



**Optional Protocol to the  
Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,  
Inhuman or Degrading Treatment or Punishment**

**Comments of Bosnia and Herzegovina on the  
recommendations and observations addressed to it in  
connection with the Subcommittee visit undertaken  
from 11 to 17 December 2022\*, \*\***

[Date received: 9 November 2024]

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\* The present document is being issued without formal editing.  
\*\* On 9 November 2024, the State party requested the Subcommittee to publish its comments, in  
accordance with article 16 (2) of the Optional Protocol.



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## I. Introduction

1. The United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), in accordance with its mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter: the Subcommittee), visited Bosnia and Herzegovina in the period from 11 to 17 December 2022.
2. Bosnia and Herzegovina is a signatory to the United Nations Convention against Torture from September 1, 1993, and a signatory to the Optional Protocol from October 24, 2008.
3. The main objectives of the visit of the Subcommittee members were to provide advice and technical assistance to the authorities of Bosnia and Herzegovina on the establishment of the National Preventive Mechanism, as well as to visit places of deprivation of liberty in order to show the authorities of Bosnia and Herzegovina how to more effectively fulfill their obligations under the Optional Protocol in terms of protection of persons deprived of their liberty from torture and ill-treatment.
4. For this purpose, the following places of deprivation of liberty were visited: 1. Police Station Novo Sarajevo; 2. Police Administration Sarajevo Center; 3. Sarajevo Canton Police Headquarters; 4. Police Administration of the Federation of Bosnia and Herzegovina; 5. Police Station Banja Luka; 6. Police Administration Banja Luka; 7. Detention Unit of the Banja Luka District Prosecutor's Office; 8. Police Station Centar Mostar; 9. Police Station Stolac; 10. Police Station Centar Tuzla; 11. Detention Unit Sarajevo; 12. Banja Luka Prison; 13. Mostar Prison; 14. Tuzla Prison; 15. Immigration Detention Centre Lukavica; 16. Special Institute for Forensic Psychiatry Sokolac and 17. Home for Social Health Care of Persons with Disabilities and Other Persons Sokolac.
5. Also, the Subcommittee conducted interviews with competent state bodies, the Institution of Human Rights Ombudsman of Bosnia and Herzegovina and civil society organizations, as well as with representatives of the United Nations and other international organizations. In the aforementioned institutions, the Subcommittee interviewed persons deprived of liberty, law enforcement and prison officials, and healthcare and social personnel.
6. At the end of the visit, the Subcommittee presented its observations to the government institutions, while the final results and recommendations related to the visit to Bosnia and Herzegovina were sent to the Permanent Mission of Bosnia and Herzegovina to the United Nations in Geneva in September 2023. Please note that the Ministry of Human Rights and Refugees of Bosnia and Herzegovina received the aforementioned Subcommittee's Report on the visit only in July 2024, after which the submitted recommendations were reviewed and analyzed and sent to relevant institutions from all levels of government, all in order to send this Ministry answers on the possible progress in terms of their implementation.
7. Some institutions have informed the Ministry of Human Rights and Refugees of Bosnia and Herzegovina about current activities and adopted documents with the aim of implementing the mentioned recommendations, more specifically: Institution of Human Rights Ombudsman of Bosnia and Herzegovina; Federal Ministry of Justice; Federal Ministry of Labor and Social Policy; Judicial Police of the Federation of Bosnia and Herzegovina, and institutions under the Government of Republika Srpska collectively through the Ministry for European Integration and International Cooperation of Republika Srpska.
8. Accordingly, the authorities of Bosnia and Herzegovina are pleased to inform the SPT Subcommittee that 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 Punishments, in August 2023, adopted the Law on Amendments to the Law on the Human Rights Ombudsman of Bosnia and Herzegovina. Article 4a) of the Law creates a legal framework for the establishment of an independent preventive mechanism. The tasks of the preventive mechanism are: visits and inspections of places where persons deprived of liberty or persons whose movement is restricted in Bosnia and Herzegovina are located or could be located due to the increase in the level of their

protection against torture and other forms of cruel, inhuman or degrading treatment or punishments; 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, prevention of torture and other forms of cruel, inhuman or degrading treatment and punishment; 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; and cooperation with the SPT Subcommittee of the United Nations for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, sending information and holding meetings.

9. Considering the large number of recommendations and requests for information from the SPT Subcommittee, the competent institutions have entered their planned measures for the implementation of the recommendations in the table in Annex of this information, for easier visibility and monitoring of their implementation.

10. After the Council of Ministers of Bosnia and Herzegovina adopts the Information with Annex, the Ministry of Human Rights and Refugees of Bosnia and Herzegovina will, by regular procedure through the Ministry of Foreign Affairs of Bosnia and Herzegovina and the Permanent Mission of Bosnia and Herzegovina to the United Nations in Geneva, send the Information with Annex to the SPT Subcommittee for regular recording of progress in the implementation of issued recommendations.

11. In accordance with the aforementioned, we propose that the Council of Ministers of Bosnia and Herzegovina adopts the following.

## **II. Conclusion**

12. The Council of Ministers of Bosnia and Herzegovina adopted the Information on the visit of the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) to Bosnia and Herzegovina with Annex - Table of Recommendations of the United Nations SPT Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with answers from the competent authorities of Bosnia and Herzegovina regarding their implementation.

13. The Ministry of Human Rights and Refugees of Bosnia and Herzegovina is tasked with submitting, to the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) through the Ministry of Foreign Affairs of Bosnia and Herzegovina, Information on the visit of the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) to Bosnia and Herzegovina with Annex - Table of Recommendations of the United Nations SPT Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment with answers from the competent authorities regarding their implementation.

## Annex

### **Replies to the recommendations and observations addressed to the State party by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment after its visit to Bosnia and Herzegovina from 11 to 17 December 2022 (CAT/OP/BIH/ROSP/1) from the competent institutions**

<i>Recommendation</i>	<i>Reply</i>
<b>In relation to the recommendation contained in paragraph 9 of the report</b>	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.
<b>In relation to the recommendation contained in paragraph 11 of the report</b>	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).
<b>Establishment of a National Preventive Mechanism</b>	
<b>In relation to the recommendation contained in paragraph 19 of the report</b>	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) <sup>1</sup> , 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
<b>In relation to the recommendation contained in paragraph 20 of the report</b>	
<b>In relation to the recommendation contained in paragraph 21 of the report</b>	

<sup>1</sup> “Official Gazette of Bosnia and Herzegovina”, No. 61/23.

*Recommendation**Reply*

**In relation to the recommendation contained in paragraph 22 of the report**

Other Cruel, Inhuman or Degrading Treatment and Punishment, sending information and holding meetings.

**In relation to the recommendation contained in paragraph 23 of the report**

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).

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.

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.

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.

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.

Recommendation	Reply
	<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 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>
<b>Normative Framework for the Prevention of Torture</b>	
<b>In relation to the recommendation contained in paragraph 34 of the report</b>	
<b>In relation to the recommendation contained in paragraph 35 of the report</b>	
<b>In relation to the recommendation contained in paragraph 42 of the report</b>	
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<b>In relation to the recommendation contained in paragraph 49 of the report</b>	
<b>In relation to the recommendation contained in paragraph 49 of the report</b>	<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>

*Recommendation**Reply*

**In relation to the recommendation contained in paragraph 50 of the report**

**In relation to the recommendation contained in paragraph 51 of the report**

**In relation to the recommendation contained in paragraph 52 of the report**

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 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.

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.

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.

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.

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 Srpska<sup>2</sup> 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 Interior<sup>3</sup>, 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

<sup>2</sup> "Official Gazette of Republika Srpska", No.50/17.

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



<i>Recommendation</i>	<i>Reply</i>
	<p>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>
<p><b>Persons Deprived of Liberty in Detention</b></p>	
<p><b>In relation to the recommendation contained in paragraph 55 of the report</b></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

**In relation to the recommendation contained in paragraph 58 of the report**

**In relation to the recommendation contained in paragraph 62 of the report**

**In relation to the recommendation contained in paragraph 65 of the report**

**In relation to the recommendation contained in paragraph 67 of the report**

**In relation to the recommendation contained in paragraph 69 of the report**

**Reply to the recommendation contained in paragraph 71 of the report**

**In relation to the recommendation contained in paragraph 74 of the report**

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.

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.

Ombudsmen of Bosnia and Herzegovina indicate that representatives of the institution of Ombudsman have visited police administrations in Zenica, Travnik, 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.

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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:

- 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

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.

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.

The room for the accommodation of persons deprived of liberty must be at least 6m<sup>2</sup>, 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.

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

*Recommendation**Reply*

of persons deprived of liberty based on human rights, European standards and best practices in BiH by the Council of Europe.

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.

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 Srpska<sup>4</sup> 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.

<sup>4</sup> “Official Gazette of Republika Srpska”, Nos. 53/12, 91/17 and 66/18.

Recommendation	Reply
<b>Prison Facilities</b>	
<b>In relation to the recommendation contained in paragraph 79 of the report</b>	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.
<b>In relation to the recommendation contained in paragraph 81 of the report</b>	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.
<b>In relation to the recommendation contained in paragraph 85 of the report</b>	
<b>In relation to the recommendation contained in paragraph 86 of the report</b>	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.
<b>In relation to the recommendation contained in paragraph 89 of the report</b>	
<b>In relation to the recommendation contained in paragraph 90 of the report</b>	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.).
<b>In relation to the recommendation contained in paragraph 91 of the report</b>	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.

Recommendation	Reply
<b>In relation to the recommendation contained in paragraph 96 of the report</b>	The Law on the Execution of Criminal Sanctions in the Federation of Bosnia and Herzegovina <sup>5</sup> 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 and torture, as prescribed by Article 11 of the aforementioned Law.
<b>In relation to the recommendation contained in paragraph 97 of the report</b>	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 <sup>6</sup> and the rights of detained persons are clearly regulated in Articles 2 and 3 of the Rulebook. 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.
<b>In relation to the recommendation contained in paragraph 99 of the report</b>	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.
<b>In relation to the recommendation contained in paragraph 106 of the report</b>	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
<b>In relation to the recommendation contained in paragraph 108 of the report</b>	

<sup>5</sup> “Official Gazette of the Federation of BiH”, Nos. 44/98, 42/99, 12/09, 42/11 and 39/24.

<sup>6</sup> “Official Gazette of the Federation of Bosnia and Herzegovina” No. 57/03.

*Recommendation**Reply*

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 where statements are taken or where other treatment of persons deprived of their liberty takes place are inspected.

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.

*Recommendation**Reply*

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 *Horizontal Facility* 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.

**Groups in Special Situations of Vulnerability**

**In relation to the recommendation contained in paragraph 110 of the report**

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.

**In relation to the recommendation contained in paragraph 113 of the report**

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.

**In relation to the recommendation contained in paragraph 115 of the report**

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.

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.



*Recommendation**Reply***Forensic Psychiatry**

**In relation to the recommendation contained in paragraph 118 of the report**

**In relation to the recommendation contained in paragraph 121 of the report**

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.

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 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**

**In relation to the recommendation contained in paragraph 127 of the report**

**In relation to the recommendation contained in paragraph 128 of the report**

**In relation to the recommendation contained in paragraph 131 of the report**

With the Law on Assumption of Rights and Obligations of the Founders of Social Welfare Institutions in the Federation of Bosnia and Herzegovina<sup>7</sup>, and then with the Law on Social Welfare Institutions in the Federation of Bosnia and Herzegovina<sup>8</sup>, 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

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

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

*Recommendation**Reply***In relation to the recommendation contained in paragraph 133 of the report**

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.

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

*Recommendation**Reply*

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.

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.

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. If, in the abovementioned situations, the staff present is not able to adequately respond to the beneficiary's behaviour, the responsible person is obliged to ask an officer of the competent Ministry of the Interior for help. Official persons of the competent cantonal Ministry of the Interior are obliged, in accordance with the regulations on mental health protection, to respond to the call of the responsible person from the Federation social welfare institution, and to take the beneficiary to a secondary or tertiary health care institution, which has a psychiatry department or clinic and in which physical restraint measures can be implemented in accordance with the regulations on the protection of persons with mental disorders. The responsible person from the Federation social welfare institutions who requested the help of official persons of the competent cantonal Ministry of the Interior is obliged to explain the request in writing within 24 hours at the latest and to include this explanation in the medical documentation.

<i>Recommendation</i>	<i>Reply</i>
<b>Migrations</b>	
<b>In relation to the recommendation contained in paragraphs 139, 143, 147, 150 and 35 of the report</b>	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.