

Annex 1

RECOMMENDATIONS OF THE UN SUBCOMMITTEE ON PREVENTION OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (SPT) WITH RESPONSES FROM THE COMPETENT INSTITUTIONS (after visiting BiH in the period 11-17 December 2022)

	RECOMMENDATION	RESPONSE OF INSTITUTIONS
1.	The SPT Subcommittee recommends that their report on the visit to BiH be submitted to all relevant bodies, departments and institutions, including, but not limited to, those to which the report specifically refers.	On 29 July 2024, the SPT report was sent to all competent institutions that took part in the visit of the Subcommittee to Bosnia and Herzegovina, for comments and observations.
2.	The SPT Subcommittee encourages the State Party to publish their report in accordance with Article 16(2) of the Optional Protocol.	The SPT report will be published on the website of the Ministry of Human Rights and Refugees of Bosnia and Herzegovina after the BiH Council of Ministers adopts the Information on their visit (after receiving comments on the report from all relevant institutions).
ESTABLISHMENT OF A NATIONAL PREVENTIVE MECHANISM		
3.	The Subcommittee reminds that the establishment of the National Preventive Mechanism is an international obligation being the duty of Bosnia and Herzegovina according to Article 17 of the Optional Protocol. The Subcommittee reiterates that BiH should establish an independent, efficient and well-equipped National Preventive Mechanism as soon as possible. To this end, the Subcommittee recommends that the State Party prioritise the adoption of a law that meets the requirements of the Optional Protocol, so that it becomes law as soon as possible.	The Parliamentary Assembly of Bosnia and Herzegovina, acting in accordance with Article 17 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in August 2023 the Law on Amendments to the Law on the Human Rights Ombudsman of Bosnia and Herzegovina, Article 4a) ¹ , as soon as the legal framework for the establishment of an independent preventive mechanism is created. The tasks of the preventive mechanism are: visits to places where persons deprived of their liberty or persons whose movement is restricted in Bosnia and Herzegovina are or could be, in order to increase the degree of their protection against torture and other forms of cruel, inhuman or degrading treatment or punishment; making recommendations to the competent authorities in Bosnia and Herzegovina in order to improve the treatment of persons deprived of their liberty and the conditions in which they are found, that is, to prevent torture and other forms of cruel, inhuman or degrading treatment or punishments; providing proposals and comments on laws and other regulations for the protection and improvement of human rights and freedoms of persons deprived of their liberty; cooperation with the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, sending information and holding meetings.
4.	Although the State Party is free to decide on the organisational structure of the National Preventive Mechanism, it should do it within the minimum requirements specified in the Optional Protocol. The Subcommittee emphasises that the mandates of the National Human Rights Institution and the National Preventive Mechanism are separate and distinct and as such should be performed independently.	
5.	The Subcommittee encourages the State Party to take further steps to facilitate public debate on the National Preventive Mechanism, promote broad adherence to its principles of openness, transparency, inclusiveness and independence, as set out in OPCAT, and ensure public confidence.	

¹ "Official Gazette of Bosnia and Herzegovina", No. 61/23

6.	<p>The National Preventive Mechanism should be established through a public, inclusive and transparent process, which includes civil society and other actors involved in the prevention of torture in Bosnia and Herzegovina. A similar process should also be applied in the selection and appointment of managers and members of the Mechanism, in accordance with the published criteria.</p>	<p>The Law stipulates that in the performance of tasks of the preventive mechanism for which professional and specialist knowledge is necessary, ombudsmen will be able to include other independent experts from the academic community and relevant fields, as well as representatives of civil society organisations registered to perform activities in the field of human rights protection, which are elected on the basis of a public call (Article 4.a, paragraph 5).</p>
7.	<p>The Subcommittee further recommends that the authorities, when determining or establishing an independent and effective National Preventive Mechanism, take into account the following elements from the Subcommittee's guidelines on National Preventive Mechanisms:</p> <ul style="list-style-type: none"> - The National Preventive Mechanism should be established in accordance with the relevant provisions of OPCAT and the Paris Principles; - The mandate and powers of the NPM should be clearly established by the constitutional or legislative text, and the operational independence of the Mechanism should be guaranteed both by law and in practice; - NPM members should be independent and impartial and must have the necessary skills and expertise, including medical, psychological and other related expertise, to effectively perform their functions; - The NPM should have sufficient staff to ensure the performance of its function under OPCAT and have an operational capacity corresponding to the number of detention places within its mandate; - Necessary resources should be provided to enable the effective operation of NPM, and the Mechanism should enjoy full financial and operational autonomy when performing its functions under the Optional Protocol. Resources should be provided through a special item of the Ombudsman's annual budget and should be predictable; - The NPM should complement, not replace, existing surveillance systems in the country, and its establishment should take into account effective cooperation and coordination between preventive mechanisms in the country, and not prevent the creation or operation of such complementary systems; - The State Party should ensure that the NPM is able to pay visits in the manner and as frequently as determined by the Mechanism itself. This includes the possibility of conducting private conversations with persons deprived of liberty, and the 	<p>The adoption of the legal framework requires measures to be taken in order to establish a preventive mechanism, the prerequisite for which is the creation of financial assumptions in such a way that a budget item for this purpose is planned in the budget of the institutions of BiH, within the budget of the Institution of Human Rights Ombudsman. In the last quarter of 2023, efforts were made by the Committee on Finance of the House of Representatives of the Parliamentary Assembly, the Ombudsman of BiH and the Ministry of Finance of BiH to secure funds for this purpose, and in accordance with the newly adopted procedure for adopting the budget of the Ombudsman institution. According to this procedure, the budget request of the Institution of the Ombudsman is decided on by the Committee on Finance of the House of Representatives and the Joint Committee on Human Rights of the Parliamentary Assembly of BiH. The adoption of the budget is a prerequisite for taking actions to establish an independent preventive mechanism.</p> <p>The preventive mechanism has not yet started working, given the fact that the Law on the Budget of the Institutions of Bosnia and Herzegovina and the International Obligations of Bosnia and Herzegovina for 2024 was only adopted in July, and the Ombudsman institution now faces new challenges in establishing a functional preventive mechanism.</p> <p>In the coming period, the Ombudsman institution will adopt the Rulebook on the performance of tasks of the preventive mechanism, which regulates the criteria and conditions of elections, as well as the way of work of independent persons and civil society organisations in the field of human rights, i.e. the methodology of actions during visits.</p> <p>The Ombudsman institution has established cooperation with the Office of the Council of Europe, and the representatives of the Ombudsman institution in cooperation with domestic and international experts have begun the creation of operational documents for the establishment and functioning of the Preventive Mechanism in Bosnia and Herzegovina.</p> <p>It is worth noting that in the period preceding the adoption of the law, ombudsmen and their staff attended training on the mandate and functioning of the preventive mechanism. Thus, in 2018 and 2019, the Capacity Building Project of the institution of the Human Rights Ombudsman of BiH was realised with the aim of implementing the mandate of the preventive mechanism in BiH, in cooperation</p>

	<p>right to unannounced visits to places of deprivation of liberty, at any time, in accordance with the provisions of the Optional Protocol;</p> <ul style="list-style-type: none"> - NPM should have a prominent role in the system of prevention of torture and ill-treatment in the country, with a high degree of institutional and public visibility. In this regard, the Subcommittee emphasises the importance of raising public awareness of the mandate and work of the NPM and the need for it to be recognised as a key component in that system. 	<p>with the Ombudsman of the Republic of Bulgaria with the support of the Embassy of the Republic of Bulgaria.</p> <p>In the period 13 - 15 November 2023, the staff of the Ombudsman institution attended training on the topic of <i>Integrating issues of sexual and gender-based violence and monitoring the situation in prisons and detention facilities</i>, organised by the OSCE Office for Democratic Institutions and Human Rights and the OSCE Mission to Bosnia and Herzegovina.</p>
NORMATIVE FRAMEWORK FOR THE PREVENTION OF TORTURE		
9.	The Subcommittee recommends that the State Party ensure that each place of deprivation of liberty maintains a comprehensive system of registration and records in which key information about each individual deprived of liberty is kept.	<p>With regard to the rights of persons deprived of their liberty, in institutions that have the jurisdiction to deprive persons of their liberty, in any case there is a room where these persons can be detained and interviewed with a lawyer. A police officer who takes over a person deprived of liberty is obliged to inform his/her family, call a doctor if necessary and a lawyer, which is recorded in the books intended for this purpose. The police officer is subject to sanctions (disciplinary and criminal punishment) if s/he does not act according to the above, because all cantonal ministries of internal affairs have zero tolerance for abuse. Currently, work is underway to establish audio and video surveillance in the abovementioned premises, in accordance with legal provisions, in order to conduct interviews and prevent abuse.</p> <p>Both entity Criminal Codes, as well as the Criminal Code of the Brčko District of Bosnia and Herzegovina, prescribe a fine or a prison sentence for any official person who commits the crime of abuse, torture, use of force or threats against a third party in the performance of his/her duties. Punishment is also prescribed for the superior of those persons who knew or knowingly neglected that his/her subordinate had committed the abovementioned criminal offences. In working with persons deprived of their liberty, they are treated in accordance with the Constitution, the rights from the Criminal Procedure Code and the Law on Misdemeanours, and the Instructions on Dealing with Persons Deprived of their Liberty. Police officers are continuously trained in the foregoing issues, and "zero tolerance" is emphasised, i.e. sanctions in case of unlawful behaviour.</p> <p>The Law on Execution of Criminal Sanctions, Detention or Other Measures in Bosnia and Herzegovina guarantees that detainees in practice enjoy all rights from the moment they are deprived of their liberty, starting from access to a lawyer or legal aid, to an examination by a nurse upon admission, and by a doctor within 24 hours. Officers are obliged to make a record with all relevant information about the deprivation of liberty, including the current health condition, whether force was used during the deprivation of liberty and for what reasons. The person is informed about the reasons for the deprivation of liberty, instructed on the right to a defence counsel, the right for the family and the consular officer to be informed</p>
10.	Police and detention officers should be adequately trained to keep registers, and they should enter data immediately, starting from the moment the detainee arrives. Prosecutors and internal police and prison system oversight bodies should regularly check the registers and be available to the NPM for review after its establishment.	
11.	The Subcommittee recommends that the State Party raise awareness of the Convention against Torture and take steps to ensure that the criminal laws of all entities contain a definition of torture consistent with the Convention.	
12.	All persons in detention should be fully informed about the reasons for their apprehension or detention and about the rights they have as detainees, from the first moment of deprivation of liberty. Information on rights should be communicated in a clear and easy-to-understand manner, for example through information sheets or posters that are comprehensive, legible and understandable to detainees and available in all places of detention, including rooms and cells.	
13.	All persons deprived of liberty should have the possibility to immediately inform a family member or relative about their detention. Detained persons should always be given feedback in cases where police officers contact family members of detained persons. Any decision by investigators/or prosecutors to limit the right to inform relatives must be for objective and confidential reasons, related to the investigation and subject to judicial review.	
14.	All detained persons, from the very beginning of detention, should have access to an independent and competent legal representative of their choice and, if necessary, legal aid. In practice, lawyers should have unimpeded access to their clients at any time, without the need for any approval from prosecutors and/or investigators.	

15.	The maximum period of police custody prescribed by law should be strictly respected and strictly monitored by the relevant authorities, including effective judicial supervision of detention. Police officers should be provided with adequate training on the legality of apprehension, arrest and detention.	about the deprivation. They are also given the opportunity to speak with the inspector, the state ombudsman, the competent state and regional court, a lawyer of their choice, in the presence of the official staff of the institution. They can write letters and seal them in envelopes that no official person is allowed to open. A detained/imprisoned person has a medical record in which all changes are to be entered.
16.	All detained persons should be able to request and receive a detailed medical examination by a competent independent physician upon admission to detention, in order to detect, among other things, signs of previous injuries. Confidential medical findings should be available to the detainee and his/her representative. Medical examinations should be performed outside the range of police officers and guards, unless the doctor specifically requests their presence. In such cases, the doctor should state in writing the reasons for both decisions and the identity of the police officer present.	<p>When it comes to data and information about convicted persons, they are kept in the Personal Sheet and case file, in accordance with clearly prescribed procedures, and it also contains information about the death of the convicted person if it occurs in the facility.</p> <p>Activities are currently underway on the electronic linking of all correctional facilities in the Federation of Bosnia and Herzegovina and the Ministry of Justice regarding the exchange of certain data.</p> <p>The capacities of correctional facilities have been significantly improved, and a newly opened pavilion that meets all the prescribed standards has been put into operation in the correctional facility ZT Zenica. PT Sarajevo correctional facility and PT Mostar correctional facility are in the phase of building new capacities, which means that in the near future, the accommodation of detained and convicted persons will be provided in completely new facilities that meet the highest standards.</p> <p>In Republika Srpska, the Rulebook on the content, method of keeping and retention periods of records maintained by the Ministry of the Interior of Republika Srpska² and the Rulebook on amendments to the Rulebook on the content, manner of keeping and retention periods of records maintained by the Ministry of the Interior³, in Article 16, prescribes the manner of keeping records of persons deprived of their liberty on any grounds (records are kept electronically and permanently) which is accompanied by an individual file of persons in which there are prescribed forms for exercising their rights. The records in question provide for the entry of details relating to information about the person deprived of liberty, data on the deprivation of liberty itself, data on taking over the person deprived of liberty, data on taking over the person deprived of liberty for criminal processing from police officers within the organisational unit that performed the deprivation of freedom, data on communication with the competent court and prosecutor's office, and data on the method of transport – taking in or escorting persons deprived of their liberty.</p>

² "Official Gazette of Republika Srpska", No. 50/17;

³ "Official Gazette of Republika Srpska", No. 102/18

PERSONS DEPRIVED OF LIBERTY IN DETENTION		
17.	<p>The Subcommittee reminds that the detention of persons awaiting trial should be the exception, not the rule, in accordance with the presumption of innocence and with due respect for the investigation of the alleged crime and the protection of society and the victim, as required by the United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules). The Subcommittee recommends that the State Party consider the introduction of statutory deadlines for the continuation of trials, where possible, and other measures to reduce delays in court proceedings, including alternative measures to detention.</p>	<p>One of the competent institutions in this area in the Federation of Bosnia and Herzegovina is the Judicial Police, which undertakes measures and actions aimed at protecting the rights of persons deprived of liberty, persons deprived of liberty in custody, as well as preventing any form of discrimination. Also, in accordance with the Training and Development Plan for Judicial Police Officers in the Federation of Bosnia and Herzegovina, officer trainings are continuously organised to cover the following topics: the rights of persons deprived of their liberty in the context of the recommendations of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment at the Council of Europe and the United Nations; mechanisms for protecting the rights of a person deprived of liberty, as well as the right to certain treatment and conditions in custody; the rights of persons deprived of liberty guaranteed by the European Convention on the Protection of Human Rights; the duty to protect human rights and fundamental freedoms of persons deprived of their liberty, and the duty to prevent discrimination in the performance of work on the basis of race, skin colour, gender, language, religion, etc.</p>
CONDITION OF PERSONS DEPRIVED OF LIBERTY		
18.	<p>The Subcommittee recommends that the State Party ensure that all allegations of ill-treatment are taken seriously and that persons reporting ill-treatment can submit anonymous complaints to an independent investigative mechanism. Such allegations must be investigated quickly and efficiently so that those responsible for the abuse are punished accordingly.</p>	<p>Regardless of the fact that the preventive mechanism was not established, the Ombudsmen, being aware of its importance, tried to perform the tasks of this mechanism in accordance with their current mandate and available resources. The human rights ombudsman institution of Bosnia and Herzegovina monitors the state of the rights of persons related to the prevention of torture through the actions of three departments, namely: the Department for monitoring the exercise of the rights of persons deprived of liberty, the Department for monitoring the exercise of the rights of persons with disabilities, in the case of persons placed in institutions for the accommodation of persons with intellectual and mental disabilities, and the Department for monitoring the exercise of children's rights, if it is about children placed in institutions.</p> <p>The Department for Monitoring the Rights of Persons Deprived of Liberty handles complaints and ex officio initiates investigative procedures in all cases related to a possible violation of the rights of persons deprived of liberty. Acting on the complaints of persons deprived of liberty, representatives of the Institution visit a large number of criminal correctional facilities every year, and during the visits, representatives of the Institution conduct unhindered interviews with persons deprived of liberty in special rooms, without the presence of other persons, review relevant documentation, after which they continuously present their activities through Annual and Special Reports of Institutions in which they issue recommendations to competent authorities, with the aim of improving the system of enforcement of criminal legal sanctions and respect for the rights of persons deprived of their liberty.</p> <p>Ombudsmen of Bosnia and Herzegovina indicate that representatives of the institution of Ombudsman have visited police administrations in Zenica, Travnik,</p>
19.	<p>The Subcommittee recommends that the State Party in all police stations:</p> <ul style="list-style-type: none"> - Ensure that all detention cells have adequate temperature and running water, and windows that let in natural light; - Ensure that all detention cells are equipped with infrastructure or designed in a way that allows detainees to easily communicate with police officers or an easier way to attract the attention of police officers; - Ensure that no detention cell has a barred window and any other infrastructure that could serve as an anchor for hanging or other types of self-harm. 	
20.	<p>The Subcommittee recommends that the State Party in all police stations:</p> <ul style="list-style-type: none"> - Establish clear policies and procedures that ensure that all detainees are regularly provided with a sufficient amount of food of appropriate quality, and that such access to food does not depend on their financial resources or the arbitrary decisions of police officers; 	

	<ul style="list-style-type: none"> - Establish clear policies and procedures that ensure that all detainees are provided with a sufficient number of uninterrupted rest periods and adequate food and drink during interrogation; - Ensure that such policies and related procedures are regularly reported to persons deprived of liberty, as well as staff members, and that they are implemented. 	<p>Sarajevo, Mostar, Tuzla, Prijedor, Banja Luka, the Brčko District of Bosnia and Herzegovina and Bijeljina for the purpose of the preparation of a special report on the situation in certain police administrations in Bosnia and Herzegovina. The special report was finalised in 2024 and its presentation to the public is planned in October, while the visits were made in the period 04/10/2023 – 14/12/2023. Special attention was paid to the premises where persons deprived of their liberty are placed, and based on discussions with the management, inspection of the documentation, as well as direct observation of the premises for the detention of persons, they noted the situation found and determined to what extent the Ombudsman's Recommendations from the Special Report on the situation in detention facilities in certain police administrations in Bosnia and Herzegovina from 2019 were respected.</p> <p>In the report, they sent general recommendations to the Government of Republika Srpska, the Government of the Brčko District of Bosnia and Herzegovina, the Government of Sarajevo Canton, the Government of Zenica-Doboj Canton, the Government of Central Bosnia Canton, the Government of Tuzla Canton and the Government of Herzegovina-Neretva Canton:</p> <ul style="list-style-type: none"> - To allocate the necessary budget funds in order to implement the recommendations of the Ombudsman of Bosnia and Herzegovina forwarded to the relevant ministries of the interior regarding the necessary adaptations of the detention facilities (in accordance with and modelled on standards provided for in the European Prison Rules), which includes the installation of video surveillance for the purpose control and prevention of undesirable behaviour or self-injury of persons deprived of liberty, especially taking into account the arrangement of cameras (cameras should be positioned in corridors leading to detention rooms/cells and should not cover the sanitary block); - To allocate the budget funds necessary for the employment of additional staff - authorised official persons in police administrations/stations, in accordance with the established systematisation of posts; - As part of the professional development of authorised official persons who deal with persons deprived of their liberty, to proceed with continuous, specialised and licensed training, which will meet the highest domestic and international standards in this field <p>The Ombudsmen of Bosnia and Herzegovina forwarded a recommendation to the Ministry of the Interior of the Federation of Bosnia and Herzegovina to establish an electronic record of persons deprived of liberty.</p> <p>The visits were also used to raise awareness among the authorities about the mandate and functioning of the preventive mechanism, i.e. to familiarise them with the new mandate of the Ombudsman of Bosnia and Herzegovina in light of the adopted Law on Amendments to the Law on the Human Rights Ombudsman of Bosnia and Herzegovina.</p>
21.	The Subcommittee recommends that the right to access a doctor be firmly established in a special legal provision, properly reflected in guidelines and work practice, and that persons who are required to remain in police stations be systematically informed about this right at the very beginning of detention.	
22.	The Subcommittee recommends that medical examinations be performed in accordance with the principle of confidentiality of medical data; non-medical persons, other than the patient, should not be present. In exceptional cases, at the request of the doctor, special security arrangements may be relevant, such as the presence of a police officer nearby. The doctor should enter in the records this assessment and the names of all persons present. The confidentiality of medical records should be ensured in police stations, and the doctor's report should be handed over to the person.	
23.	The Subcommittee recommends that all medical examinations of persons in police custody include a) patient history; b) report of the person being examined about any violence; c) the results of the physical examination, including a description of all injuries and an indication of whether the whole body was examined; and d) the doctor's conclusion about the consistency between the first three items.	
24.	The Subcommittee recommends that the State Party strengthen surveillance measures by ensuring that the recording and storage of CCTV surveillance is performed effectively and independently by internal monitoring bodies, and that the recordings are not available to police officers for review or alteration. CCTV surveillance records should be available for review by the National Preventive Mechanism once it is established. This issue emphasises the need to establish an independent, efficient and well-equipped National Preventive Mechanism as soon as possible.	

	<p>The room for the accommodation of persons deprived of liberty must be at least 6m², with adequate lighting, heating, ventilation, built-in beds for resting with covers and sanitary facilities, and food and drink available to everyone at appropriate intervals.</p> <p>In FBiH, the Federation Police Administration acts in accordance with the current regulations and implements the manual "Human rights of persons deprived of liberty in police custody" adopted as part of projects on strengthening the principles of treatment of persons deprived of liberty based on human rights, European standards and best practices in BiH by the Council of Europe.</p> <p>In the cantonal Ministries of the Interior (MUPs), the aforementioned rules are consistently applied in accordance with the applicable cantonal regulations, including the Sarajevo Canton MUP.</p> <p>In Republika Srpska, the Instruction of the Ministry of the Interior of Republika Srpska on the treatment of persons deprived of liberty (which is harmonised with the previous recommendations of the CPT), foresees annexes that are an integral part of the Instruction and refer to the following forms: certificate of deprivation of liberty (legal basis of the CPC RS or the Law on Misdemeanours), rights of a person deprived of liberty, certificate of acceptance of a person deprived of liberty, certificate of surrender of a person deprived of liberty, record of examination of a person, record of a search, report of a search of a person without a warrant, certificate of temporary confiscation of objects, certificate on handing over of temporarily confiscated items, certificate of release of persons deprived of liberty and certificate of return of temporarily confiscated items. It is worth noting that in all situations of deprivation of liberty, a certificate of the rights of the person deprived of liberty must be filled out, where the person deprived of liberty confirms with his own handwritten signature that s/he is familiar with the rights and personally expresses his/her position regarding a certain right. However, experience shows that in the majority of cases, persons deprived of their liberty do not submit a request for a defence counsel, a request for medical personnel or a request to notify a member of the immediate family, friends and others, or they do not want to put any signature on the documents that are drawn up in connection with the deprivation of liberty. Most often, it is about personal reasons, such as condemnation by the family members, members of the local community where s/he lives, poor financial situation, etc. Please note that the Criminal Procedure Code of Republika Srpska⁴ stipulates in which case the suspect or the accused person must have a defence counsel, or the defence counsel must be appointed due to poor financial situation of the suspect.</p>
	PRISON FACILITIES

⁴ "Official Gazette of Republika Srpska", Nos. 53/12, 91/17 and 66/18;

25.	<p>With regard to ill-treatment in prison facilities, the Subcommittee recommends that:</p> <ul style="list-style-type: none"> - the State Party should ensure that all allegations or complaints about torture or ill-treatment are investigated quickly, impartially and efficiently, in accordance with Articles 12 and 13 of the Convention against Torture; - the attention of the prison staff should be drawn to the fact that those responsible for inflicting any act of ill-treatment or torture, including psychological torture in the form of threats and participation in acts of torture, will be punished with penalties commensurate with the gravity of such actions; - training programmes for police, investigators and prison staff emphasise the prohibition of torture and ill-treatment, including verbal abuse. 	<p>During 2023, the ombudsmen of BiH visited the following correctional facilities as part of their regular activities: Institute for the Execution of Criminal Sanctions, Custody and Other Measures of Bosnia and Herzegovina, the Mostar Semi-Open Correctional Facility, the Foča Correctional Facility, East Sarajevo Semi-Open Correctional Facility - Department for Women, the Mostar Semi-Open Correctional Facility, the Zenica Correctional Facility, the Doboj Correctional Facility, Institute for Execution of Criminal Sanctions, Detention and Other Measures of Bosnia and Herzegovina, the Tuzla Correctional Facility and the Bijeljina Correctional Facility.</p> <p>BiH ombudsmen observe progress as a result of significant financial allocations, including allocations from IPA and other donor funds, in order to expand capacities in correctional facilities, make certain reconstructions and necessary additional works. There was also a structural-organisational change of the correctional facilities, wherein individual departments were established as independent correctional facilities, and this was accompanied by the strengthening of the correctional facilities' personnel. The efforts of the competent authorities to work on increasing the capacity and improving the quality of accommodation of convicted persons, as well as to ensure the application of international standards and at the same time harmonise domestic legislation with international standards, are observed.</p> <p>In institutions for the execution of criminal sanctions, procedures and rules have been established for the assessment and classification of prisoners and the procedures for dealing with convicted persons who are addicted to drugs, the opportunities for the work engagement of prisoners and their education have been increased, and progress has been made in ensuring the health care of prisoners.</p> <p>Education and continuous professional development of prison staff in the field of human rights is ensured, a systematic approach is taken to regulating the area of execution of criminal sanctions and security in these correctional facilities is improved (modern technical means of security - video surveillance, laser assembly, special locks and/or modern technical means for drug detection, etc.).</p> <p>Correctional facilities have created conditions for better use of free time, the issue of rooms for meeting religious needs has been resolved, and the system of filing complaints of persons deprived of their liberty has been formalised.</p> <p>The Law on the Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina⁵ clearly prescribes the standards and rules that apply to convicted persons or "prisoners", as well as the supervision of the application of this Law, which ensures the realisation of all rights regarding the conditions of stay, up to the right to unhindered sending appeals and complaints to competent inspectors and to other institutions for the protection of human rights, as well as to the Ombudsman of Bosnia and Herzegovina. In this context, authorised inspectors, on behalf of the Ministry of Justice, control the protection against any ill-treatment</p>
26.	<p>With regard to material conditions, the Subcommittee recommends that the State Party in all police stations should:</p> <ul style="list-style-type: none"> - ensure that all detention cells have an adequate temperature and that the windows inside the cells let in natural light and fresh air; - ensure the implementation of adequate measures to prevent bed bugs and effectively control infestations; - ensure that all institutions with dilapidated infrastructure are renovated. 	
27.	<p>The Subcommittee recommends that the State Party ensure that prisoners are allowed to leave their cells and go to common rooms and yards, in accordance with the established schedule for outdoor activities, with the possibility of engaging in purposeful and communal activities, if they so wish. The Subcommittee emphasises the importance of allowing detainees such access to areas outside their cells on a fair and equal basis, regardless of the prison regime that applies to them.</p>	
28.	<p>The Subcommittee recommends that the State Party expand the opportunities for work, education, professional and recreational activities for all prisoners, considering that these activities facilitate the rehabilitation of prisoners and their future reintegration into society. The Subcommittee also recommends that work opportunities that are fairly paid be made available to all detainees. Considering the long duration of their detention, special efforts must be made to ensure that prisoners also have access to these opportunities.</p>	

⁵ "Official Gazette of the Federation of BiH", Nos. 44/98, 42/99, 12/09, 42/11 and 39/24;

29.	To facilitate oversight, the Subcommittee recommends that record keeping be improved to ensure that a third party can review all solitary confinement cases from a single file or registry. The data entered into the records should contain information about the type of sanctions, the name of the person who requested them, the official person who carried them out, as well as the date and time of the start and end.	and torture, as prescribed by Article 11 of the aforementioned Law. As for the treatment of detained persons, the issue of the protection of referenced persons is regulated by the Rulebook on House Rules in Detention Institutions ⁶ and the rights of detained persons are clearly regulated in Articles 2 and 3 of the Rulebook.
30.	The Subcommittee wishes to emphasise that solitary confinement, isolation and administrative segregation are not appropriate methods for managing the safety of persons. Such measures should be used only as a last resort, in exceptional circumstances, in the shortest possible period of time and with adequate procedural safeguards.	Therefore, in the case of any conduct of the institution's staff, which is contrary to the mentioned regulations and international standards and procedures, what is clearly prescribed must be processed.
31.	The Subcommittee further recommends that, in the meantime, the registers of disciplinary measures be harmonised, and that information on detainees be collected and made available centrally, in a comprehensive and systematic manner. The Subcommittee is concerned that, although most of the essential details are recorded, there is a lack of uniformity, with practice varying widely from prison to prison.	Furthermore, regarding the recommendations related to leaving the cells, use of common rooms, and work activities and participation in the free activities, these are clearly prescribed by the mentioned legal solutions and they are observed according to the regulations on the house rules of the Facility, while the work engagement of convicted persons takes place in accordance with the Facility's available capacities.
32.	The Subcommittee recommends that procedures be implemented and sufficient resources allocated to health care in correctional facilities to ensure that prisoners can enjoy the same standards of health care as are available in the community and that they have access to necessary health services, free of charge, as prescribed by Mendel's Rule 24.1. This includes preventive health services and services that take into account the needs of particularly vulnerable prison populations.	In Republika Srpska, in addition to conducting internal and disciplinary procedures against police officers of the Ministry of the Interior of Republika Srpska, the Service for the Protection of Integrity and Legality of the Operations of the Ministry of the Interior of Republika Srpska cooperates with the competent prosecutor's offices and acts based on their requirements and conducts criminal investigations against members of the MUP of Republika Srpska in reported cases that have the characteristics of a criminal offence and breach of duty at the same time (especially where reports refer to abuse). In accordance with the provisions of the Instructions of the Republic Prosecutor's Office of RS, No. A-487/12 dated 17 May 2013, there is continuous cooperation with the competent prosecutor's offices regarding the conduct and undertaking of concrete measures and actions in cases in which allegations point to abuse and inhuman treatment of police officers during the performance of their official duties, and such investigations are conducted in accordance with the orders of the acting prosecutor. In addition to the foregoing, the Ministry of the Interior of Republika Srpska understood the recommendation on the zero tolerance to physical and psychological abuse of persons deprived of liberty by police officers as a principle in their daily work and conduct and periodically submits a written message in the form of an act and instructions to the competent organisational units of the Ministry. Also, this message is sent at work meetings as well as during regular inspections and controls by the Service for the Protection of Integrity and Legality of Operations, the Police Administration and the Criminal Police Administration, and in this sense insight is gained into the cases in which persons were deprived of liberty, and the premises
33.	The Subcommittee recommends that health workers working in detention facilities receive training on the Istanbul Protocol.	
34.	Medical confidentiality must be strictly respected at all times. The Subcommittee emphasises that prison officers should be out of range during communication between patients and health care personnel. In exceptional cases, at the doctor's request, special security arrangements may be considered acceptable, such as the presence of a police officer nearby, but this should be the exception rather than the rule.	
35.	The Subcommittee recommends that the State Party ensure that each prison maintains comprehensive registration and filing systems that keep key information about prisoners, including the number and circumstances of deaths in custody and allegations of torture, investigations and outcomes.	

⁶ "Official Gazette of the Federation of Bosnia and Herzegovina" No. 57/03;

		where statements are taken or where other treatment of persons deprived of their liberty takes place are inspected.
36.	The Subcommittee recommends that the State Party improve oversight mechanisms by ensuring that prisoners can forward complaints internally and externally in a secure and confidential manner, without any fear of reprisal.	<p>When it comes to detention conditions in institutions in Republika Srpska, the Ministry of the Interior of Republika Srpska allocated an approximate amount of KM 600,000.00 for the construction of new and adaptation of existing premises for the accommodation of persons deprived of their liberty. The largest part of these funds was used for the construction of new rooms for the accommodation of persons deprived of their liberty in Banja Luka (they were built in accordance with European standards), and the rest of the funds were used for sporadic investments in rooms for the accommodation of persons deprived of their liberty in other police departments in Republika Srpska. According to the latest analysis of the situation, in this matter, it was established that out of a total of 109 rooms for housing persons deprived of their liberty, 68 rooms meet the conditions in accordance with the Instruction on the treatment of persons deprived of their liberty, number: S/M-052-2776/17 of 22/06/2018. The Ministry, in accordance with its possibilities, continuously plans funds for the adaptation of the remaining rooms for the accommodation of persons deprived of their liberty. The Ministry of the Interior of Republika Srpska, through regular and specialist training, implements programmes that include topics such as conducting interviews and investigations and preventing abuse. Currently, representatives of the Ministry are actively participating in the preparation of the Practicum for conducting police interviews, which is being prepared through the EU and Council of Europe Horizontal Facility for the Western Balkans and Turkey project, in which new models of conducting interviews and dealing with persons deprived of their liberty during the interrogation of these persons have been developed. As previously stated in this document, police officers act in accordance with the Instruction on the Treatment of Persons Deprived of Liberty, where it is ordered that police officers are obliged to provide access to food to persons deprived of liberty every eight hours.</p> <p>Please note that in Republika Srpska, 8 members of the Ministry of the Interior of Republika Srpska have been accredited to carry out training according to the standards applicable in Council of Europe projects, through the EU and Council of Europe <i>Horizontal Facility</i> for the Western Balkans and Turkey project: "Further strengthening the treatment of detained and sentenced persons in line with European standards in Bosnia and Herzegovina". In parallel with this process, in accordance with the curriculum "Human rights of persons deprived of their liberty in police custody", accredited managers conduct training for police officers of the Ministry of the Interior of Republika Srpska consistent with the acquired skills and written materials created through the project. Participation in these projects had a very positive reflection in practice.</p>

	GROUPS IN SPECIAL SITUATIONS OF VULNERABILITY	
37.	The Subcommittee recommends that the State Party provide women and girls with easy access to standard preventive health examinations and necessary hygiene products.	<p>The scope of health care for all persons who are placed in correctional facilities is clearly prescribed and very often these persons are provided with a greater scope of health care than what is available to them at liberty. For the sake of clarification, due to the lack of necessary health insurance on release, a large number of persons are not able to obtain a certain form of health care, while when entering a correctional facility, health care is provided at the expense of the Facility. Also, in compliance with the indicated therapy, adequate medicines are provided in accordance with legal procedures, which also implies adequate replacement therapy for those addicted to psychoactive substances if it is indicated by a doctor.</p> <p>Persons with mental disabilities, if referred to the correctional facility by decision of the court having jurisdiction thereof, can be isolated in special rooms only if their health condition requires it and on the recommendation of a doctor, and in no case can isolation be used as a form of punishment.</p> <p>Medical personnel act in accordance with the regulations that establish medical procedures and medical confidentiality is part of their professional standard, and in this regard, other personnel can only have the information that the doctor assesses as necessary for working with such persons.</p> <p>In Republika Srpska, various entertaining activities are provided to patients within occupational therapy (sports activities in the gymnasium, as well as other activities in the occupational therapy rooms, drawing, painting, reading, listening to the music, shows and other fun activities). As for other objections raised in this section, they will be eliminated in the nearest future.</p>
38.	With respect to LGBTQI persons in prisons, the Subcommittee recommends that the State Party: <ul style="list-style-type: none">- take the necessary measures to protect the physical and psychological integrity of lesbians, homosexuals, bisexuals, trans persons and intersex persons deprived of their liberty;- train law enforcement officers and prison staff on international rules and principles regarding equality and non-discrimination in relation to sexual orientation and gender identity;- provide accessible private and family rooms to detainees and their families upon request, where relevant, regardless of their sexual orientation, gender identity or marital status.	
39.	The Subcommittee recommends that the State Party ensure that prisoners with psychosocial or mental disabilities or prisoners with serious mental problems requiring care are separated from other prisoners. The Subcommittee further recommends that the State Party develop measures to more closely monitor their well-being and ensure access to adequate care.	
	FORENSIC PSYCHIATRY	
40.	The Subcommittee recommends that the State Party allow the decoration of common areas as well as the personalisation of rooms. The State Party should provide access to activities and materials for the entertainment of patients to create an atmosphere less reminiscent of an institution. Steps should also be taken to reduce the number of patients in each room.	<p>In Republika Srpska, patients who are placed in the Public Health Institution Sokolac Institute for Forensic Psychiatry are there for treatment and custody in accordance with the decisions of the courts having jurisdiction thereof, upon which the institution acts entirely. The decisions of the courts are delivered both to the institution and to the patient himself/herself by personal delivery via a courier, which, after receipt and signature by the patient, are returned to the courts, so that patients are always aware of the reasons for their stay in the institution. We also note that patients have their own lawyers, chosen or ex officio, whom they can contact, and they can also contact their family and relatives, by telephone or mail, and receive visits by relatives and friends, as well as their lawyers. Likewise, the professional medical staff working with patients is of the opinion that some patients do not want to talk about the reasons for their stay in the institution, especially with strangers and particularly about committed serious and multiple crimes.</p> <p>When it comes to the psychiatric treatment of patients, it is based on an individual approach and individual treatment plans, in the creation of which the patients participate, so that their wishes are practically always taken into account as a matter of priority. We also state that individual treatment plans are found in the medical records of each patient (medical records) which are kept in paper format and are</p>
	The Subcommittee recommends that all patients be informed of the reasons for their hospitalisation and future plans, and that the patient's wishes be taken into account when developing treatment plans. Treatment plans should be readily available to all relevant staff, at all times, so that they can be consulted and properly implemented.	

		easily accessible to the relevant staff, always and at any time, in order to implement them, and they are also simultaneously kept in electronic form.
	SOCIAL WELFARE INSTITUTIONS	
41.	With regard to procedures in social welfare institutions, the Subcommittee recommends that the State Party adopt a comprehensive, carefully developed policy on the application of restraint measures that prescribes the means of restraint that may be used, the circumstances under which they may be used, the practical means by which they may be applied, permits and systems supervision that must be established before and during their application, including the duration of use and the procedure to be followed after the end of use. In addition, it should be ensured that all types of measures that are introduced against the will of a person staying in a social welfare home are properly documented in the person's personal file, as well as in a register specifically intended for this purpose, and it also prescribes complaint mechanisms, and internal and external reporting mechanisms.	With the Law on Assumption of Rights and Obligations of the Founders of Social Welfare Institutions in the Federation of Bosnia and Herzegovina ⁷ , and then with the Law on Social Welfare Institutions in the Federation of Bosnia and Herzegovina ⁸ , the Federation of Bosnia and Herzegovina assumed the rights and obligations of the founders of five social welfare institutions in the Federation of Bosnia and Herzegovina. The Law on Social Welfare Institutions in the Federation of Bosnia and Herzegovina prescribes the principles of protection and rights of housed beneficiaries, thereby introducing several key principles that form the legal framework for the protection of persons residing in the Federation social welfare institutions, i.e. the mechanism by which these institutions, as well as their staff, are required to act based on the principles of humanism and respect for basic human rights and freedoms, the active involvement of the beneficiaries in the decision-making process in accordance with his/her real possibilities and abilities, and the best interest of the beneficiary, especially in the procedures of the initial expert assessment, the preparation of individual plans and re-examination of the need for his/her further stay at the accommodation facility. Furthermore, the chapter in question contains explicit prohibitions of discrimination and coercion, except in the cases and in the manner prescribed by this law and the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings. As for the rights of housed beneficiaries, this chapter foresees the right to information, participation in decision-making, free choice of services, privacy and confidentiality of personal data and complaint. The aforementioned Law also prescribes the principle of prohibition of coercion, and it is regulated that in the performance of the prescribed activity, Federation institutions of social protection, i.e. their employees, are prohibited from any form or act of coercion towards housed persons, except in the cases and in the manner prescribed by this law and regulations on protection and dealing with children and juveniles in criminal proceedings. Federation social welfare institutions are prohibited from admitting and detaining a person against their expressed will, with the exception of persons who have been referred for placement in accordance with the provisions of the regulations on the protection and treatment of children and juveniles in criminal proceedings. With the aim of ensuring the consistent application of this provision, Federation social welfare institutions are obliged to ensure the written consent of the person who is referred for placement, i.e. his/her legal representative, if it has been established through the court decision-making process that the person is not capable of expressing his/her will, i.e. understanding the consequences of his/her decision.
42.	The Subcommittee further recommends that staff members be educated on the legal framework applicable to such measures. They should be given guidance on the use of the measures, including the circumstances under which they can be used and any applicable conditions. Finally, the rules regarding consent and guardianship should be clear, including the role of parents of adults.	
43.	The Subcommittee recommends that the State Party provide effective policies and procedures for supervision, monitoring and appeals in social welfare institutions to ensure that all cases of abuse are immediately identified and reported, as well as to guarantee the effectiveness of investigations into allegations of abuse and related sanctions.	
44.	The Subcommittee recommends that the relevant authorities develop clear guidelines in relation to deaths among residents in a social welfare home.	

⁷ "Official Gazette of the Federation of BiH", Nos. 31/08 and 27/12;

⁸ "Official Gazette of the Federation of BiH", No. 64/22.

		<p>The law also regulates the principle of prohibition of abuse, and it is prescribed that in the performance of prescribed activities, Federation social welfare institutions, i.e. their employees, are prohibited from any form of physical, emotional or sexual abuse of beneficiaries, their exploitation, abuse of trust or power, neglect of adequate satisfaction of their existential needs, as well as any other action that may endanger the life or harm the health of the accommodated beneficiaries, including the neglect of their physical, psychosocial, spiritual or developmental needs. All employees of Federation social welfare institutions have an obligation to ensure that beneficiaries are not abused, and are obliged to report any type of abuse to the responsible person of the Federation social welfare institution, the competent guardianship authority and competent investigative bodies. Federation social welfare institutions are obliged to continuously take measures to prevent abuse of beneficiaries, both by employees and by other users, which includes the creation of internal procedures for reporting and handling of received reports. Federation social welfare institutions have the obligation, through professional staff or health workers, to introduce and educate beneficiaries about recognising, avoiding and reporting violence in an understandable and easy way. The law prescribes permissible measures of physical restraint, as well as when they are applied, in what way and to what extent.</p> <p>The law stipulates that the decision to apply the measure of physical restraint to a person with intellectual disabilities is made by a psychiatrist who supervises its application. In case that, due to urgency, it is not possible to wait for a decision to be made by the psychiatrist, it can be made by the attending health professional in consultation with the psychiatrist, who will examine the person with intellectual disabilities as soon as possible and decide on the further extension or cancellation of that decision. It also prescribes the obligation of the Federation Minister of Health to enact a regulation on the application of physical restraint measures to persons with intellectual disabilities, including clearly defined situations in which these measures are to be taken, the professional staff requirements, the method of deciding on the physical restraint measure, deadlines for making a decision on the measure application and its duration, methods and records, and the method of monitoring this measure. The Federation social welfare institutions are obliged to ensure that professional staff constantly monitor the condition of housed persons with intellectual disabilities against whom coercive measures are applied.</p> <p>The law also prohibits the application of physical restraint measures to persons with severe mental disorders who are housed in the Federation social welfare institutions, except in situations where the responsible person assesses that there is an immediate danger that the beneficiary's behaviour will endanger his or her life or the life of another person or alienate, destroy or tend to damage property of higher value. The exceptional application of the physical restraint measure against a person with severe mental disorders will be applied only to the extent and in the manner necessary to eliminate the immediate danger caused by the attack of that person and will last only as long as it is necessary to achieve the necessary purpose.</p>
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	MIGRATIONS	
45.	<p>The Subcommittee encourages the State Party to:</p> <ul style="list-style-type: none"> - Ensure that migrants with illegal status are detained only as a last resort and for the shortest possible time; - Initiate legislative reforms in order to strengthen the role of courts in decisions related to the deprivation of freedom of migrants with illegal status and the suspension of decisions on detention and/or deportation during the appeal procedure; - Extend the deadlines for filing appeals against repatriation decisions and allow migrants to remain in the country during the appeal procedure; - Ensure that all immigration detainees (including those in short-term detention facilities) have access to free legal counsel and ensure that all detainees have effective access to fair and accessible procedures for challenging detention and/or deportation decisions; - Provide effective oversight, monitoring, and appeals policies and procedures in immigration detention to ensure that all cases of ill-treatment are promptly identified, as well as to guarantee the effectiveness of investigations into allegations of ill-treatment 	<p>The Ministry of Human Rights and Refugees of Bosnia and Herzegovina has not received the responses from the competent government institutions regarding the recommendations of the SPT Subcommittee on the topic of migration.</p>
46.	<p>The Subcommittee recommends that the State Party ensure that all detained persons are properly informed of their rights and relevant administrative and legal procedures in a language they understand, and that they are provided with translation services if necessary.</p>	
47.	<p>The Subcommittee recommends that the State Party:</p> <ul style="list-style-type: none"> - Ensure that detention of asylum seekers is the last resort treatment, as well as effective separation, both in the institution and in terms of the regime, between asylum seekers and foreign citizens who have not submitted an application for international protection; 	

	<ul style="list-style-type: none"> - Provide shared accommodation for migrants who declare themselves as partners or family members, regardless of marital status, nationality or surname, - Ensure that all institutions with dilapidated infrastructure are renovated, - Provide all detainees with basic items for personal hygiene and improve the quality of food; - Noting that children should not in principle be held in immigration detention, take effective measures to guarantee that all migrants held in detention, especially families with minors, are given the opportunity and resources to engage in purposeful and/or recreational activities. 	
48.	<p>The Subcommittee recommends that the State Party:</p> <ul style="list-style-type: none"> - Provide sufficient human resources to ensure adequate provision of health services in the migration centre; - Develop and implement a comprehensive strategy for providing adequate assistance to migrants who have drug-related problems. 	
49.	<p>The Subcommittee recommends that the State party:</p> <ul style="list-style-type: none"> - Ensure effective supervision, monitoring and complaint policies and procedures at the migration centre to ensure that all cases of abuse are promptly identified, as well as to guarantee the effectiveness of investigations into allegations of abuse; - Introduce independent processes, both when making a decision on detention and during detention, for the identification of persons who may be exposed to a particular risk of injury in detention. 	