the Penitentiary. Disciplinary procedures are conducted in Serbian language, but no one asked if they spoke that language well enough so that the procedure could be conducted without an interpreter.

** Prisoners from the control group, members of the majority, said that they were handed a request for initiation of disciplinary procedure and that they were informed about the rights they have as the defendants in such procedures. They also specified that no one informed them of the right to free legal aid from Penitentiary. No one of them explained the contents of the request at initiation of a procedure. Their opinion is that the rights that they currently have in the process are only formal, because their version of event that was cause for disciplinary procedure is never accepted, so they do not use those rights.

Among interviewed Bosniaks, disciplinary procedures are initiated against two. Opinions of Bosniak prisoners mainly coincide with the opinion of the majority, with the difference that they are introduced with the right to free legal aid from Penitentiary.

(Disabled persons)

* Disciplinary procedure was initiated only against one of all the interviewees. Due to the impossibility of communicating with him, regardless of another prisoner's help, we did not learn details of disciplinary procedure against him as well as information that is related to how and in what way he accomplished his right to defense. We were unable to find out whether, and how, he was informed of the charges against him, if he was, in any way, provided any legal assistance and whether his hearing was conducted in the presence of a certified court interpreter for deaf-mute persons.

** Prisoners from the control group were mostly familiar with basic rights they have in the disciplinary procedure. Most of them are not familiar with their right to free legal aid. One of interviewees who knows about this right does not use it because he has no confidence in lawyers from Nis Penitentiary and considers them a part of the system against the prisoners.

** Interviewed employees believe that all prisoners are introduced with their rights in disciplinary proceedings and that they are also familiar with the right to free legal aid by lawyers of Nis Penitentiary.

(Small religious communities)

* There were no disciplinary procedures led against interviewed prisoners from the basic group. They also did not submit appeals and complaints to the work of officers in Penitentiary.

** Interviewed prisoners from the control group have direct experience regarding disciplinary procedures. Everyone was duly delivered a request for initiation of disciplinary procedures. Prisoners who are illiterate say that the contents of the requirement were read and explained at disciplinary rapport. Answers were divided on whether they had enough time to prepare their defense and whether they received instructions about their rights in the proceedings. In terms of the right to free legal aid from Penitentiary lawyers they say that they were not informed about it. One of them says that, even if he had received that instruction he would have not used this right because of general climate and lack of trust that exists between employees and prisoners.

*** Interviewed employees say that all the prisoners were introduced with their rights in disciplinary proceedings, and that procedures and time limits related to initiation and course of disciplinary proceedings are respected in Penitentiary. Illiterate prisoners were verbally notified about the given rights, and it is mainly the obligations of treatment officers. All the prisoners were informed about possibility to get free legal aid by lawyers in Penitentiary.

(Albanians)

* Interviewed Albanian prisoners who have experience with the conduction of disciplinary procedures against them, state that their request for initiation of disciplinary procedure was delivered on time but they were not left enough time to prepare a defence except in one case. Disciplinary procedure in all cases was conducted in the Serbian language which a number of convicted persons did not understand sufficiently and they were even worse in speaking. All were informed of their right to free legal assistance from the Penitentiary legal service; however, only one of them used that right. The impression of interviewers is that a prisoner who used free legal assistance is not satisfied with the quality of aid.

In none of the cases during disciplinary procedure a prisoner was offered possibility to have an interpreter for the Albanian language.

** Interviewees from the control group answered that they were delivered a request at initiation of disciplinary procedure given. A request was read to all the interviewees and they were asked whether they understood it. Everyone from this group said that they had enough time to prepare a defence. They were taught about the rights in the procedures, while all but one said that they were not introduced with the right to free legal assistance. The procedure in all cases is conducted in the Serbian language. One of the interviewees (Roma ethnicity who grew up in Germany) said that he understood the Serbian language poorly and that he was illiterate. Interviewees were informed about their right to appeal but did not use that right because they felt that there was no reason for lodging it because the decision in any case would be negative for the prisoner.

*** Interviewed employees consider that all the prisoners are introduced with the reasons and way of initiation and conduction of disciplinary procedure. They also know that there is free legal aid in the prison. Employees believe that all prisoners understand and speak Serbian while some prisoners have difficulties in understanding. There is no official interpreter in Penitentiary.

The opinion of those interviewed prisoners from the target group of the project against whom disciplinary procedure was conducted is that their rights in the procedure generally and, at least formally, were respected. In some cases there were exceptions and that is primarily related to insufficient time to prepare a defense, the conduction of procedures in the Serbian language, which a number of these Roma and Albanians prisoners less understand, and even less speak, as well as a complete unknown facts regarding the way in which procedure against deaf-mute prisoner is led who is, besides that illiterate and does not use sign/ gesture language.

None of Roma and Albanian prisoners is explicitly asked if he understood the Serbian language enough, so that it could be the language of the procedure, nor was offered the opportunity to use the services of court interpreter for their native language.

The statements regarding the disciplinary proceedings that are not directly related to specificity prisoners with disabilities refer to interviewees from the control group in which in the various visits were included Roma, Albanians and Bosnians as a minority people.

Interviewed prisoners believe that rights of all prisoners are respected in the disciplinary proceedings, that all prisoners know that there is a right to free legal aid, that all the prisoners speak and understand the Serbian language, that all the procedures are consistently respected, etc ...

b) Procedures based on complaints of a prisoner

(Bosniaks)

* A number of prisoners with whom members of our team spoke are familiar with their right to lodge complaints against representatives of different services. A part of the prisoners who is familiar with the right to lodge complaints and the basic elements of the procedure, learned about it from other prisoners indirectly or upon their own request. What is missing a systematically developed process aimed at the timely information of prisoners.

Some of interviewees submitted complaints regarding actions of Penitentiary staff to the Warden and Directorate for Execution of Prison Sanctions. They say that even after a long period of time they have not received any feedback regarding the outcome of the complaint. This causes them to doubt in possibility of obtaining high-quality and above all impartial legal assistance by lawyers from Penitentiary and simultaneously discourages them to submit objections and complaints in cases of violation of their rights in the future.

** The first part of the control group of prisoners (members of national majority) were not informed upon arrival to Penitentiary about the right to submit complaints to the work of the Penitentiary organs and right to free legal aid. One of them, who had a need to lodge a complaint, learned on his own about the procedure and way of lodging it. He was enabled to accomplish his right, he complained to the Warden, Directorate for Execution of Prison Sanctions and to the Ministry of Justice and mostly received answers. Other prisoners from this part of control group had no need to use this right, or believed that there was no purpose to submit complaints.

The other part of the control group (Albanians) said that they were not introduced with this right at the admission and that they got the information later from treatment officers and supervisors. These interviewees have not had need to use the right to complain so far. One interviewee used the right to free legal aid.

(Roma)

* None of Roma interviewees used the right to lodge complaints to the treatment of authorized persons. Asked whether they would be willing to lodge this complaint if they had basis for that, most of them implicitly reply that they do not see the purpose of lodging complaints because there is no use of that. The impression of interviewees is that this attitude that no one reads these complaints is based on opinion that they are never decided in favor of a prisoner and that they can only cause revengeful response by the officers.

** Interviewees from the control group, members of the majority, stated that they were familiar with possibility to lodge complaints to the work of Penitentiary staff. One of the prisoners was very familiar with these procedures as well as organs to which he can send a complaint. Responding to the complaint is, in the opinion of interviewees, too long, and very rarely positive. One prisoner said that one complaint was successful and it dealt with the member of Security Service who behaved very roughly when searching the rooms.

Respondents from the control group of Bosniaks are familiar with the possibility to lodge complaints. They believe that it is not in the interests of prisoners to complain too much and that their complaints are not efficiently reacted to nor they are solved in their favor. Only one of the prisoners said that he would be willing to use that right.

(Disabled persons)

* Interviewed disabled prisoners have not submitted a complaint to the work of officers in Nis Penitentiary so far.

** Only one from all interviewees from the control group, has used some form of the right to complain, by handing a written complaint to his treatment officer. He did not receive a feedback on whether anyone else besides his treatment officer was introduced with the complaint, and whether anyone acts upon that complaint.

*** Interviewed staff believe that prisoners are familiar with all their rights, including the right of lodging complaints, both within Nis Penitentiary, and to other organs outside the institution. Asked how the prisoners with disabilities - deaf, blind, deaf-mute, are introduced with the manner and right to submit complaints, we got an answer that although without an official interpreter or assistant, they were informed for sure.

(Small religious communities)

* Interviewed prisoners from the main group have not submitted complaints to the work of officers from Nis Penitentiary and they have no knowledge about the way of lodging complaints and further procedures.

** Interviewed prisoners from the control group have not submitted complaints against the officers. They point out that at the admission to Institution they were not informed about their rights during the stay in Nis Penitentiary and they are usually informed of their right to lodge complaints by other prisoners.

*** Interviewed employees believe that all the prisoners are informed of their rights during the stay in Penitentiary and therefore about the procedures for the protection of their rights which includes knowledge of the way of lodging complaints.

(Albanians)

* Only a small number of interviewed Albanian prisoners submitted a complaint against prison officials. Among them, one submitted several complaints but there were no positive results. The main objection of this prisoner is related to the response to his complaint that he received from the Management of Penitentiary which is precarious and obviously written without getting into the essence of things. As evidence he showed the interviewer a decision from Penitentiary Warden written on 3 typewritten pages, where the backgrounds for the decision consist of three sentences in one paragraph. It should be stated here that the relevant decision is in fact a response to two complaints mentioned by name in the imposing of the decision, so that such backgrounds are more general it appears at first, since it is unclear how one and the same backgrounds can be used for two completely different things. In addition, the prisoner has a written declaration from the treatment officer in which he informs him that the Warden ceased any further Application rapport and that he gave over the authority to decide on complaints to Heads of services which was in power during the interview with the prisoner.

** Interviewees from the control group said they were not informed of their rights during sentence serving by prison employees, but that among other things, they found out about the right to complain from other prisoners. One interviewee requested an Application rapport at the Warden, which has not been realized by the day of the visit. As well, one interviewee addressed to one of the heads with a complaint, however, he has not received a response yet.

All procedures for complaints are conducted only in Serbian. One of the interviewees who is illiterate and has poor knowledge of Serbian language had to turn to other prisoners from the room to write a complaint on behalf of him.

Interviewees did not know that in the procedure of lodging complaints they were entitled to free legal aid from Penitentiary lawyers. As well, they did not know they had the right to lodge complaints directly to Directorate for Execution of Prison Sanctions.

*** Interviewed prisoners consider that all the prisoners are familiar with the procedures of lodging complaints and that the procedures based on the complaints are always conducted in accordance with the law. If prisoners have additional questions, they can always get answers from their treatment officers. It is quite common that prisoners inform each other about all procedural matters.

A number of prisoners is familiar with the right to lodge complaints and basic elements of the procedure. Some of the respondents submitted complaints on the work of prison officers to the Warden and Director of Directorate for Execution of Prison Sanctions and are not satisfied with the time of getting answers, nor with the result (no case is resolved in favor of the applicant).

Answers of interviewees from the control group are generally in line with the answers of interviewees from the target group of the project, in addition that one prisoner from the control group knew of the case when a complaint to the work of Penitentiary officer was positively resolved.

Interviewed employees believe that all prisoners are informed of their rights during their stay in Penitentiary and therefore of the procedures for the protection of their rights including knowledge of how to lodge complaints.

c) Advancement through categories

(Bosniaks)

* A greater number of interviewees in this group say that at the admission to Penitentiary they were not informed about conditions and criteria for advancement through categories, but that they gathered information from other persons during sentence serving. Everyone knows in which category he is, what category would be next if they make advancement and the benefits of these categories compared to the previous. They believe that the conditions to be met for the advancement to next category are not sufficiently clear and equally available to all and that they are often faced with a situation in which some other prisoners far more quickly and without basis (in the opinion of interviewed), advance through categories.

** A number of prisoners from the control group said that they were introduced with the rules regarding advancement through categories, at the admission to Penitentiary or later, by a treatment officer. In general they know about categories and criteria to be met in order to advance to the next, higher category. They doubt in the objectivity of the application of the criteria for the advancement in case of some prisoners. They are also familiar with the reasons which can prevent advancement. Availability and reasonability is identical to answers given by a target group of Bosniaks.

(Roma)

* Almost all Roma interviewees know to which category they currently belong and to which category they can advance. As a condition for advancement majority of respondents name good behavior and no disciplinary procedures led against them. At the same time, a smaller number, as an important condition for advancement through the categories listed obligation of being "betrayed". Most of interviewed Roma prisoners have been in current category for more than a year and one of them more than two years. These interviewees stated that they were not familiar with the reasons why they had made no advancement through categories in this period.

** Only one of interviewees from the control group, members of majority, was well acquainted with the conditions and criteria for the advancement through the categories. Other prisoners were very poorly informed about it and answered that the condition for advancement to next category is clear file. They knew well what categories existed, in which category they are currently, which is the next better category and that the benefits that they will obtain in the case of advancement to next category. They believe that a good knowledge of the conditions and criteria for the advancement is unnecessary, because it depends on free estimation by treatment officers and others who decide upon that. Therefore they have no hope that they will advance to a better category and do not see a reason why to behave in a manner that would ensure advancement.

Interviewees from the control group of Bosniaks are introduced with the conditions and criteria for advancement through categories by treatment officers- Everyone knows in which category he is and what is the following category, as well as what benefits they would obtain if they make advancement. One respondent said that he has been in the same category for the past thirteen months but that he has not accomplished right to make advancement yet.

(Disabled)

* Five of the interviewed prisoners know in which category are now while three of them do not know.

A number of them do not say whether they know which category is the next one, to which category they can advance, but they are familiar with the benefits that next category brings. Others know. They do not know what requirements must be met in order to advance to a better category or they say that they know but that they do not know how to specify exactly what that means. They point out that, except for one prisoner, they have been in the current category for the long period of time, which ranges from 3 to 10 years.

Interviewed prisoners do not know the reasons why they have not made any advancement through the categories for the long period of time. The prisoner who advanced during the past year, in sub-category, is an exception.

** All interviewed prisoners in the control group are well introduced with the system of advancement through categories. They know in which category, what are the criteria for the advancement to next category, as well as the benefits that next category brings.

*** Interviewed employees believe that prisoners are properly informed and introduced with possibilities of advancement through categories and with the benefits that next category brings. They can always address their treatment officer for any additional questions.

On the set of same questions related to the manner in which disabled persons, blind, deaf, deaf-mute, are informed about possibilities of advancement through categories and the benefits that next category brings, we received answers that there are no system solutions in terms of official interpreters, but that they somehow manage to inform them. Usually it goes over a prisoner who voluntarily took over obligation to assist the prisoners with one of the above disabilities that hinder or entirely prevent the verbal communication.

(Small religious communities)

* All interviewed prisoners from the main group are well acquainted with the conditions and criteria for advancement through categories. They know well in which category they are now, to which following they can advance and what are the advantages of the next category compared to the present one. Two of these prisoners, no matter they know well the system of advancement through categories, point out that they did not obtain knowledge about that from Penitentiary officers but from other prisoners. One of interviewed prisoners says that he does not know why he does not advance to next category.

** Prisoners from the control group mostly know the system for advancement through categories. Everyone knows in which category he is and what the next category to which he can advance is. One of them is not familiar with the advantages of the following category and he was not informed about that by officers at the admission. All of them have been in current category for more than 6 months and one for more than two years. Only one of them was familiar with the reasons for not advancing.

*** Interviewed employees say that all prisoners were informed by officers (treatment officers supervisors, commanders) about the conditions and criteria for the advancement through categories. They are also introduced with what rights and obligations arise from classification in each category, as well as the reasons for non advancement to next category

(Albanians)

* All interviewed Albanian prisoners know in which category they are at the moment, to which next they can advance but they give different answers regarding the conditions for the

advancement. As a requirement for the advancement they point out behaviour but one of them said that the requirement for advance is "to give money to the treatment officer".

All Albanian prisoners from the list received from the Penitentiary Management before the visit (a total of 30 prisoners), except for one, are in the two lowest categories (V1 and V2). They have been in the lowest category for more than a year without any explanation why they do not advance through the categories when they meet all the requirements.

** Interviewees from the control group are in most cases explained the conditions and criteria for the advancement through categories by their treatment officers. They know what categories exist and in which category they belong. Some of them believe that the way to advance through categories ``is to betray others and bribery``, while others say ``clean record, or lack of punishment for disciplinary offenses``. They believe that not enough treatment officers work with them, that there are too many prisoners per one treatment officer and that they often change. This brings to wrong assessment of the advancement of prisoners in re-socialization.

*** Interviewed employees say that all the prisoners are introduced with necessary conditions to be fulfilled, i.e. criteria to advance to the next category. One employee considers that the work engagement, quality of work and efforts of prisoners engaged in work are not sufficiently taken into account as an important factor for the advancement through the categories.

All interviewees from the target groups of the project know in which category they are currently and to which category they can advance. In terms of advancement there is a difference in the fact that the majority of respondents in addition to legal requirements, which is less familiar to them, as a condition for advancement through the categories list cooperation with officers in various ways. Those who have not advanced through categories for few years have never received an explanation for it.

There is an expressed situation where the Roma and, in particular, the Albanians have been for a very long time without explanation in the two lowest categories, although this fact can hardly be explained by the number of disciplinary procedures against the prisoners from these two groups.

Respondents from the control group give similar answers to those given by respondents from the target groups of the project.

Interviewed employees say that all the prisoners were informed by the officers (treatment officers, supervisors, commanders) about the conditions and criteria for the advancement through categories. They are also familiar with the rights and obligations arising from classification in each category, as well as the reasons for non advancement to the next category.

III / The impact of human factors: Identification of prejudices and how they can be manifested (between prisoners belonging to minority groups in the wider sense and other prisoners and between prisoners from the project target groups and employees)

The results derived from replies of interviewees to structured sets of questions:

The human factor / Prisoners - prisoners

Interviewees were asked several groups of questions. The questions were aimed to produce answers that would provide an image of the subjective feeling of prisoners from the target group (to the extent in which they are able to recognize it and taking into account the relevant factors which determine the type and quality of relations with other prisoners) of:

- Their position in relation to other prisoners,
- Status in relation to other prisoners,
- The quality and type of relationship with other prisoners.

(Bosniaks / Muslims)

Subjective feeling of prisoners (Bosniak minority groups) about the relationship with other prisoners is conditioned by factors that are partly subjective interpretation of objective circumstances, and in the other part the real existing factors. Inferior position compared to other prisoners is on the subjective level. The quality of relationships with other prisoners is characterized by the sense of avoidance and vulnerability, which is the cause of their national and religious affiliation. Reinforcement of such an opinion by Bosniak prisoners is the presence of prejudices among a number of prisoners, which is manifested through verbal aggression which contains have negative attitudes towards members of any religion different from the majority and Muslim religion. Consequently Bosnian prisoners are secure only within the group they belong to.

(Roma)

Subjective feeling of prisoners on their position in relation to other prisoners is characterized by feeling of inferiority, and danger from the specific prisoners that are financially strong and at the same time considered privileged. The main factor that determines the attitude of other prisoners to them, and which is interpreted as dominant, is mentioned high material status. Taking into account the fact that the Roma prisoners are in very poor financial situation, their experience of their own status and position in relation to the other prisoners, have elements of objectivity. By comparing the answers of the control group (where Roma prisoners never appear as privileged or threatening) it can be implicitly assumed that Roma, because of poverty took submissive position, i.e. they try not to expose themselves and not to draw attention to themselves.

(Convicts with disabilities)

Objective conditions of stay in prison for disabled prisoners determine their subjective sense of status, position and relations with other prisoners. Physical separation from other prisoners because of the accommodation and the separation of communication, due to various forms of disability, cause specificity and point of view and way of life in prison in the sense dissociation. From this point of view the disabled experience as problematic only the violation of their rights related to the specificity of their special needs, and is related to medical care. Relationship with other prisoners is reasonably amortized by prisoners who help them in all aspects of daily functioning, while the feeling of vulnerability actually occurs in the domain that those "assistants" are not able to meet.

(Small religious community)

Subjective experience of inferior position in relation to other prisoners is not conditioned by belonging to a minority group of prisoners and is mainly based on objective factors. Subjective experience of avoidance by other prisoners is conditioned by their religious and national affiliation. They feel security because of that within the group they belong to. The importance of diversity in terms of religious and ethnic affiliation in their subjective experience is enhanced by the opinion that their rights are violated just because of mentioned diversity - religious and national.

(Albanians)

The position of Albanian prisoners in relation to other prisoners, according to their subjective feeling, is determined by ethnicity. Avoidance by other prisoners and the dominant feeling of vulnerability, especially physical, is conditioned by their diversity in terms of religion and nationality. It is indicative that the Albanian prisoners point out the existence of stereotyped thinking that Albanians and Serbs should not socialize and this stereotype should not be resisted to. Consequently they feel secure only within the group where they belong, and in that way additional dissociation is created.

Conclusion: Diversity on any grounds develops sensibility in this respect because interviewees experience that diversity as a weakness and as the cause of their, based on subjective experience, inferior position. It is manifested as a feeling that privileged prisoners are those from whom they are different themselves. Subjective sense coincides with the real situation in some cases.

Human factor / Prisoners - employees

The questions had an aim that CHRNis finds out from the replies what was the subjective feeling of prisoners from the target groups about the possible conditionality of employees' relationship to them by their belonging to a certain minority group and whether it could be support by the examples.

(Bosniak / Muslim)

Bosniak prisoners neither have the subjective sense that their rights are violated by the employees, nor could we identify negative attitudes of employees to the Bosniaks.

(Roma)

Roma prisoners do not feel threatened in respect of employees. However, by comparative analysis (answers given by Roma prisoners and by prisoners from the control group) it can be concluded that Roma do not recognize more subtle forms of negative attitudes expressed (through verbal aggression) as aggression, or it could be that a fear of consequences cause resistance to talk about it. A negative attitude towards the Roma prisoners was not noticed among employees.

(Disabled prisoners)

The only kind of threat by the employees, disabled prisoners experience in respect of not meeting enhanced, special needs caused by various forms of disability, (relating to special medical care) and when, at the same time, they do not believe that this was caused by their belonging to a minority group. Objective situation in prison - this subjective sense is set in the level of the objective.

When speaking about employees there were no negative attitudes observed in relations towards disabled persons, but at the same time employees do not recognize disabled prisoners as prisoners who are in more difficult position than others, which speaks of their indifference and negative attitudes indirectly.

(Small religious community)

Prisoners, members of small religious communities, do not have the subjective feeling of deprivation or threat to them personally and their rights in general as members of minority groups of prisoners.

When speaking about employees the existence of negative attitudes towards the prisoners belonging to small religious communities was not observed.

(Albanians)

From the point of view i.e. subjective experience of Albanian prisoners, the attitude of employees to them is defined by their national affiliation. Indicators of negative attitudes of employees in relation to the Albanian prisoners were listed and they are manifested in behavior and they refer to ignoring the request and delaying assistance. It is also dominant opinion of Albanian prisoners that their rights as members of minority groups of prisoners are violated and whose direct cause they see in characteristic of their minority group or national ethnicity.

When speaking about employees no prejudices were observed in relation to the Albanian prisoners.

Conclusion:

In the great majority of employees the existence of negative attitudes and prejudices to the prisoners belonging to minorities was not observed. There is evident difference between given positive orientation of staff and prisoners' feelings about the relationship between prisoners and staff and which speaks about the existence of negative attitudes of employees that are manifested in different ways and at different levels, i.e. verbal and behavioral.

IV/ Identified system and procedural lacks

1) Prisoners Bosniaks

As a system lack during disciplinary procedure, we can identify lack of possibilities to conduct a procedure using the Latin alphabet, which is much more understandable by prisoners of Bosniak minority.

(If a prisoner requires getting documentation in Latin alphabet and it is approved, how does this affect the total time available to him?)

Almost without exception or with small exceptions prisoners in Penitentiary are not thoroughly informed about their rights and obligations during sentence serving. During the stay prisoners are not always able to be introduced with House rules and rules of behavior, followed by a detailed check whether they understood it or not.

System lack of minimum material conditions for religious rites is observed.

Separation of categories of prisoners: Potentially, problems can arise from separation of different categories of prisoners (for security reasons, ethnic intolerance or other reasons), since it is not regulated by regulations, but is based on an assessment of Penitentiary management.

2) Roma prisoners

The observed lack in disciplinary procedure is that it is nowhere determined whether Roma prisoners know the Serbian language generally or well enough to be able to equally participate in the procedure. This fact is necessary to be determined prior to procedure.

At the admission there is no establishment of social and economic status of prisoners, based on which, provision of hygienic parcels or other appropriate assistance during sentence serving, without submitting a request, would be planned and realized.

There are also no systematically planned and implemented measures of positive discrimination in the provision of jobs to the poor, for which they are qualified.

3) Disabled prisoners

The lack of procedures for the engagement of an interpreter for sign/ gesture language in the process that prisoner goes through during admission.

Lack of procedures which implement engagement of an interpreter, prescribed by law, at any stage of sentence serving, when necessary.

Lack of engagement of personal assistants for disabled persons who need it.

Lack of conditions for adequate daily stay of disabled persons in Nis Penitentiary and it is reflected in: (1) the existence of architectural barriers at the access to, at least, the following facilities: health care unit, hospital, dining room, library, (2) the lack of sound signals and belt for movement of the blind, (3) the lack of practice of engaging an interpreter for sign/ gesture language, (4) lack of personal assistants.

Insufficient sensibility and appropriate professional skills of prison staff working with persons with disabilities.

4) Prisoners, members of small religion communities

Lack of recording religion at the admission of prisoners.

Lack of making differences in recording between religion and nation (refers to Muslim - Bosniak).

5) Prisoners Albanians

Lack of recording the material status of prisoners at the admission to the institution.

Lack of mandatory existence of translated texts in the Albanian language (and languages of other ethnic minorities) of the Law on Execution of Prison Sanctions and by-laws issued in relation to the execution, and particularly regulations on House rules during their stay in the Admission department.

Lack of mandatory checks and determination of the level of knowledge of the Serbian language that would result in the engagement of an interpreter for a person who does not speak the language well enough, in all circumstances that the law anticipates, even if is not required by a prisoner him self.

Lack of extraordinary solutions at the state level that would enable the realization of the right to family visits to prisoners from territories with special status (at the moment Kosovo).

V/ Analyses, comments.....

Along with the increase in number of prisoners the pressure on representatives of Security services is growing as well, which can lead to excessive use of means of restraint and to torture, due to insufficient security (real or based on subjective experience) of guards. Members of security services are delegated full responsibility for the work with a far bigger number of prisoners than it should be based on their numerical representation in the service and they bear full personal responsibility in such (potential) cases of exceeding powers. At the same time, the system in terms of the State, which puts them in this situation without their personal and professional approval, does not take over any responsibility.

We should remind that in previous period Treatment service, due to the enormous number of prisoners per treatment officer, was not able to realize even basic communication with the prisoners with whom they were supposed to work.

Respect of religious right (of religious ritual) Muslim religion believers (in Nis Penitentiary or in any other institution) does not make any sense if it does not imply the existence of adequate physical and material conditions (adequate space) to perform the rituals.

Experience of CHRNis monitoring team is that Roma prisoners from Serbia speak and understand the Serbian language well. Of the two who lived in Germany, one speaks Serbian, the other one hardly.

We want to draw attention to the Roma who spent great number of years in Western Europe and would continue to arrive to Serbia on the basis of readmission agreements. Some of them will probably be prisoners. They usually do not speak Serbian, but only the language of the country from which they will arrive and Roma. Now is the right time to design and prepare in which way they will be provided equality and respect of law.

We did not manage to get more detailed picture from received answers (a picture from which is possible to prove and propose appropriate measures) how and whether illiterate are ensured equality in the process of lodging complaints, and whether, and to what extent, they accomplish their rights during disciplinary proceedings.

Illiteracy causes other obstacles to understanding, for whose definition a detailed research is especially necessary

Possible problems of disciplinary procedure are phases of procedures in which written form prevails, especially when at the delivery of requirement for initiation of disciplinary procedure and delivery of a decision for disciplinary punishment. The problem is whether illiterate prisoners are able to introduce themselves with the content and meaning of these written documents and how is that guaranteed.

With some Roma prisoners there is a problem of realization of family visits, because their wives do not have identity cards or any other identification document. In order to register a wife in the list of persons whose visits are approved, based on the request of sentenced person, it is necessary to specify the number of identity card so that that person could be identified for the visit.)

The term "disabled persons" means persons with congenital or acquired physical, sensory, intellectual or emotional disability, that due to social or other barriers do not have the ability or have limited abilities to engage themselves in the activities of the society at the same level as

others, regardless of whether they can perform the above mentioned activities with the use of technical aids or support services. (Source: The Law on Prevention of Discrimination of Persons with Disabilities of the Republic of Serbia)

Types of disability:

1. Physical (person users of wheelchairs, people with difficulties in moving)
2. Sensor (hearing impaired, visually impaired)
3. With learning difficulties (people mentally disabled, people with autism).

It should not be necessary that there is an official document on official declaration of disability of a person if the person has been moving with difficulties for years, for example, so that that person could be accommodated in a room in the basement.

Violation of the provisions of the Law on execution of prison sanctions and Regulations about disciplinary offenses occurs if the disciplinary procedure against deaf-mute prisoner is conducted without the presence of a certified court interpreter in sign/ gesture language.

For proper enforcement of law regulating stay, rights and obligations of prisoners during serving their sentence, besides appropriate sensibility, it is necessary to provide additional education of employees in institutions about the so far achieved standards in Serbia, as well as about internationally accepted standards from this area. This knowledge includes a qualitatively different and new contents compared to the knowledge acquired at the time when the employees were educated and graduated and nowadays represent general education and information. For example: anti-discrimination laws, rights of minorities in the wider sense, gender equality, poverty reduction measures, etc...

The right to free expression of religion is guaranteed by the Constitution; it is not suspended during sentence serving and is included in the valid Law on execution of Prison Sanctions (Article 113)

One of the issues that citizens were asked in census of general population is the question about religion. Within this right to free expression of religion there is also a right not to answer to that question as well as to be atheist.

The way in which evidence of persons who serve sentence is kept and which does not contain the religion to which they belong, as compulsory data, leads to factual decreasing of possibilities to accomplish the right to religion and not to prevention of discrimination against members of some other confessions.

Replies given by two prisoners to two different questions related to employment and act for which they are in prison: I worked in a news-stand and I robbed news stands (in Serbian very similar: "Radio sam u trafici", "Radio sam trafike".)

On the basis of personal inspection of examiners in more decision based on the complaint it can be concluded that these solutions continue to be written as a pattern, generally without getting into the essence of the problem and without exception, to the detriment of the applicant - the convicted person. It also does not comply with the procedural rules of administrative procedure that from two separate and different legal bases is decided with a same decision, with common, very short and insufficient justification, which happened in at least one case in which Center ha insight.

If there is a rule as a statement of one interviewed employees that injuries of officers inflicted by a prisoner is not treated as an injury at work and does not provide a right to compensation based on labor rights, we believe that such a practice is not in compliance with

applicable laws relating to this area and represents discrimination of officers in sense of denying rights from Law on labour. This is primarily because injuries of an officer caused by a prisoner can be compared to those committed to a member of Ministry of internal affairs (policeman) where it is treated as an injury at work, with automatic submission of criminal charges against a person responsible for attacking an officer on duty.

All the prisoners, regardless of origin, residence and citizenship, according to the Law on Execution of Prison Sanctions have equal rights including the right to exercise contact with their families, which includes the right to visits. It is observed, however, that persons, whose relatives serve their sentences in Niš Prison and possess documents issued by UNMIK, are not allowed to cross the administrative border towards Kosovo and Metohia, move or stay in Serbia, and therefore there is no possibility of visits to prisoners who serve sentences in Nis Penitentiary. This is even more incomprehensible because jurisdiction of the UNMIK administration is based on resolution 1244, which the Republic of Serbia fully accepted. Therefore it is necessary to, at the level above the level of Directorate for Execution of Prison Sanctions, find acceptable solutions that will prevent further discrimination on this basis.

Check-up of knowledge of the Serbian language and alphabet, to the extent sufficient for everyday communication and recording those abilities in each individual file of prisoners belonging to a minority groups is necessary. It is required in order to avoid possible misunderstandings between an officer and a prisoner, which the weaker knowledge of the Serbian language may cause. One of the Albanian prisoners- described the situation to the team in which because of the injury he could not fulfill the order from the officer and because of linguistic mistakes the officer understood that he refused the order, which resulted in the separation of a prisoner and sending him to the Department under Special Surveillance (another pavilion).

Knowledge of language and alphabet is of great importance in the course of disciplinary proceedings against the prisoner because just sufficient knowledge of the language guarantees that the person against whom the procedure is conducted is properly warned and informed of his rights in the procedure.

Prisoners more often than before, recently use hunger strike as a means of nonviolent achievement of rights that belongs to them according to law and which otherwise can not be achieved. This, above all, points to certain belief of prisoners in non stringency and inefficacy of mechanism for the protection of their rights by lodging complaints, both within Penitentiary and to Directorate for execution of Prison Sanctions.

2. Comments to statistical data about project target groups.

Statistical data, themselves, are not a part of this publication but they are contained in detailed reports produced after each visit.

We believe that some of this information can contribute to better understanding of general position of some categories of prisoners.

According to official data, the maximum capacity of the Nis Penitentiary regarding the number of prisoners is 1200. Regarding the application of the European Prison Rules (EPR), Nis Penitentiary occupancy that can be regarded as optimal is 850 prisoners. During the project the number of prisoners serving sentences in prison in Nis is on the constant level over 1300. As this number does not decline even after the adoption of the new Law on Execution of Prison Sanctions, which predicted that the Department for Execution of Prison Sanctions asks for consultation from the Court about the capacity of Penitentiary before sending a prisoner in each

individual case to sentence serving, it is clear that there is no channel of communication by which the law is applied in practice.

According to the national structure of sentenced persons, minorities in the wider sense constitute about 20% of the total prison population in Penitentiary Nis.

From the official data obtained during the project it can be seen that the minority members in percentage of over 90% are set in the lowest two categories (V2 and V1), although from the records of disciplinary proceedings a conclusion could not be drawn that the prisoners - members of minority groups are less disciplined than members of majority. Following categorization, members of minorities are, with negligible number of exceptions, are set in the pavilion C, i.e. in the pavilion where the physical conditions of stay are extremely poor.

VI/ Recommendations and adopted recommendations:

(Visit 1/ Bosniaks)

To reduce the number of prisoners accommodated in Niš Penitentiary as soon as possible.

Provide information about rights and obligations both at the admission and during sentence serving in written form in Cyrillic and in Latin script.

The premises of the former solitary confinement immediately and without delay bring in an acceptable condition for residence worthy of the people, especially in terms of accommodation of a considerably larger number of prisoners than the capacity of the institution.

(Visit 2/ Roma)

During the first hearing of a prisoner from minority group in disciplinary procedure initiated against him, be sure to determine and conclude in the record, whether prisoner speaks and understands the Serbian language sufficiently enough to be able to present the defence without the presence of an interpreter.

To provide better information about possibilities and way of obtaining hygiene parcel by Penitentiary.

To simplify the procedure for accomplish the right to receive hygiene parcels by Penitentiary.

To provide adequate, modern video surveillance.

(Visit 3/ persons with disability)

Provide literacy and education in sign/ gesture language for deaf-mute prisoners.

Provide accommodation on the ground floor for prisoners who have problems with mobility.

In the framework of existing rules and procedures to ensure adequate awards for prisoners who voluntarily assist people with disabilities, during the stay in Prison.

Particularly evaluate, in terms of additional reasons for advancement through categories, assistance to disabled prisoners, for the following prisoners: Petar Kitic (or Ilic), Goran Dimić, Dobrivoje Muratovic, Robert Benić and prisoner who assists Rufat Ismailov, whose name we do not have.

Provide assistance of a court interpreter to assist deaf-mute prisoners at all stages of disciplinary procedure, in the process of providing legal aid in general as well as in complaints procedure within Penitentiary and bodies outside.

To ensure active application of the law on prevention of discrimination of disabled persons as well as of national strategies that are, directly or indirectly, deal with people with disabilities.

For more information visit: <http://www.prsp.gov.rs>

To educate Penitentiary staff in the direction of understanding that the disease can cause disability and that disability itself is not a disease.

Existing video surveillance in Nis Prison is more than 20 years old. Besides being outdated shortages are unreliability in work (the `` image `` freezes and it cannot be predicted when it will happen and how long it will last), and insufficient `` coverage`` of all important points from the aspect of security, in prison circle.

In conditions of huge number of accommodated prisoners which exceeds the maximum prison capacity, it is necessary to replace video surveillance as soon as possible with new and adequate one. Installation of corresponding video surveillance would:

- (a) Facilitate the work of security services;
- (b) Increase the safety of prisoners;
- (c) Facilitate proving in disciplinary proceedings.

(Visit 4/ small religious communities)

Organize production of fruits and vegetables.

(Visit 5/ Albanians)

Provide a number of copies of the Law on Execution of Prison Sanctions, the House rules and by-laws, important for stay and life of prisoners in Latin and to make them available to the prisoners in the library.

Provide copies of the Law on Execution of Prison Sanctions, the House rules and by-laws, translated into the languages of national minorities (Albanian, Hungarian, Romanian, Slovak) important for stay and life of prisoners and make them available to the prisoners in the library.

Provide a meal /sandwich for employees working during weekends, holidays and after 17h and who cannot bring food from home. Kitchen can prepare the sandwiches in advance.

Conclude agreements on additional insurance coverage of employees from injury at work (for employees who are in direct contact with prisoners and for which there is a greater risk of injury).

Check in each case the fulfilment of legal requirements for advancement through categories of Albanian prisoners being in the same category for a longer period of time than anticipated by law.

The recommendations we can consider as adopted:

(Visit 1)

Adaptation of a number of rooms intended for disciplinary measure of solitary confinement is in the final stage and in shortest period of time it is expected to make it operative. Adaptation of the remaining number of solitary confinement rooms is planned- they are also out of order until adaptation.

(Visit 2)

Installation of contemporary video surveillance in Penitentiary is planned.

(Visit 3)

As possibility of work on education of prisoners (making deaf-mute prisoners literate) it is planned to train the staff from the Treatment Service, which would, in cooperation with adequate educational organization, go through the appropriate training.

Convicted persons, who can not function individually due to special needs, are appointed a prisoner - the assistant, based on voluntary basis and for that he receives a monthly fee. This type of engagement of an assistant to a prisoner is valorized in the assessment of the realization of treatment program.

Conclusion

1. Pre-assumed areas of prison aspects in which discrimination may occur proved to be the correct choice. There is a possibility that we did not cover all such areas. If the existing Law on Execution of Prison Sanctions was consistently applied, the situation would be much clearer. It would be much easier to determine what the system and procedural lacks are, and what shortcomings and obstacles in the system of execution of criminal sanctions in a country in transition are.
2. Respect of law can not be subjected to the interpretation of those who are obliged to enforce laws, but only to the active work on the application of law.
3. Similarities in responses by representatives of the target and control group speak about disrespect of the Law on Execution of Prison Sanctions in certain segments.
4. We need to draw attention to humane dramatic situation of prisoners with disabilities, which should not be conditioned by the financial situation of the Penitentiary, the Administration and the State.
5. In conditions of over-crowdedness of Penitentiary it is not possible to implement parts of the reform objectives relating to achieving compliance with European standards in the area of imprisonment. Amnesty should be considered as a possible measure that instantly gives results.
6. Organization of services (generally horizontally and vertically) must be reconciled with the condition of respect of human rights of prisoners and can not be just taken over from the previous system, which was not based on respect of human rights. (Outdated installations - a new device).
7. While working on detecting potential discrimination against prisoners and the ways in which any of the guaranteed rights are denied, we discovered a series of demands and challenges to which prison system should have a ready answer, and which derive from the period of transition in which Serbia is. (Examples: families of prisoners with documents issued by UNMIK administration; wives of Roma prisoners lacking personal identification documents; additional requirements to provide for potential prisoners who came from the process of readmission; the newly adopted laws, qualitatively different from the current about which employees should have the instructions to apply to prisoners, etc ...)
8. By a membership in the Council of Europe Serbia took over the obligation to respect the European Prison Rules (EPR), which are the European standard in this field. The system of execution of prison sanctions is not different from other state institutions, but it only underwent both changes and harmonization with European standards, which other state institutions would go through in some future period. Friendly objections that we have presented are similar to obstacles that other state institutions, according to area of operation, will have to solve in the process of reaching European standards.

VII/ Annexes

A) Selection of articles from EPR

* *European Prison Rules*

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

Introduction (Recommendation of the Committee of Ministers)

Prison standards reflect the commitment to treat prisoners justly and fairly. They need to be spelt out clearly, for the reality is that public pressure may easily lead to the violation of the fundamental human rights of this vulnerable group.

The first attempt to set such standards in Europe was made in 1973 with the introduction of the European Standard Minimum Rules for the Treatment of Prisoners by Resolution (73) 5 of the Council of Europe. They sought to adapt to European conditions the United Nations Standard Minimum Rules for the Treatment of Prisoners, which were initially formulated as far back as 1955.

In 1987 the European Prison Rules were thoroughly revised to allow them, in the words of the Explanatory Memorandum “to embrace the needs and aspirations of prison administrations, prisoners and prison personnel in a coherent approach to management and treatment that is positive, realistic and contemporary“.

The current revision has the same overall objective. Like its predecessors, it is informed both by earlier prison standards and by the values of the European Convention on Human Rights. Since 1987, however, there have been many developments in prison law and practice in Europe. Evolutionary changes in society, crime policy, sentencing practice and research, together with the accession of new member states to the Council of Europe, have significantly altered the context for prison management and the treatment of prisoners.

Key factors in this evolution have been the ever growing body of decisions of the European Court of Human Rights (ECtHR) that have applied the European Convention for the Protection of Human Rights and Fundamental Freedoms to the protection of fundamental rights of prisoners as well as the standards for the treatment of prisoners that are being set by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). These developments led the European Committee on Crime Problems (CDPC) to entrust the Council for Penological Co-operation (PC-CP) with the task of bringing the Rules into line with best current practice.

The Recommendation that contains the new version of the European Prison Rules similarly recognises the contribution of the ECtHR and the CPT. In addition, the Recommendation emphasises that sight must never be lost of the principle that imprisonment should only be used as a last resort, the so-called *ultima ratio* principle. It seeks to reduce the prison population to the lowest possible level. The desirability of doing this is recognised in Recommendation R (99) 22 Concerning Prison Overcrowding and Prison Population Inflation. This recommendation stresses the importance of using deprivation of liberty only for the most serious offences. The *ultima ratio* principle should be applied to restrict the detention of both untried and sentenced prisoners. In the case of convicted prisoners serious consideration should be given to alternative sentences that do not entail imprisonment. States should also consider the possibility of decriminalising certain

offences or classifying them so that they do not carry penalties of imprisonment.

Since 1987 the European Prison Rules have grown in status. They are now regularly referred to by the ECtHR and the CPT. The new version of the Rules should be of even more assistance to these bodies as they reflect the latest development in best prison practice. National courts and inspecting bodies are encouraged to do the same, not least because the growing transfer of prisoners amongst member states requires that transferring states must have confidence that prisoners will be well treated in the countries to which they are sent.

The present Rules address questions the Rules of 1987 did not consider. They seek to be comprehensive without burdening member-states with unrealistic demands. It is recognised that the implementation of these Rules will require considerable efforts by some Council of Europe member States. The Rules offer guidance to member states that are modernising their prison law and will assist prison administrations in deciding how to exercise their authority even where the Rules have not yet been fully implemented in national law. The Rules refer to measures that should be implemented in —national law“ rather than to —national legislation“, as they recognise that law making may take different forms in the member States of the Council of Europe. The term —national law“ is designed to include not only primary legislation passed by a national parliament but also other binding regulations and orders, as well as the law that is made by courts and tribunals in as far as these forms of creating law are recognised by national legal systems.

Basic principles

2.* Persons deprived of their liberty retain all rights that are not lawfully taken away by the decision sentencing them or remanding them in custody.

****Rule 2**

This Rule complements Rule 1 by emphasising that the undoubted loss of the right to liberty that prisoners suffer should not lead to the assumption that prisoners automatically lose their political, civil, social, economic and cultural rights as well. Inevitably rights of prisoners are restricted by their loss of liberty but such further restrictions should be as few as possible. These Rules as a whole spell out some steps that can be taken to reduce the negative consequences of loss of liberty. Any further restrictions should be specified in law and should be instituted only when they are essential for the good order, safety and security in prison. Restrictions of their rights that may be imposed should not derogate from the Rules

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

****Rule 4**

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

5.*Life in prison shall approximate as closely as possible the positive aspects of life in the community.

****Rule 5**

Rule 5 emphasises the positive aspects of normalization. Life in prison can, of course, never be the same as life in a free society. However, active steps should be taken to make conditions in prison as close to normal life as possible and to ensure that this normalisation does not lead to inhumane prison conditions.

13.* These rules shall be applied impartially, without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

****Rule 13**

Rule 13 outlaws discrimination on unjustified grounds. In this respect it follows closely the wording of the 12 Protocol to the European Convention on Human Rights and Fundamental Freedoms, However, it does not mean that formal equality should triumph where the result would be substantive inequality. Protection for vulnerable groups is not discrimination, nor is treatment that is tailored to the special needs of individual prisoners unacceptable

Conditions of imprisonment

Admission

15.1* At admission the following details shall be recorded immediately concerning each prisoner:

- a. information concerning the identity of the prisoner;
- b. the reasons for commitment and the authority for it;
- c. the day and hour of admission;
- d. an inventory of the personal property of the prisoner that is to be held in safekeeping in accordance with Rule 31;
- e. any visible injuries and complaints about prior ill-treatment; and
- f. subject to the requirements of medical confidentiality, any information about the prisoner's health that is relevant to the physical and mental well-being of the prisoner or others.

15.2* At admission all prisoners shall be given information in accordance with Rule 30.

15.3* Immediately after admission notification of the detention of the prisoner shall be given in accordance with Rule 24.9.

****Rule 15**

The emphasis on record keeping in this Rule bears the same reason as in Rule 14. Meticulous record keeping for each prisoner should continue throughout the time that the prisoner is kept in prison. Access to such records should be regulated by national law to ensure that privacy of prisoners is respected, while balancing that against legitimate state interests. Good records of the prisoner's state of health on admission are also a vital protective measure. Such records should ideally be made following a medical examination, but prison officials generally should be encouraged immediately to record anything that shows ill health, including injuries that could disappear by the time the medical practitioner examines the prisoner

16.* As soon as possible after admission:

- a. information about the health of the prisoner on admission shall be supplemented by a medical examination in accordance with Rule 42;
- b. the appropriate level of security for the prisoner shall be determined in accordance with Rule 51;
- c. the threat to safety that the prisoner poses shall be determined in accordance with Rule 52;
- d. any available information about the social situation of the prisoner shall be evaluated in order to deal with the immediate personal and welfare needs of the prisoner; and
- e. in the case of sentenced prisoners the necessary steps shall be taken to implement programmes in accordance with Part VIII of these rules.

****Rule 16**

Rule 16 lists a number of steps that have to be taken as soon as possible after admission. While not everything can be done at the same time as admission, issues that have to be dealt with as soon as possible are flagged here, so that prison officials at the admission stage are referred to more substantive provisions. Medical examinations in particular should be done promptly, ideally on the same day and always within 24 hours after admission. Such examinations should be conducted routinely also when a prisoner is readmitted to prison. Risk and security classification also cannot be postponed. Attention also needs to be paid at an early stage to the personal and welfare needs of prisoners. This may require making contact promptly with social welfare services outside prison too. Similarly, a prompt start must be made with treatment and training programmes for sentenced prisoners.

Allocation and accommodation

17.1* Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation.

17.2* Allocation shall also take into account the requirements of continuing criminal investigations, safety and security and the need to provide appropriate regimes for all prisoners.

17.3*As far as possible, prisoners shall be consulted about their initial allocation and any subsequent transfer from one prison to another.

****Rule 17**

Rule 17 stresses the importance of allocating prisoners appropriately. Allocation decisions should generally be taken in a way that does not create unnecessary hardship for prisoners or their families, including the children of prisoners, who need access to them. It is particularly important that where security categories are used to allocate prisoners, the least restrictive categories should be used, as high security imprisonment often brings with it, in practice, additional hardships for prisoners. Similarly, all prisoners should be held as near to their homes as possible or the place where they would best be reintegrated into society, in order to facilitate communication with the outside world as required by Rule 24. It is also important to consider only relevant categories when making allocation decisions. Thus, for example, the fact that someone is serving life sentence does not necessarily mean they should be placed in a particular prison or under a particularly restrictive regime (Cf. Rule 7 of Recommendation (2003)23 on the management of life-sentenced and other long-term prisoners. See also: CPT's visit to Ukraine in September 2000 [CPT/Inf (2002)23]).

It should be recognised that prisoners have a direct interest in decisions about their allocation. They should therefore be consulted as far as possible and reasonable requests acceded to, although the final decision is necessarily that of the authorities. Such consultation should take place before they are allocated or transferred, although this may not always be possible with initial allocations that are routinely to the local prison or are made to meet the needs of continuing criminal investigations. If, in exceptional cases, requirements of safety and security make it necessary for prisoners to be allocated or transferred before they can be consulted, the consultation should take place subsequently. In such cases there must be a real possibility of reversing the decision if the prisoners had good reason for being allocated to a different prison. In accordance with Rule 70 prisoners may request the proper authorities to allocate or transfer them to a certain prison. They may also use the same procedures to seek to have a decision relating to allocation or transfer reversed.

The treatment of prisoners may be severely disrupted by transferring them. While it is recognised

that transfers may be unavoidable, and may in some instances be in the best interests of a prisoner, unnecessary successive transfers should be avoided. The advantages and disadvantages of a transfer should be weighed carefully before it is undertaken.

18.1* The accommodation provided for prisoners, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation.

18.2* In all buildings where prisoners are required to live, work or congregate:

- a. the windows shall be large enough to enable the prisoners to read or work by natural light in normal conditions and shall allow the entrance of fresh air except where there is an adequate air conditioning system;
- b. artificial light shall satisfy recognised technical standards; and
- c. there shall be an alarm system that enables prisoners to contact the staff without delay.

18.3* Specific minimum requirements in respect of the matters referred to in paragraphs 1 and 2 shall be set in national law.

18.4* National law shall provide mechanisms for ensuring that these minimum requirements are not breached by the overcrowding of prisons.

18.5* Prisoners shall normally be accommodated during the night in individual cells except where it is preferable for them to share sleeping accommodation.

18.6* Accommodation shall only be shared if it is suitable for this purpose and shall be occupied by prisoners suitable to associate with each other.

18.7* As far as possible, prisoners shall be given a choice before being required to share sleeping accommodation.

18.8* In deciding to accommodate prisoners in particular prisons or in particular sections of a prison due account shall be taken of the need to detain:

- a. untried prisoners separately from sentenced prisoners;
- b. male prisoners separately from females; and
- c. young adult prisoners separately from older prisoners.

18.9* Exceptions can be made to the requirements for separate detention in terms of paragraph 8 in order to allow prisoners to participate jointly in organised activities, but these groups shall always be separated at night unless they consent to be detained together and the prison authorities judge that it would be in the best interest of all the prisoners concerned.

18.10* Accommodation of all prisoners shall be in conditions with the least restrictive security arrangements compatible with the risk of their escaping or harming themselves or others.

**Rule 18

This Rule concerns accommodation. Developments in European human rights law have meant that rules about accommodation have to be strengthened. Conditions of accommodation collectively, and overcrowding in particular, can constitute inhuman or degrading treatment or punishment and thus contravene Article 3 of the ECHR. This has now been fully recognised by

the European Court of Human Rights in a number of decisions (See, for example, *Kalashnikov v Russia* (appl. nr. 47095/99 æ 15/072002)). Moreover, the authorities have to consider the special needs of prisoners: to accommodate a severely disabled person in prison without providing additional facilities may amount to inhuman or degrading treatment (*Price v United Kingdom* - appl. nr. 33394/96 æ 10/07/2001).

Physical accommodation includes both space in cells and issues such as access to light and air. The importance of access to natural light and fresh air is reflected in the separate Rule 18.2 and underlined by the CPT in its 11th General Report [CPT/Inf (2001)16] at para. 30. Windows should not be covered or have opaque glass. It is recognized that in Northern Europe it may not always be possible to read or work by natural light in winter.

Rule 18 includes some new elements. The first, in Rule 18.3, is intended to compel governments to declare by way of national law specific standards, which can be enforced. Such standards would have to meet wider considerations of human dignity as well as practical ones of health and hygiene. The CPT, by commenting on conditions and space available in prisons in various countries has begun to indicate some minimum standards. These are considered to be 4m² for prisoners in shared accommodation and 6m² for a prison cell. These minima are, related however, to wider analyses of specific prison systems, including studies of how much time prisoners actually spend in their cells. These minima should not be regarded as the norm. Although the CPT has never laid down such a norm directly, indications are that it would consider 9 to 10m² as a desirable size for a cell for one prisoner. This is an area in which the CPT could make an ongoing contribution that would build on what has already been laid down in this regard. What is required is a detailed examination of what size of cell is acceptable for the accommodation of various numbers of persons. Attention needs to be paid to the number of hours that prisoners spend locked in the cells, when determining appropriate sizes. Even for prisoners who spend a large amount of time out of their cells, there must be a clear minimum space, which meets standards of human dignity.

Another important innovation is Rule 18.4, which provides for national strategies enshrined in law to deal with overcrowding. Prison populations are as much a product of the operation of criminal justice systems as they are of crime rates. This needs to be recognised both in general criminal justice strategies and in specific rules relating to what happens when prisons are threatened with a level of overcrowding that would result in a failure to meet the minimum norms that governments are required to set by Rule 18.3. Rule 18.4 does not stipulate how overcrowding should be reduced. In some countries for instance new admissions are restricted or even stopped when maximum capacity has been reached. Prisoners whose continued liberty does not constitute a serious danger to the public are put on a waiting list. A strategy to deal with overcrowding requires at least the establishment of clear maximum capacity levels for all prisons. Recommendation (99)22 of the Committee of Ministers on Prison Overcrowding and Prison Population Inflation should be considered both when overall strategies and when specific national rules to prevent overcrowding are developed.

Rule 18.5 retains the principle of single cells, which, especially for long term and life prisoners, constitute their homes, although it is not always followed. (Rule 96 emphasizes that the principle applies in a similar way to untried prisoners.) Some departures from this principle are merely ways of dealing with overcrowding and are unacceptable as long-term solutions. Existing prison architecture along with other factors may also make it difficult to accommodate prisoners in single cells. However, when new prisons are built the requirement of accommodation in single cells should be taken into account.

The Rule recognises that the interests of prisoners may require an exception to the principle of housing them in single cells. It is important to note that this exception is limited to instances where prisoners would benefit positively from joint accommodation. This requirement is underlined by Rule 18.6, which stipulates that only prisoners who are suitable to associate shall be accommodated together. Non-smokers should not be compelled to share accommodation with

smokers, for example. Where accommodation is shared, the occurrence of any form of bullying, threat or violence between prisoners should be avoided by ensuring adequate staff supervision. The CPT has pointed out (11th General Report [CPT/Inf (2001)16] at para. 29) that large-capacity dormitories are inherently undesirable. They hold no benefits for prisoners that are not outweighed by single cells for sleeping purposes. Single cells at night do not imply a limit on association during the day. The benefit of privacy during sleeping hours needs to be balanced with the benefit of human contact at other times (see Rule 50.1).

The importance of ensuring appropriate accommodation is further strengthened in the new version of Rules by treating it in combination with issues of allocation. The allocation rules have been reinforced by stating clearly and simply the various categories of prisoners that must be separated from each other. The requirement in Rule

18.8.c for separating older prisoners from younger prisoners should be read in combination with the Rule 11, which requires that persons under the age of 18 years should be kept out of adult prisons entirely. The separation of young prisoners from adults includes the peremptory international requirement, set by Article 37.3(c) of the United Nations Convention on the Rights of the Child, for the separation of children and adults: children in that context are defined as any person under the age of 18 years. Rule 18.8.c is intended also to provide for the additional separation of younger prisoners, sometimes referred to as young adults, who may be older than 18 years of age, but who are not yet ready to be integrated with other adult prisoners: this is in line with the more flexible definition of a juvenile in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

It is now recognised that the separation between various categories of prisoners referred to in Rule 18.8 needs not always be rigid. However, these forms of separation were introduced to protect potentially weaker prisoners, whose vulnerability to abuse has not ceased. Rule 18.9 provides for relaxation of the strict separation requirements but limits it to cases where prisoners consent to it. In addition such relaxation must form part of a deliberate policy on the part of the authorities that is designed to benefit prisoners. It should not merely be a solution to practical problems, such as overcrowding.

Rule 18.10, which requires that the least restrictive security arrangements compatible with the risk of prisoners escaping or harming themselves or others should be used, also allows for the protection of society to be taken into consideration when deciding on appropriate accommodation.

Nutrition

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

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

22.3* Food shall be prepared and served hygienically.

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

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

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

**Rule 22

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

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

Education

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

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

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

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

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

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

28.7* As far as practicable, the education of prisoners shall:

- a. be integrated with the educational and vocational training system of the country so that after their release they may continue their education and vocational training without difficulty; and
- b. take place under the auspices of external educational institutions.

****Rule 28**

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

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

Freedom of thought, conscience and religion

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

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

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

****Rule 29**

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

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

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

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

Information

30.1* At admission, and as often as necessary afterwards all prisoners shall be informed in writing and orally in a language they understand of the regulations governing prison discipline and of their rights and duties in prison.

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

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

****Rule 30**

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

Release of prisoners

33.1* All prisoners shall be released without delay when their commitment orders expire, or when a court or other authority orders their release.

33.2* The date and time of the release shall be recorded.

33.3* All prisoners shall have the benefit of arrangements designed to assist them in returning to free society after release.

33.4* On the release of a prisoner all articles and money belonging to the prisoner that were taken into safe custody shall be returned except in so far as there have been authorised withdrawals of money or the authorised sending of any such property out of the institution, or it has been found necessary to destroy any article on hygienic grounds.

33.5* The prisoner shall sign a receipt for the property returned.

33.6* When release is pre-arranged, the prisoner shall be offered a medical examination in accordance with Rule 42 as close as possible to the time of release.

33.7* Steps must be taken to ensure that on release prisoners are provided, as necessary, with appropriate documents and identification papers, and assisted in finding suitable accommodation and work.

33.8* Released prisoners shall also be provided with immediate means of subsistence, be suitably and adequately clothed with regard to the climate and season, and have sufficient means to reach their destination.

****Rule 33**

This Rule recognises that the question of release of prisoners does not concern only sentenced prisoners. It is important that prisoners who may not be legally detained further are released without delay: *Quinn v France* (appl. nr. 18580/91 α 22/03/1995). The various steps that have to be taken in terms of Rule 33 are designed to ensure that all prisoners, including those who are untried, are assisted in the transition from prison to life in the community.

Ethnic or linguistic minorities

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

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

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

****Rule 38**

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

Health care

39.* Prison authorities shall safeguard the health of all prisoners in their care.

****Rule 39**

This Rule is a new one and has its basis in Article 12 of the International Covenant on Economic, Social and Cultural Rights, which establishes —the right of everyone to the enjoyment of the highest attainable standard of physical and mental health“. Alongside this fundamental right, which applies to all persons, prisoners have additional safeguards as a result of their status. When a state deprives people of their liberty it takes on a responsibility to look after their health in terms both of the conditions under which it detains them and of the individual treatment that may be necessary. Prison administrations have a responsibility not simply to ensure effective access for prisoners to medical care but also to establish conditions that promote the well being of both prisoners and prison staff. Prisoners should not leave prison in a worse condition than when they entered. This applies to all aspects of prison life, but especially to healthcare.

This principle is reinforced by Recommendation No. R (98) 7 of the Committee of Ministers to member states concerning the ethical and organisational aspects of health care in prison and also by the CPT, particularly in its rd

3General Report (CPT/Inf (93) 12). There is also an increasing body of case law coming from the European Court of Human Rights, which confirms the obligation of states to safeguard the health of prisoners in their care

Organisation of prison health care

40.1* Medical services in prison shall be organised in close relation with the general health administration of the community or nation.

40.2* Health policy in prisons shall be integrated into, and compatible with, national health policy.

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

40.4* Medical services in prison shall seek to detect and treat physical or mental illnesses or defects from which prisoners may suffer.

40.5* All necessary medical, surgical and psychiatric services including those available in the community shall be provided to the prisoner for that purpose.

****Rule 40**

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

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

The right of prisoners to have full access to the health services available in the country at large is confirmed by

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Principle 9 of the UN Basic Principles for the Treatment of Prisoners. The CPT’s 3General Report also lays great emphasis on the right of prisoners to equivalence of health care. It is also an important principle that prisoners should have access to health care free of charge (Principle 24 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment). A number of countries experience great difficulty in providing healthcare of a high standard to the population at large. Even in these circumstances prisoners are entitled to the best possible healthcare arrangements and without charge. The CPT has stated that even in times of grave economic difficulty nothing can relieve the State of its responsibility to provide the necessities of life to those whom it has deprived of liberty. It has made clear that the necessities of life include sufficient and appropriate medical supplies. (See for example, Report on Moldova [CPT/Inf (2002) 11]).

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

Duties of the medical practitioner

42.1* The medical practitioner or a qualified nurse reporting to such a medical practitioner shall see every prisoner as soon as possible after admission, and shall examine them unless this is obviously unnecessary.

42.2* The medical practitioner or a qualified nurse reporting to such a medical practitioner shall examine the prisoner if requested at release, and shall otherwise examine prisoners whenever necessary.

42.3* When examining a prisoner the medical practitioner or a qualified nurse reporting to such a medical practitioner shall pay particular attention to:

- a. observing the normal rules of medical confidentiality;
- b. diagnosing physical or mental illness and taking all measures necessary for its treatment and for the continuation of existing medical treatment;
- c. recording and reporting to the relevant authorities any sign or indication that prisoners may have been treated violently;
- d. dealing with withdrawal symptoms resulting from use of drugs, medication or alcohol;

- e.* identifying any psychological or other stress brought on by the fact of deprivation of liberty;
- f.* isolating prisoners suspected of infectious or contagious conditions for the period of infection and providing them with proper treatment;
- g.* ensuring that prisoners carrying the HIV virus are not isolated for that reason alone;
- h.* noting physical or mental defects that might impede resettlement after release;
- i.* determining the fitness of each prisoner to work and to exercise; and
- j.* making arrangements with community agencies for the continuation of any necessary medical and psychiatric treatment after release, if prisoners give their consent to such arrangements.

****Rule 42**

In line with Recommendation N° R (98) 7 on ethical and organisational aspects of health care in prison, the underlying idea to the duties of prison doctors is that they should give appropriate medical care and advice to all the prisoners for whom they are clinically responsible. In addition, their clinical assessments of the health of prisoners shall be governed solely by medical criteria. Rule 42 makes it clear that the task of the medical practitioner begins as soon as any person is admitted to a prison. There are several important reasons why prisoners should be medically examined when they first arrive in prison. Such an examination will:

- enable medical staff to identify any pre-existing medical conditions and ensure that appropriate treatment is provided;
- allow appropriate support to be provided to those who may be suffering the effects of the withdrawal of drugs;
- help to identify any traces of violence which may have been sustained before their admission to prison; and
- allow trained staff to assess the mental state of the prisoner and provide appropriate support to those who may be vulnerable to self-harm.

An examination will only be obviously unnecessary if it is required neither by the prisoner's state of health nor by public health needs. Details of any injuries noted should be forwarded to the relevant authorities.

Following on from this initial examination the medical practitioner should see all prisoners as often as their health requires it. This is particularly important in respect of prisoners who may be suffering from mental illness or are mentally disordered, who are experiencing drug or alcohol withdrawal symptoms or who are under particular stress because of the fact of their imprisonment. Recommendation N° R (98) 7 of the Committee of Ministers makes extensive reference to the care of prisoners with alcohol and drug related problems and draws attention to the recommendations of the Council of Europe Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (The Pompidou Group). In a judgment in April 2003 [McGlinchey a.o. vs. United Kingdom, appl. nr. 50390/99, 29/04/2003] the European Court of Human Rights found a violation of Article 3 of the ECHR in respect of the medical treatment of a heroine addict who died during detention.

In several European countries there is a real concern about the spread of infectious diseases, such as tuberculosis. This is a threat to the health of prisoners and of prison staff and also to the community at large. This fact has been recognised by the heads of government of the Baltic Sea States, who issued a joint statement in June 2002, noting that —Overcrowded prisons with infected inmates and with poor hygiene and sanitation are a dominant threat in the field of communicable diseases in the region.“ Medical practitioners working in prisons need to be particularly alert when examining persons who have been newly admitted to prison to identify any who have a communicable disease. When conditions are overcrowded or there is poor hygiene, there also needs to be a programme of regular screening. In such situations there should

be a programme for the treatment of prisoners suffering from such illnesses. In one of its country reports the CPT noted the inadequate supply of anti-TB drugs, important since a sporadic supply of these drugs can lead to the onset of multi-drug resistant TB, and invoked the principle that the prison authorities had a clear obligation to provide a consistent supply of drugs (Report to the Latvian Government CPT/Inf (2001) 27). Arrangements also need to be made when necessary for clinical reasons to isolate prisoners for their own benefit and the safety of other persons. Recommendation N° R (98) 7 of the Committee of Ministers proposes that vaccination against hepatitis B should be offered to prisoners and staff.

In recent years an increasing number of prisoners have been found to be carrying the HIV virus. In some countries the practice has been automatically to segregate such prisoners. There is no clinical justification for doing this and this practice should be discouraged. Reference is made to the norms contained in Recommendation N° R (93) 6 of the Committee of Ministers to member states on prison and criminological aspects of the control of transmissible diseases including Aids and related health problems in prison. Recommendation No. R (98) 7 of the Committee of Ministers reinforces this point and also stresses that an HIV test should be performed only with the consent of the prisoner concerned and on an anonymous basis.

World Health Organisation guidelines (WHO Guidelines on HIV infection and AIDS in prisons, Geneva, 1993) make it absolutely clear that testing for HIV should not be compulsory and HIV infected prisoners should not be segregated from others unless they are ill and need specialised medical care.

**Rule 42.2 provides that if a prisoner is released before the completion of his treatment, it is important that the medical practitioner establishes links with medical services in the community so as to enable the prisoner to continue his treatment following release. This is particularly important where the released prisoner suffers from an infectious disease such as tuberculosis, or where a mental or physical disease or defect might impede the prisoner's successful resettlement in the society.

43.1* The medical practitioner shall have the care of the physical and mental health of the prisoners and shall see, under the conditions and with a frequency consistent with health care standards in the community, all sick prisoners, all who report illness or injury and any prisoner to whom attention is specially directed.

Requests and complaints

****Rule 43**

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

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

The medical records of individual prisoners should remain under the control of the medical practitioner and should not be disclosed without the prior written authorisation of the prisoner. In some countries prison health care services come under the jurisdiction of civilian health care provision. In addition to the benefits discussed in "The right to healthcare" above such

arrangements also help to establish clearly that medical records are not part of general prison records.

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

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

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

Special considerations will apply to prisoners who become terminally ill and a decision may have to be made as to whether such prisoners should be released early from their sentences. Any diagnosis made or advice offered by prison medical staff should be based on professional judgment and in the best interests of the prisoner. Recommendation N° R (98) 7 of the Committee of Ministers indicates that the decision as to when such patients should be transferred to outside hospital units should be taken on medical grounds. In a judgment in November 2002 [Mouisel v. France (appl. nr. 67263/01 œ 14/11/2002)] the European Court of Human Rights found a violation of Article 3 of the ECHR in respect of the medical treatment of a terminally ill prisoner. It noted a positive obligation on the state to offer adequate medical treatment and criticised the fact that the prisoner had been handcuffed to a hospital bed. In another case in October 2003 [Hénaf v. France (55524/00)] the Court found a violation of Article 3 of the ECHR in the treatment of a sick prisoner who had been chained to a hospital bed.

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

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

as required by para. 66 of Recommendation N° R (98) 7 on ethical and organisational aspects of health care in prison.

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

70.2* If mediation seems appropriate this should be tried first.

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

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

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

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

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

**Rule 70

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

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

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

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

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

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

Rule 70.6. Complaints can lead to antagonistic attitudes of the parties involved, which can harm the relations between prisoners and staff. Therefore it seems sensible to try mediation first. This calls for a mediation mechanism to be inserted in the penitentiary legislation. This task could be entrusted for example to a member of a local supervisory committee or a judicial authority. If the conflict cannot be resolved by mediation, the prisoner must still have the right to lodge a formal complaint. National law can state that complaints about trivial matters can be declared inadmissible.

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

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

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

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

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

To ensure an effective exercise of the right to lodge complaints forms, stationery and, if necessary, stamps should be provided to prisoners. The complaint forms should be freely available to prisoners at some specified place (e.g. the library), thereby avoiding a prisoner having to ask for them specifically. A system of transmission should be devised that avoids prisoners having to hand the confidential access envelope to prison staff. (CPT/Inf (91) 15 œ visit to the United Kingdom: England/Wales 1990).

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

This can be an ombudsman or a judge (enforcement magistrate or executing or supervisory judge), supervising prosecutor, court, or a Public Defender (CPT/Inf (2002) 14 œ Visit to Georgia in 2001).

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

72.1* Prisons shall be managed within an ethical context which recognises the obligation to treat all prisoners with humanity and with respect for the inherent dignity of the human person.

72.2* Staff shall manifest a clear sense of purpose of the prison system. Management shall provide leadership on how the purpose shall best be achieved.

72.3* The duties of staff go beyond those required of mere guards and shall take account of the need to facilitate the reintegration of prisoners into society after their sentence has been completed through a programme of positive care and assistance.

72.4* Staff shall operate to high professional and personal standards.

****Rule 72**

This Rule underlines the ethical context of prison management. Without a strong ethical context the situation where one group of people is given considerable power over another can easily become an abuse of power. This ethical context is not just a matter of the behaviour of individual members of staff towards prisoners.

Those with responsibility for prisons and prison systems need to be persons who have a clear vision and a determination to maintain the highest standards in prison management.

Working in prison therefore requires a unique combination of personal qualities and technical skills. Prison staff need personal qualities which enable them to deal with all prisoners in an even-handed, humane and just manner

Objective of the regime for sentenced prisoners

102.1* In addition to the rules that apply to all prisoners, the regime for sentenced prisoners shall be designed to enable them to lead a responsible and crime-free life.

102.2* Imprisonment is by the deprivation of liberty a punishment in itself and therefore the regime for sentenced prisoners shall not aggravate the suffering inherent in imprisonment.

****Rule 102**

This Rule states the objectives of the regime for prisoners in simple, positive terms. The emphasis is on measures and programmes for sentenced prisoners that will encourage and develop individual responsibility rather than focussing narrowly on the prevention of recidivism.

The new Rule is in line with the requirements of key international instruments including Article 10(3) of the International Covenant on Civil and Political Rights, which specifies that: —The penitentiary system shall comprise treatment of prisoners, the essential aim of which shall be their reformation and social rehabilitation.“ However, unlike the ICCPR, the formulation here deliberately avoids the use of the term, —rehabilitation“, which carries with it the connotation of forced treatment. Instead, it highlights the importance of providing sentenced prisoners, who often come from socially deprived backgrounds, the opportunity to develop in a way that will enable them to choose to lead law-abiding lives.

In this regard Rule 102 follows the same approach as Rule 58 of the United Nations Standard Minimum Rules for the Treatment of Prisoners. It is an enabling provision for what follows. The new Rule replaces the current Rules 64 and 65, whose general principles applicable to all prisoners are included in Parts I and II of the new Rules.

Education of sentenced prisoners

106.1* A systematic programme of education, including skills training, with the objective of improving prisoners' overall level of education as well as their prospects of leading a responsible and crime-free life, shall be a key part of regimes for sentenced prisoners.

106.2* All sentenced prisoners shall be encouraged to take part in educational and training programmes.

106.3* Educational programmes for sentenced prisoners shall be tailored to the projected length of their stay in prison.

****Rule 106**

This Rule deals with the education of sentenced prisoners only and should be read in conjunction with Rule 26, which contains the general provisions about education of prisoners. Rule 106 emphasises the central role that education and skills training play in the regimes for sentenced prisoners and the duty of the authorities to encourage the educational endeavours of sentenced prisoners and to provide appropriate educational programmes for them.

B) Recommendation No. R(89)12 of the Committee of Ministers to member states on education in prison

(adopted by the Committee of Ministers on 13 October 1989 at the 429th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe -

Considering that the right to education is fundamental;

Considering the importance of education in the development of the individual and the community;

Realising in particular that a high proportion of prisoners have had very little successful educational experience, and therefore now have many educational needs;

Considering that education in prison helps to humanise prisons and to improve the conditions of detention;

Considering that education in prison is an important way of facilitating the return of the prisoner to the community;

Recognising that in the practical application of certain rights or measures, in accordance with the following recommendations, distinctions may be justified between convicted prisoners and prisoners remanded in custody;

Having regard to Recommendation No. R(87)3 on the European Prison Rules and Recommendation No. R(81)17 on Adult Education Policy,

- recommends the governments of member States to implement policies which recognise the following:

1. All prisoners shall have access to education, which is envisaged as consisting of classroom subjects, vocational education, creative and cultural activities, physical education and sports, social education and library facilities;
2. Education for prisoners should be like the education provided for similar age groups in the outside world, and the range of learning opportunities for prisoners should be as wide as possible;
3. Education in prison shall aim to develop the whole person bearing in mind his or her social, economic and cultural context;
4. All those involved in the administration of the prison system and the management of prisons should facilitate and support education as much as possible;
5. Education should have no less a status than work within the prison regime and prisoners should not lose out financially or otherwise by taking part in education;
6. Every effort should be made to encourage the prisoner to participate actively in all aspects of education;
7. Development programmes should be provided to ensure that prison educators adopt appropriate adult education methods;

8. Special attention should be given to those prisoners with particular difficulties and especially those with reading or writing problems;
9. Vocational education should aim at the wider development of the individual, as well as being sensitive to trends in the labour market;
10. Prisoners should have direct access to a well-stocked library at least once per week;
11. Physical education and sports for prisoners should be emphasised and encouraged;
12. Creative and cultural activities should be given a significant role because these activities have particular potential to enable prisoners to develop and express themselves;
13. Social education should include practical elements that enable the prisoner to manage daily life within the prison, with a view to facilitating the return to society;
14. Wherever possible, prisoners should be allowed to participate in education outside prison;
15. Where education has to take place within the prison, the outside community should be involved as fully as possible;
16. Measures should be taken to enable prisoners to continue their education after release;
17. The funds, equipment and teaching staff needed to enable prisoners to receive appropriate education should be made available.

C/ Recommendation No. R (98) 7 footnote 1 of the Committee of Ministers to member states concerning the ethical and organisational aspects of health care in prison

(Adopted by the Committee of Ministers on 8 April 1998, at the 627th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe, Considering that medical practice in the community and in the prison context should be guided by the same ethical principles;

Aware that the respect for the fundamental rights of prisoners entails the provision to prisoners of preventive treatment and health care equivalent to those provided to the community in general;

Recognising that the medical practitioner in prison often faces difficult problems which stem from conflicting expectations from the prison administration and prisoners, the consequences of which require that the practitioner should adhere to very strict ethical guidelines;

Considering that it is in the interests of the prison doctor, the other health care staff, the inmates and the prison administration to proceed on a clear vision of the right to health care in prison and the specific role of the prison doctor and the other health care staff;

Considering that specific problem situations in prisons such as overcrowding, infectious diseases, drug addiction, mental disturbance, violence, cellular confinement or body searches require sound ethical principles in the conduct of medical practice;

Bearing in mind the European Convention on Human Rights, the European Social Charter and the Convention on Human Rights and Biomedicine;

Bearing in mind the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the recommendations on health care service in prisons summarised in the 3rd general report on the activities of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

Referring to its Recommendation No. R (87) 3 on the European Prison Rules which help to guarantee minimum standards of humanity and dignity in prisons;

Recalling Recommendation No. R (90) 3 on medical research on human beings and Recommendation No. R (93) 6 concerning prison and criminological aspects of the control of transmissible diseases including Aids and related health problems in prison, as well as the 1993 WHO guidelines on HIV infection and Aids in prison;

Mindful of Recommendations 1235 (1994) on psychiatry and human rights and 1257 (1995) on the conditions of detention in Council of Europe member states, prepared by the Parliamentary Assembly of the Council of Europe;

Referring to the Principles of Medical Ethics for the Protection of Detained Persons and Prisoners against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by United Nations General Assembly in 1982;

Referring to the specific declarations of the World Medical Association (WMA) concerning medical ethics, in particular the Declaration of Tokyo (1975), the Declaration of Malta on hunger strikers (1991) and the Statement on body searches of prisoners (1993);

Taking note of recent reforms in structure, organisation and regulation of prison health care services in several member states, in particular in connection with reforms of their health care systems;

Taking into account the different administrative structures of member states which require the implementation of recommendations both at federal and state levels, Recommends that the governments of member states:

- take into account, when reviewing their legislation and in their practice in the area of health care provision in prison, the principles and recommendations set out in the appendix to this recommendation;

- ensure the widest possible dissemination of the recommendation and its explanatory memorandum, paying special attention to all individuals and bodies responsible for the organisation and provision of preventive treatment and health care in prison.

Appendix to Recommendation No. R (98) 7

I. Main characteristics of the right to health in prison

A. Access to a doctor

1. When entering prison and later on while in custody, prisoners should be able at any time to have access to a doctor or a fully qualified nurse, irrespective of their detention regime and without undue delay, if required by their state of health. All detainees should benefit from appropriate medical examinations on admission. Special emphasis should be put on the screening of mental disorders, of psychological adaptation to prison, of withdrawal symptoms resulting from use of drugs, medication or alcohol, and of contagious and chronic conditions.

2. In order to satisfy the health requirements of the inmates, doctors and qualified nurses should be available on a full-time basis in the large penal institutions, depending on the number and the turnover of inmates and their average state of health.

3. A prison's health care service should at least be able to provide out-patient consultations and emergency treatment. When the state of health of the inmates requires treatment which cannot be guaranteed in prison, everything possible should be done to ensure that treatment is given, in all security in health establishments outside the prison .

4. Prisoners should have access to a doctor, when necessary, at any time during the day and the night. Someone competent to provide first aid should always be present on the prison premises. In case of serious emergencies, the doctor, a member of the nursing staff and the prison management should be warned; active participation and commitment of the custodial staff is essential.

5. An access to psychiatric consultation and counselling should be secured. There should be a psychiatric team in larger penal institutions. If this is not available as in the smaller establishments, consultations should be assured by a psychiatrist, practising in hospital or in private.

6. The services of a qualified dental surgeon should be available to every prisoner.
7. The prison administration should make arrangements for ensuring contacts and co-operation with local public and private health institutions. Since it is not easy to provide appropriate treatment in prison for certain inmates addicted to drugs, alcohol or medication, external consultants belonging to the system providing - 88 - specialist assistance to addicts in the general community should be called on for counselling and even care purposes.
8. Where appropriate, specific services should be provided to female prisoners. Pregnant inmates should be medically monitored and should be able to deliver in an external hospital service most appropriate to their condition.
9. In being escorted to hospital the patient should be accompanied by medical or nursing staff, as required.

B. Equivalence of care

10. Health policy in custody should be integrated into, and compatible with, national health policy.

A prison health care service should be able to provide medical, psychiatric and dental treatment and to implement programmes of hygiene and preventive medicine in conditions comparable to those enjoyed by the general public. Prison doctors should be able to call upon specialists. If a second opinion is required, it is the duty of the service to arrange it.

11. The prison health care service should have a sufficient number of qualified medical, nursing and technical staff, as well as appropriate premises, installations and equipment of a quality comparable, if not identical, to those which exist in the outside environment.
12. The role of the ministry responsible for health should be strengthened in the domain of quality assessment of hygiene, health care and organisation of health services in custody, in accordance with national legislation. A clear division of responsibilities and authority should be established between the ministry responsible for health or other competent ministries, which should co-operate in implementing an integrated health policy in prison.

C. Patient's consent and confidentiality

13. Medical confidentiality should be guaranteed and respected with the same rigour as in the population as a whole.
14. Unless inmates suffer from any illness which renders them incapable of understanding the nature of their condition, they should always be entitled to give the doctor their informed consent before any physical examination of their person or their body products can be undertaken, except in cases provided for by law.
The reasons for each examination should be clearly explained to, and understood by, the inmates. The indication for any medication should be explained to the inmates, together with any possible side effects likely to be experienced by them.

15. Informed consent should be obtained in the case of mentally ill patients as well as in situations when medical duties and security requirements may not coincide, for example refusal of treatment or refusal of food.

16. Any derogation from the principle of freedom of consent should be based upon law and be guided by the same principles which are applicable to the population as a whole.

17. Remand prisoners should be entitled to ask for a consultation with their own doctor or another outside doctor at their own expense.

Sentenced prisoners may seek a second medical opinion and the prison doctor should give this proposition sympathetic consideration. However, any decision as to the merits of this request is ultimately his responsibility.

18. All transfers to other prisons should be accompanied by full medical records. The records should be transferred under conditions ensuring their confidentiality. Prisoners should be informed that their medical record will be transferred. They should be entitled to object to the transfer, in accordance with national legislation.

All released prisoners should be given relevant written information concerning their health for the benefit of their family doctor.

D. Professional independence

19. Doctors who work in prison should provide the individual inmate with the same standards of health care as are being delivered to patients in the community. The health needs of the inmate should always be the primary concern of the doctor.

20. Clinical decisions and any other assessments regarding the health of detained persons should be governed only by medical criteria. Health care personnel should operate with complete independence within the bounds of their qualifications and competence.

21. Nurses and other members of the health care staff should perform their tasks under the direct responsibility of the senior doctor, who should not delegate to paramedical personnel tasks other than those authorised by law and by deontological codes. The quality of the medical and nursing services should be assessed by a qualified health authority.

22. The remuneration of medical staff should not be lower than that which would be used in other sectors of public health.

II. The specific role of the prison doctor and other health care staff in the context of the prison environment

A. General requirements

23. The role of the prison doctor is firstly to give appropriate medical care and advice to all the prisoners for whom he or she is clinically responsible.

24. It should also imply advising the prison management on matters concerned with nutrition or the environment within which the prisoners are required to live, as well as in respect of hygiene and sanitation.

25. Health care staff should be able to provide health information to the prison management and custodial staff as well as appropriate health training, as necessary.

B. Information, prevention and education for health

26. On admission to prison, each person should receive information on rights and obligations, the internal regulations of the establishment as well as guidelines as to how and where to get help and advice. This information should be understood by each inmate. Special instruction should be given to the illiterate.

27. A health education programme should be developed in all prison establishments. Both inmates and prison administrators should receive a basic health promotion information package, targeted towards health care for persons in custody.

28. Emphasis should be put on explaining the advantages of voluntary and anonymous screening for transmissible diseases and the possible negative consequences of hepatitis, sexually transmitted diseases, tuberculosis or infection with HIV. Those who undergo a test must benefit from follow-up medical consultation.

29. The health education programme should aim at encouraging the development of healthy lifestyles and enabling inmates to make appropriate decisions in respect of their own health and that of their families, preserving and protecting individual integrity, diminishing risks of dependency and recidivism. This approach should motivate inmates to participate in health programmes in which they are taught in a coherent manner the behaviour and strategies for minimising risks to their health.

C. Particular forms of pathology and preventive health care in prison

30. Any signs of violence observed when prisoners are medically screened on their admission to a prison establishment should be fully recorded by the doctor, together with any relevant statements by the prisoner and the doctor's conclusions. This information should also be made available to the prison administration with the consent of the prisoner.

31. Any information on cases of violence against inmates, occasioned in the course of detention, should be forwarded to the relevant authorities. As a rule, such action should only be undertaken with the consent of the inmates concerned.

32. In certain exceptional cases, and in any event in strict compliance with the rules of professional ethics, the informed consent of the prisoner need not be regarded as essential, in particular, if the doctor considers that he or she has an overriding responsibility both to the patient and to the rest of the prison community to report a serious incident that presents a real danger. The health care service should collect, if appropriate, periodic statistical data concerning injuries observed, with a view to communicating them to the prison management and the ministries concerned, in accordance with national legislation on data protection.

33. Appropriate health training for members of the custodial staff should be provided with a view to enabling them to report physical and mental health problems which they might detect in the prison population.

D. The professional training of prison health care staff

34. Prison doctors should be well versed in both general medical and psychiatric disorders. Their training should comprise the acquisition of initial theoretical knowledge, an understanding of the prison environment and its effects on medical practice in prison, an assessment of their skills, and a traineeship under the supervision of a more senior colleague. They should also be provided with regular in-service training.

35. Appropriate training should also be provided to other health care staff and should include knowledge about the functioning of prisons and relevant prison regulations.

III. The organisation of health care in prison with specific reference to the management of certain common problems

A. Transmitted diseases, in particular: HIV infection and Aids, Tuberculosis, Hepatitis

36. In order to prevent sexually transmitted infections in prison adequate prophylactic measures should be taken.

37. HIV tests should be performed only with the consent of the inmates, on an anonymous basis and in accordance with existing legislation. Thorough counselling should be provided before and after the test.

38. The isolation of a patient with an infectious condition is only justified if such a measure would also be taken outside the prison environment for the same medical reasons.

39. No form of segregation should be envisaged in respect of persons who are HIV antibody positive, subject to the provisions contained in paragraph 40.

40. Those who become seriously ill with Aids-related illnesses should be treated within the prison health care department, without necessarily resorting to total isolation. Patients, who need to be protected from the infectious illnesses transmitted by other patients, should be isolated only if such a measure is necessary for their own sake to prevent them acquiring intercurrent infections, particularly in those cases where their immune system is seriously impaired.

41. If cases of tuberculosis are detected, all necessary measures should be applied to prevent the propagation of this infection, in accordance with relevant legislation in this area. Therapeutic intervention should be of a standard equal to that outside of prison.

42. Because it is the only effective method of preventing the spread of hepatitis B, vaccination against hepatitis B should be offered to inmates and staff. Information and appropriate prevention facilities should be made available in view of the fact that hepatitis B and C are transmitted mainly by the intravenous use of drugs together with seminal and blood contamination.

B. Addiction to drugs, alcohol and medication: management of pharmacy and distribution of medication

43. The care of prisoners with alcohol and drug-related problems needs to be developed further, taking into account in particular the services offered for drug addicts, as recommended by the Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs ("Pompidou Group"). Therefore, it is necessary to offer sufficient training to medical and prison personnel, and to improve co-operation with external counselling services, in order to ensure continuing follow-up therapy on discharge to the community.

44. The prison doctor should encourage prisoners to take advantage of the system of social or psychotherapeutic assistance in order to prevent the risks of abuse of drugs, medication and alcohol.

45. The treatment of the withdrawal symptoms of abuse of drugs, alcohol or medication in prison should be conducted along the same lines as in the community.

46. If prisoners undergo a withdrawal cure, the doctor should encourage them, both while still in prison and after their release, to take all the necessary steps to avoid a relapse into addiction.

47. Detained persons should be able to consult a specialised internal or external counsellor who would give them the necessary support both while they are serving their sentence and during their care after release. Such counsellors should also be able to contribute to the in-service training of custodial staff.

48. Where appropriate, prisoners should be allowed to carry their prescribed medication. However, medication which is dangerous if taken as an overdose should be withheld and issued to them on an individual dose-by-dose basis.

49. In consultation with the competent pharmaceutical adviser, the prison doctor should prepare as necessary a comprehensive list of medicines and drugs usually prescribed in the medical service. A medical prescription should remain the exclusive responsibility of the medical profession, and medicines should be distributed by authorised personnel only.

C. Persons unsuited to continued detention: serious physical handicap, advanced age, short term fatal prognosis

50. Prisoners with serious physical handicaps and those of advanced age should be accommodated in such a way as to allow as normal a life as possible and should not be segregated from the general prison population. Structural alterations should be effected to assist the wheelchair-bound and handicapped on lines similar to those in the outside environment.

51. The decision as to when patients subject to short term fatal prognosis should be transferred to outside hospital units should be taken on medical grounds. While awaiting such transfer, these patients should receive optimum nursing care during the terminal phase of their illness within the prison health care centre.

In such cases provision should be made for periodic respite care in an outside hospice. The possibility of a pardon for medical reasons or early release should be examined.

D. Psychiatric symptoms, mental disturbance and major personality disorders, risk of suicide

52. The prison administration and the ministry responsible for mental health should co-operate in organising psychiatric services for prisoners.

53. Mental health services and social services attached to prisons should aim to provide help and advice for inmates and to strengthen their coping and adaptation skills. These services should co-ordinate their - 92 - activities, bearing in mind their respective tasks. Their professional independence should be ensured, with due regard to the specific conditions of the prison context.

54. In cases of convicted sex offenders, a psychiatric and psychological examination should be offered as well as appropriate treatment during their stay and after.

55. Prisoners suffering from serious mental disturbance should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. The decision to admit an inmate to a public hospital should be made by a psychiatrist, subject to authorisation by the competent authorities.

56. In those cases where the use of close confinement of mental patients cannot be avoided, it should be reduced to an absolute minimum and be replaced with one-to-one continuous nursing care as soon as possible.

57. Under exceptional circumstances, physical restraint for a brief period in cases of severely mentally ill patients may be envisaged, while the calming action of appropriate medication begins to take effect.

58. The risk of suicide should be constantly assessed both by medical and custodial staff. Physical methods designed to avoid self-harm, close and constant observation, dialogue and reassurance, as appropriate, should be used in moments of crisis.

59. Follow-up treatment for released inmates should be provided for at outside specialised services.

E. Refusal of treatment, hunger strike

60. In the case of refusal of treatment, the doctor should request a written statement signed by the patient in the presence of a witness. The doctor should give the patient full information as to the likely benefits of medication, possible therapeutic alternatives, and warn him/her about risks associated with his/her refusal. It should be ensured that the patient has a full understanding of his/her situation. If there are difficulties of comprehension due to the language used by the patient, the services of an experienced interpreter must be sought.

61. The clinical assessment of a hunger striker should be carried out only with the express permission of the patient, unless he or she suffers from serious mental disorders which require the transfer to a psychiatric service.

62. Hunger strikers should be given an objective explanation of the harmful effects of their action upon their physical well-being, so that they understand the dangers of prolonged hunger striking.

63. If, in the opinion of the doctor, the hunger striker's condition is becoming significantly worse, it is essential that the doctor report this fact to the appropriate authority and take action in accordance with national legislation (including professional standards).

F. Violence in prison: disciplinary procedures and sanctions, disciplinary confinement, physical restraint, top security regime

64. Prisoners who fear acts of violence including possible sexual offences from other prisoners for any pertinent reason, or who have recently been assaulted or injured by other members of the prison community, should be able to have access to the full protection of custodial staff.

65. The doctor's role should not involve authorising and condoning the use of force by prison staff, who must themselves take that responsibility to achieve good order and discipline.

66. In the case of a sanction of disciplinary confinement, any other disciplinary punishment or security measure which might have an adverse effect on the physical or mental health of the prisoner, health care staff should provide medical assistance or treatment on request by the prisoner or by prison staff.

G. Health care special programmes: sociotherapeutic programmes, family ties and contacts with the outside world, mother and child

67. Sociotherapeutic programmes should be organised along community lines and carefully supervised.

Doctors should be willing to co-operate in a constructive way with all the services concerned, with a view to enabling prisoners to benefit from such programmes and thus to acquire the social skills which might help reduce the risks of recidivism after release.

68. Consideration should be given to the possibility of allowing inmates to meet with their sexual partner without visual supervision during the visit.

69. It should be possible for very young children of detained mothers to stay with them, with a view to allowing their mothers to provide the attention and care they need for maintaining a good state of health and to keep an emotional and psychological link.

70. Special facilities should be provided for mothers accompanied by children (crèches, day nurseries).

71. Doctors should not become involved in administrative decisions concerning the separation of children from their mothers at a given age.

H. Body searches, medical reports, medical research

72. Body searches are a matter for the administrative authorities and prison doctors should not become involved in such procedures. However, an intimate medical examination should be conducted by a doctor when there is an objective medical reason requiring her/his involvement.

73. Prison doctors should not prepare any medical or psychiatric reports for the defence or the prosecution, save on formal request by the prisoner or as directed by a court. They should avoid any mission as medical experts involved in the judicial procedure concerning remand prisoners. They should collect and analyse specimens only for diagnostic testing and solely for medical reasons.

74. Medical research on prisoners should be carried out in accordance with the principles set out in Recommendations No. R (87) 3 on the European Prison Rules, No. R (90) 3 on medical research in human beings and No. R (93) 6 on prison and criminological aspects of the control of transmissible diseases including Aids and related health problems in prison.

1. In accordance with Rule 10.2c of the Rules of Procedure for the meetings of the Ministers' Deputies, the Danish Delegation wishes to make the following reservation: "Paragraph 72 of the appendix is not acceptable to Denmark to the extent that it allows for body searches being carried out by persons other than a medical doctor. And in the opinion of Danish Authorities, an

intimate examination body cavities should take place only with the consent of the person involved.”.