CPT/Inf (2014) 30

Response

of the Government of the Slovak Republic to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to the Slovak Republic

from 24 September to 3 October 2013

The Government of the Slovak Republic has requested the publication of this response. The report of the CPT on its September/October 2013 visit to the Slovak Republic is set out in document CPT/Inf (2014) 29.

Strasbourg, 25 November 2014

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Note by the CPT Secretariat: In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

Measures

for implementation of the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment mentioned in Point 61 of the Report to the Slovak Government on the visit carried out from 24 September to 3 October 2013

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61. The Committee recommends once again that appropriate interim measures be sought as a matter of urgency to ensure adequate care for prisoners with learning disabilities and/or serious mental disorders at the Leopoldov high-security department.

In connection with the second recommendation in Point 61 it is necessary to state that separation of inmates to the unit characterized mainly by increased protective measures and restrictions does not relate to the seriousness of the criminal act for which these inmates are executing the pre-trial detention or prison sentence, but presents a reaction to the real and regularly re-evaluated security risk justified by the behaviour of the inmate. In the explanatory standpoint to § 81 of the Act No. 370/2013 effective from 1 January 2014 by that the Act No. 475/2005 Coll. on Prison Sentence Execution has been amended that determines the rules of placement to the security regime unit there is mentioned with the aim of the unified application: ***„... factors of placement of prisoners to units and groups within the same guarding level observe apart from the proactive goals tending to the enhancement of the effectiveness of the treatment, for example by means of accommodation, work and common prison life of the same (un)disturbed offenders the minimisation of negative effects of the prison environment also the protective = security goals. Despite their universal character prisons shall be places where all, thus not only prisoners but also the staff shall feel safely. Due to this reason apart from the standard prison sentence execution there is also the specialized prison sentence execution in the unit with the security regime where prisoners are placed due to the fact that the actual behaviour of the prisoners presents a threat for protection and security and the prison service has no another legal and immediate possibility of solution of this situation. Thus the governing principle legitimating the decision of the prison governor on placement of the prisoner to the unit with security regime is not the single systematic infringement of the House Rules according to § 81 par. 1 letter a) of the Act on Prison Sentence Execution, but only such systematic infringement of the House Rules that constitutes a real threat of the security.“***

In terms of the stated after an analysis of the state of treatment of this category of prisoners and in compliance with the recommendation stated in Point 61 of the Report of the CPT Director General of the Corps of Prison and Court Guard adopted on 30 May 2014 a special “Instruction on measures for implementation of the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment mentioned in Point 61 of the Report to the Slovak Government on the visit carried out from 24 September to 3 October 2013” effective from 1 June 2014. The adopted instruction and measures address the sphere of the **methodical and consultation activity** that will be ensured by the Department of the Pre-trial Detention and Prison Sentence Execution of the General Directorate of the Corps of Prison and Court Guard (hereinafter referred to as “the Department”), as well as to the **personal sphere**

and sphere concerning the treatment of prisoners and its individualisation that will be ensured by the Prison Leopoldov.
In terms of the adopted measures the Department will direct by an intensive methodical activity the treatment of prisoners placed in the security regime unit, whereas **it will control the practical realisation of the treatment more frequently.**
Prison Leopoldov ensured from 1 June 2014 the recruital in the treatment sphere by participation of a special pedagogue and psychologist from the section of psycho-diagnostic and consultation activity. In the sphere of human resources the prison will orientate the admission proceedings towards admission of a special pedagogue with focus on psychopedia,
etopedia or pedagogy of mentally disturbed or pedagogy of socially and emotionally disturbed.

In the treatment sphere with the aim of its deepening and individualisation the treatment programs of all prisoners in this category will be updated until 15 June 2014. From this date activities to the training of coping with aggressive behaviour mainly in its initial stage, elimination of inadequate growth of tension – for example by elements of yoga, breathing and the like, autogenic training or Jacobson, realization of individual receptive music therapy will be included to the treatment programs apart from the general treatment. After generation of the interest area of the prisoner this will be realized within the possibilities of the security regime unit. Treatment and individual work with prisoners will be realized explicitly on the principle of strict credits; every positively oriented pro-social conduct will be regarded. The prison will pay increased attention to the filiations and social connections of prisoners with the aim to use them in the positive way in the re-socialisation process. A repeated performance of a psychiatric examination will be ensured in case of prisoners with diagnosed moderate to severe intellectual disability. In case of a part of prisoners the treatment will be ensured in close cooperation of the section of prison sentence execution with the medical staff of the prison, in some cases in cooperation of the prison doctor with the staff of the prison hospital. Until 6 June 2014 the prison will ensure the material for realization of the therapeutic and free-time activities.

The Instruction of the Director General of the Corps of Prison and Court Guard on Measures for implementation of the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment mentioned in Point 61 of the Report to the Slovak Government on the visit carried out from 24 September to 3 October 2013 is enclosed in Annex. The instruction has also been sent to the General Prosecution of the Slovak Republic.

Bratislava, 30 May 2014

Col. Mgr. Eugen Balko
Director General
Corps of Prison and Court Guard

Annex

Instruction
of the Director General Corps of Prison and Court Guard

on Measures for implementation of the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment mentioned in Point 61 of the Report to the Slovak Government on the visit carried out from 24 September to 3 October 2013

Pursuant to the recommendation No. 61 of the Report to the Slovak Government on the visit carried out from 24 September to 3 October 2013 carried out by the CPT of 24 March 2014 – *"The CPT reiterates its recommendation that the Slovak authorities develop facilities suitable to accommodate prisoners suffering from learning disabilities and/or serious mental disorders, such as those currently accommodated at the Leopoldov high-security department."* I order following measures:

I. Methodical and control activity

To the head of the Department of the Pre-trial Detention and Prison Sentence Execution

1. Guide by methodical activity treatment of prisoners who execute the prison sentence in the security regime unit; focus on the process of treatment programs´ designation in accordance with §11 of the Order of Director General No. 23/2014 on Treatment of Inmates.

Deadline: immediately

2. Check by control activity treatment of prisoners in the security regime unit
- until 30 September 2014 – once a calendar month
- from 30 September 2014 to 31 December 2014 – once in two calendar months

Deadline: in the text

II. Personal area

To Governor of Prison and Remand Prison Leopoldov

1. With the aim to intensify the treatment of prisoners occupy the functional place pedagogue by a prison officer with university education of 2nd degree – special pedagogy, branch of study etopedia or psychopedia.

Deadline: 31 December 2014

2. Determine a psychologist of the group of the psycho-diagnostic and consultation activity of the prison who will provide psychological services to prisoners placed in the security regime unit at least 8 hours a week.

Deadline: from 1 June 2014

III. Treatment of prisoners

To Governor of Prison and Remand Prison Leopoldov 4

1. Update the treatment programs of all prisoners in the security regime unit in compliance with § 26 par. 3 letter c) of the Regulation of the Ministry of Justice of the Slovak Republic No. 368/2008 Coll. that issues the Rules of Prison Sentence Execution as amended by the Regulation of the Ministry of Justice of the Slovak Republic No. 500/2013 Coll., when observing the principle of originality, concreteness and factuality.

Deadline: to 15 June 2014

2. Within treatment programs in part "other treatment methods and procedures" include programs for training of coping with aggressive behaviour already in its initial stage, inadequate growth of tension – for example
a) Yoga training, breathing – Bhastrika and the like,
b) Autogenic training or Jacobson relaxation method,
c) Realization of individual receptive music therapy,
d) Generate the interest area of the prisoner and start with its realization within the possibilities of the security regime unit,
e) Work with prisoners explicitly on the principle of strict credits; regard every positively oriented pro-social conduct,
f) Consider very sensitively interventions sideways the prison staff so that it does not come to strengthening of the dependent relation of the prisoner and his/her close family,
g) Work in a goal-oriented way with the matrimonial relations, use them in positive way in the re-socialisation process,
h) In case of confirmation of the "phobia" of common accommodation try to remove this by means of the cognitive-behavioural therapy.

Deadline: to 15 June 2014

3. Ensure a repeated psychiatric examination in case of prisoners with diagnosed moderate to severe intellectual disability.

Deadline: to 31. 07. 2014

4. In case of prisoners A, B, C, D and E, ensure the treatment in close cooperation of the section of prison sentence execution with the staff ensuring the provision of health and psychiatric care – mainly in the sphere of setting a suitable pharmacotherapy.

Deadline: to 1 June 2014

5. In case of prisoners E and F, solve the uncontrollable defecation and enuresis nocturna with the prison doctor in cooperation with the doctors of the prison hospital.

Deadline: to 6 June 2014

6. Ensure material for realization of therapeutic and free-time activities in the security regime unit (groundsheets, audio-system, pencils, colour boxes, paper, scissors, modelling clay and the like)

Deadline: to 6 June 2014

Bratislava, 30 May 2014

Col. Mgr. Eugen Balko
Director General
Corps of Prison and Court Guard

RESPONSE OF THE GOVERNMENT OF THE SLOVAK REPUBLIC TO THE REPORT ADDRESSED TO THE SLOVAK GOVERNMENT ON THE VISIT TO THE SLOVAK REPUBLIC CARRIED OUT BY THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT) FROM 24 SEPTEMBER TO 3 OCTOBER 2013

I. INTRODUCTION

D – Monitoring of Places of Deprivation of Liberty

Ad paragraph 7 – ***In the light of the preceding remarks, the CPT encourages the Slovak authorities to accede to the OPCAT and to set up a National Preventive Mechanism.***

Given the information and the recommendation addressed to the Slovak Republic, we would like to inform you that accession to the aforementioned Protocol still remains under consideration at the level of the Ministry of the Interior of the Slovak Republic (hereinafter referred to as the "MoI"). The Slovak Republic does not currently intend to become a party thereto as it has sufficient control mechanisms at international, regional and national level for the prevention of torture and other cruel, inhuman and degrading treatment or punishment.

Ad paragraph 8 – ***The CPT considers that care should be taken to ensure that the resources allocated to the Slovak Public Defender of Rights enable it to implement fully the mandate conferred on it by the relevant legislation.***

Pursuant to Section 27(6) of Act No. 564/2001 Coll. on the Public Defender of Rights, (hereinafter "Act on the Public Defender of Rights"), the particularities concerning the organisation and tasks of the Office of the Public Defender of Rights shall be laid down in the organisational rules to be issued by the Public Defender of Rights.

Under Section 27a(1) of the Act on the Public Defender of Rights, the number of staff employed by the Office is approved by the Public Defender of Rights.

In compliance with recommendations by the European Council, the Slovak Republic shall continue the process of public finance consolidation in order to bring its government deficit below 3% of GDP in 2013. In line with the consolidation effort, which prompted reductions in expenditures across the entire public sector, including in the budget of the Public Defender of Rights, the funds allocated in line with the breakdown for 2013 for the wages and salaries of the staff employed by the Department for the Protection of Fundamental Rights and Freedoms ("DPFRF") in the amount of €280,444 are deemed sufficient for the Public Defender of Rights to perform its mandate in a full-fledged manner. In this regard, the request by the Public Defender of Rights to increase her budget and staffing is inappropriate and, as such, cannot be currently accommodated.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. – Law Enforcement Agencies

Ad paragraph 10 – ***The CPT would like to be informed about the maximum possible duration of deprivation of liberty by the police under Section 17 of the Police Act and Section 120 of the Code of Criminal Procedure.***

In response to the above request for information, we would like to state that the primary task of the Police Force is to cooperate in the protection of fundamental human rights and freedoms, mainly in the protection of life, limb, personal liberty, security of persons, and in the protection of property. Particularly in situations when these rights are interfered with in such a manner and with such an intensity that the elements of an administrative infraction or criminal offence are accomplished.

Based on the nature of the tasks fulfilled by the Police Force, it is clear that in the performance of their duties (referred to in paragraph 16) police officers interfere with the rights and freedoms of other persons. The degree of interference with the rights and freedoms of individuals should be such as is necessary to achieve the purpose of policing.

In the majority of cases, the persons in respect of whom police officers exercise their powers knowingly failed to comply with the provisions of other generally binding regulations of private and public law. It is in the nature of these persons not to respect the exercise of statutory powers by police officers.

A generally binding regulation (Act No 171/1993 Coll. on the Police Force, as amended, hereinafter referred to as the "Police Act") regulates the powers that police officers are vested with in general terms. The nature of this piece of legislation, as a generally binding regulation (act of parliament), implies that it does not regulate concrete situations individually and in full detail.

The provision of Section 17 of the Police Act sets out one of the powers of the police officer, namely that the police officer is authorised to demand necessary explanation from a person who could contribute towards the clarification of facts relevant for the disclosure of a misdemeanour or criminal offence and detection of its perpetrator, as well as for the search of wanted or missing persons or things.

In this connection, we would like to state that, first and foremost, a person is asked to provide explanation on the spot and, only in the second instance and only if necessary, a person is summoned to appear, either immediately or within a set time limit, at a police station for the drawing up of a record of explanation, or in the case of a misdemeanour, for presenting a written statement of clarification. Only as the last resort, if the summoned fails to appear without reasonable excuse or good reasons, can he be brought into the police station.

Further, under Section 17(7) of the Police Act, the police officer is obliged to hand over a person brought in to a law enforcement agency or anther relevant authority if he finds reasons for doing so, otherwise the person shall be released immediately and the police officer shall make a note thereof in an official record on bringing such person in.

The time during which a person remains 'brought in' is not set out numerically in the Act. The person must be released immediately after the police officer has drawn up a protocol on bringing the person in, a protocol of the explanation given or a written statement of clarification in the case of a misdemeanour; all these procedures must be carried out immediately after the person has been brought in. If there are grounds to hand a person over to a law enforcement agency or to anther relevant authority, the police officer shall forthwith do so. In such a case, the principles of subsidiarity and proportionality must be observed.

In this connection, we would like to point at a ruling issued by the Constitutional Court of the Slovak Republic under Ref. No. III. ÚS 204/02 of 22 January 2004, which, in respect of 'bringing persons in' pursuant to §17 of the Police Act concluded that the wording of the provision in question clearly implies that the 'protocol of the explanation given' must be drawn up immediately after the person concerned has been brought in, because the purpose of bringing a person in is to obtain explanation pursuant to Section 17(1) of the Police Act. The duty to appear before a public authority (regardless of whether the authority belongs the legislative, executive or judicial branch of power) and wait in an area designated for that purpose until the authority invites the person to testify, as well as the testimony itself, restrict the person to an extent which – provided that the authority which has invited the person to testify follows its usual procedures – does not last long enough to be viewed as an interference with personal liberty which would be in conflict with the nature and purpose of the right to personal liberty.

If a person is held at a police station longer than necessary for the provision of explanation and the drawing up of the protocol of explanation, such practise is constitutionally unacceptable, as the above-mention finding states.

As regards the provision of Section 120 of Act No 301/2005 Coll., the Code of Criminal Procedure, as amended (hereinafter referred to as the "Code of Criminal Procedure"), we would like to state that the procedure of bringing the accused in serves the purpose of securing his appearance at questioning or at any other procedure if the accused was duly summoned and failed to appear for such a procedure without valid excuse. The accused may also be brought in without previous summons if this is necessary for the successful performance of a procedure, in particular if he is in hiding, has no permanent residence, and if it is not possible to serve the summons on the accused at the address specified by him.

In this context, we would like to highlight that it is necessary to distinguish between the procedure of bringing an accused pursuant to Section 120 of the Code of Criminal Procedure and the restriction of personal liberty of a suspect pursuant to Section 85(2) of the Code of Criminal Procedure who was caught in the act of committing a crime or immediately thereafter.

The bringing in of an accused serves the purpose of ensuring the presence of the person against whom formal charges have been brought in individual procedural steps of criminal proceedings under the conditions prescribed by law, namely Section 120 of the Code of Criminal Procedure.

By virtue of Section 2(2) of the Code of Criminal Procedure, the fundamental rights and freedoms of persons may, in cases permitted by law, be interfered with to the extent necessary to achieve the purpose of criminal proceedings with due respect to the dignity of persons and their privacy.

The act of bringing in of an accused pursuant to Section 120 of the Code of Criminal Procedure is <u>always an exceptional measure which must be judged individually and which should take only a period of time strictly necessary to achieve its purpose.</u>

The provisions on compelling the appearance of a witness (Section 88 of the Code of Criminal Procedure) should not be confused with the concept of 'bringing in' (Section 128 of the Code of Criminal Procedure) as these are two different procedures under the Code of Criminal Procedure. The conditions under which the appearance of a witness may be compelled are laid down in Section 88 of the Code of Criminal Procedure. The conditions under which a witness is brought in are laid down in Section 128 of the Code of Criminal Procedure. In the case of the accused, however, only 'bringing in' is possible (Section 120 of the Code of Criminal Procedure) as "compelling the appearance of an accused" is not regulated by the Code of Criminal Procedure, unlike in the case of witnesses who may be either 'compelled to appear' or 'brought in'.

Based on the aforementioned, the upper time limit put on the deprivation of personal liberty of a witness is expressly set out in the Code of Criminal Procedure only in the case of compelling the appearance of a witness (Section 88(3) of the Code of Criminal Procedure – not more than 72 hours). However, in the case of bringing in a witness (Section 128 of the Code of Criminal Procedure) or in the case of bringing in an accused (Section 120 of the Code of Criminal Procedure) no time limits are specifically defined.

The procedure of compelling the appearance of a witness may not be invoked by law enforcement authorities (neither the investigator, nor police officers). It applies exclusively to witnesses and to proceedings before courts and requires a court decision (ruling) to that effect. In contrast, witnesses or the accused may be brought in also in the pre-trial stages of proceedings upon request by the authority performing the procedure of criminal proceedings in which the accused or witness are obliged to participate (no decision to this effect is rendered).

The maximum length of the deprivation of personal liberty in the case of compelling the appearance of a witness is stipulated in the Code of Criminal Procedure. The Code of Criminal Procedure does not expressly regulate the time limit for the "maximum duration of restriction of personal liberty by the police" in the case of bringing in the accused/witness under Section 120. The procedure of bringing the accused/witness is a procedure in criminal proceedings designed for the transportation of the accused/witness to attend another procedure of criminal proceedings at which he failed to appear through his own fault without reasonable excuse despite having been duly summoned. In fact, the 'bringing in' procedure lasts from the moment of restricting the liberty of a person, through his transportation to appear before the authority conducting a procedure in criminal proceedings, until handing him over to that authority for the purposes of his presence at such a procedure. Upon handing such person over, his personal freedom is restricted to such an extent as if he appeared voluntarily at the procedure. On completion of the procedure, which is carried out in a fixed time under the conditions stipulated under the Code of Criminal Procedure (pursuant to Section 55 of the Code of Criminal Procedure, as a matter of principle, between 7.00 a.m. and 8.00 p.m.), the person may freely leave (except when it is established that grounds for custody exist). The deprivation of personal liberty of a person brought in takes only the period of time absolutely necessary for the person's transportation and handing over to the competent authority performing the procedure of criminal proceedings at which the person should have voluntarily appeared based on the summons served on him.

Ad paragraph 11 – ***The CPT recommends that the Slovak authorities make further efforts to prevent ill-treatment by police officers. Police officers throughout the country should receive a firm reminder, at regular intervals, that any form of ill-treatment of persons deprived of their liberty - including verbal abuse/racist remarks and threats - is illegal and unprofessional and will be punished accordingly.***

Further, it should be made clear to police officers, in particular through ongoing training, that no more force than strictly necessary should be used when effecting an apprehension and that there can be no justification for striking apprehended persons once they have been brought under control.

Moreover, appropriate steps must be taken to ensure that persons who may have been victims of ill-treatment by police officers are not dissuaded from lodging a formal complaint. Any information suggesting that a detained person has been subjected to threats and/or reprisals for having exercised his right to lodge complaints should be thoroughly investigated and, if appropriate, suitable sanctions should be imposed.

Members of the Police Force, when exercising their powers in situations when they interfere with the rights of citizens have to, in particular, comply with and adhere to the provisions of Chapter Three of the Police Act. The provisions of Title One entitled "Obligations of the Police Officer" lay down the basic rules for the treatment of persons against whom the police officer intervenes, conditions under which various coercive measures may be used, as well as the steps which the police officer must take before, during and after the intervention.

One of the most important "Obligations of the Police Officer" is laid down in Section 8 of the Police Act, pursuant to which police officers, in performing their duties, shall respect the honour, esteem and dignity of other persons and those of their own, and shall not, through their conduct, inflict unjustified harm or violate other persons' rights and freedoms above and beyond what is strictly necessary to achieve the purpose of policing. In performing their duties, police officers shall respect the Code of Ethics of the Police Officer issued by the Minister. If a police officer's intervention interferes with the rights or freedoms of another person, the police officer shall forthwith advise such person of his rights stipulated in this Act or in other generally binding regulations.

The provisions of Sections 63 and 64 of the Police Act lay down the general obligations incumbent upon police officers following any police intervention involving the use of coercive measures. As soon as the police officer establishes that the use of coercive measures has caused bodily harm, the officer shall, if circumstances so permit, administer first aid and procure medical attention for the injured. The police officer shall report immediately to his superior each and every police intervention where he used coercive measures. If there is any doubt as to rightfulness or adequacy of the coercive measures used, or if their use resulted in death, bodily harm or damage to property, the superior officer shall be obliged to examine whether the measures were used in compliance with law and shall draw up an official record on the findings. If the police officer has used coercive measures in a location other than his place of operation, he shall report their use to the nearest police department.

Section 65 of the Police Act contains specific restrictions on the use of coercive measures, namely that during interventions against pregnant women, elderly persons, or persons obviously physically handicapped or ill, or against person under the age of 15, the police officer may only use only grabs, holds and handcuffs. The police officer is authorised to use other coercive measures if attack by these persons poses imminent threat to the life and limb of other persons or to the police officer himself, or if there is a serious threat of damage to property, and the danger cannot be averted by any other means.

With respect to the recommendations given, we would like to add that pursuant to Order No 21/2009 of the Minister of the Interior concerning the Prevention of Violation of Human Rights and Freedoms by Officers of the Police Force and the Railway Police when Taking Actions and Restricting Personal Liberty (hereinafter referred to as "MoI Order No 21/2009"), as well as Order No 50/2010 of the Police President concerning Compliance with the Recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment addressed to the Slovak Republic after the on-site visit from 24 March to 2 April 2009 (CPT) (hereinafter referred to as the "Police President Order No 50/2010"), police officers are regularly (once a year) instructed, *inter alia*, on the provisions of Sections 8, 63 and 64 of the Police Act, Regulation No 3/2002 of the Minister of the Interior on the Code of Ethics of the Police Force Member, as amended (hereinafter referred to as the "Code of Ethics Regulation") and on the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Notification of the Ministry of Foreign Affairs of the Slovak Republic No 26/1995 Coll.).

Under the Code of Ethics Regulation, the police officer must, *inter alia*, respect human rights and freedoms, show decency, respect, tact and consideration to all without distinction, must not use violence, and may use coercive measures only under the conditions and in the manner prescribed by law.

In addition, pursuant to MoI Order No 21/2009 and Police President Order No 50/2010, the commanding officers of Police Force units, during routine inspections, must pay specific attention to the conduct of police officers vis-à-vis other persons, evaluate the findings of their inspection activities, and take measures to remedy deficiencies and remove their causes.

The Control Departments at the level of Regional Directorates of the Police Force and of the Police Force Presidium supervise the observance of the orders concerned.

As of 23 July 2013, the conduct of police officers, as well as their adherence to service discipline and knowledge of generally binding regulations and internal acts of the MoI, are assessed on the basis of Regulation No 118/2013 of the Minister of the Interior on the Trial Run of the Police Officers' Evaluation System, as amended by MoI Regulation No 54/2014, to which the Police President issued Instruction No 125/2013 on Details Related to the Trial Run of the Police Officers' Evaluation System, as amended by Instruction No 63/2014 of the Police President.

Under the aforementioned internal acts, immediate superiors must evaluate their subordinate police officers twice per calendar year; the evaluation also comprises a written test designed to check their knowledge of the generally binding regulations and internal acts of the MoI depending on the position held by the police officer concerned (e.g. Act No 73/1998 Coll. on the Civil Service of the Members of the Police Force, Slovak Intelligence Service, Corps of Prison and Court Guards of the Slovak Republic and the Railway Police, as amended – hereinafter referred to as the "Civil Service Act", the Criminal Code, Code of Criminal Procedure, Code of Ethics Regulation, and the like).

The evaluation of compliance with service discipline focuses mainly on the observance of the provisions of the Code of Ethics Regulation and other internal acts related to police discipline.

The evaluation of police conduct takes into account, *inter alia*, police officers' dutifulness, their capability to cope with the assigned tasks independently, and their interest in continuing professional development.

Immediate superiors may take the results of the evaluation into consideration when awarding bonuses.

In this connection, it should also be noted that issues related to compliance with the recommendations of the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment are included in school educational programmes for post-secondary police studies in specialisations *"riot police", " criminal police" and "criminal police with focus on fast-track investigation"*.

The curricula of the subject of *Law* include a thematic part "The Police and Human Rights", and in the Special Part of the Criminal Code wherein the facts of the cases of different criminal offences are set forth, extremism-related criminal offences are also stipulated.

The curricula of the subject of *Ethics and Psychology of Police Work* include the topics "Human Rights in the Context of Policing" (fundamental human rights and freedoms, torture and inhuman treatment, adequacy of intervention by the police officer). Practical exercises with model situations of intervention against members of extremist groups are incorporated as part of this subject.

In the study documents of the specialisation *Criminal Police*, specific attention is given to the topic entitled "Activities of the Criminal Police Service Related to the Phenomena of Extremism and Hate Crimes Motivated by Racial, National and Other Hatred ".

Within the post-secondary qualification studies, the police schools secondary offer, under different subjects, the topics as follows:

- *Ethics and Psychology of Policing*

Topics: Human Rights and Freedoms, Social Communication, Verbal Social Communication, Position of the Police in the Context of Society, Code of Ethics of a Member of the Police Force, Ethical Standards of Policing, Assertiveness, Aggressiveness, Conflicts, Domestic Violence, Victimology, Social Groups, Roma Community, Minorities, Extremism, Psychically Impaired Person, Interrogation (perpetrator, witness, the aggrieved), Social Deviations.

- *Law*

Topics: Charter of Fundamental Rights and Freedoms, Civil Service Act – powers and responsibilities, Criminal Substantive Law (Act No 300/2005 Coll., the Criminal Code), Criminal Procedure (Act No 301/2005 Coll., the Code of Criminal Procedure), Law of Administrative Infractions (a part of Administrative Law), Practical exercises.

- *Public Order Police (Riot Police)*

Topics: Civil Service Act, Duties of the Police Officer pursuant to the Police Act, Powers of the Police Officer pursuant to the Police Act, Police Detention Cell, Coercive Measures, Police Interventions.

- *Basic Police Training*

Topics: Police Interventions, Extremism.

The above topics are also taught within an additional course for police officers designed for policing in Roma communities and they are delivered by employees of the Prevention Department of the Office of the Minister of the Interior.

The themes related to the observance of fundamental rights and freedoms are delivered by specialised teachers within a specialised re-qualification course of fast-track investigation and within the re-qualification course for police officers who were transferred to units of the Border and Alien Police Bureau of the Police Force Presidium.

Since July 2013, the topic has also been delivered within the ongoing education of police officers in a course entitled "Education of the Criminal Police Service Police Officers in the Area of Criminal Extremism, Racism, Xenophobia, Anti-Semitism, Aggressive Nationalism – Train the Trainers".

The secondary police schools undergo internal evaluation once a year and external evaluation every other year.

Based on practical experience, the national curricula for the basic post-secondary police training were amended in May 2013 to increase the number of lessons of both theoretical education and practical training. In October 2013, new training programmes for the basic police training were accredited in order to enhance professional training of police officers and focus on the issues in question; the number of lessons of practical training was reduced while the number of lessons of theoretical-practical training, and of integrated exercises in various main subjects, increased.

Those who consider themselves victims of ill-treatment by police officers may invoke the protection of their statutory rights and interests which they deem violated by the activities of police officers or by their failure to act, in compliance with Act No 9/2010 Coll. on Complaints, as amended by Act No 289/2012 Coll. (hereinafter referred to as the "Complaints Act") to which an ordinance has been issued at the level of the Ministry of the Interior, namely MoI Regulation No 113/2010 on Complaints, as amended by MoI Regulation No 43/2011.

The aforementioned Act contains Section 8, which regulates the procedure to be followed by a public authority (i.e., authority making inquiry into the complaint) when the complainant requests that his identity be withheld. The provision in question under Section 8 reads as follows:

(1) A public administration authority shall withhold the identity of the complainant if he so requests. A public administration authority may withhold the identity of the complainant if successful handling of the complaint so requires. When inquiring into the complaint, its transcript or, where possible, its copy shall be used without disclosing any data that could identify the complainant. Any person who is aware of the identity of the complainant shall be under the obligation of confidentiality.

(2) If the complainant requests that his identity be withheld, but the content of the complaint does not allow its handling without disclosing some of the identity data, the public administration authority shall forthwith notify the complainant thereof. It shall also advise him that the complaint will continue to be handled once the complainant has delivered, within a specified time limit, his written consent with the disclosure of the personal data concerned.

(3) A complaint wherein the complainant requests that his identity be withheld, but the public administration authority does not have jurisdiction over its handling, shall be returned to the complainant giving grounds for its return no later than within ten business days of its receipt.

Section 7 of the Act guarantees that the lodging of a complaint may not trigger, nor may it be used as a reason to trigger, the drawing of any consequences that might be injurious to the complainant.

In this context, if there is any suspicion or proof that a person whose personal liberty was restricted was exposed to threats uttered by police officers or to any reprisal for exercising his right to lodge a complaint, the existing Slovak legislation contains important counter measures and sanctions of both disciplinary and criminal nature, e.g., such conduct may constitute criminal offence of abuse of power by a public official.

If a violation of MoI internal acts by a police officer is ascertained in connection with his inadequate verbal or physical behaviour towards a person whose personal liberty is restricted, his immediate superior will commence disciplinary proceedings against him without delay.

Where a particular conduct is found to bear the marks of a criminal offence (e.g., abuse of power by a public official) set forth in the Criminal Code, the investigation of the case is transferred under the jurisdiction of the Inspection Department of the Section of Control and Inspection Service of the MoI which, after thorough inquiry into and clarification of the case, will take a decision in compliance with the Code of Criminal Procedure. The competent supervising prosecutor oversees the performance of individual procedures related to the investigation of the case and of the legality of investigation. Once the charges have been filed and a competent court of the Slovak Republic has seized jurisdiction over the case, the case is heard and a decision in the name of the Republic is handed down in accordance with effective provisions of the Code of Criminal Procedure and the Criminal Code.

The cases of professional misconduct by individuals cannot be completely eliminated by the systemic measures adopted and implemented at the MoI level (e.g., the aforementioned provisions of the Police Act, Complaints Act, Civil Service Act), nor can they be eliminated through the inclusion of subjects related to compliance with recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment into the training programmes for post-secondary advanced studies in specialisations of the Riot Police, Criminal Police and Criminal Police with Focus on Fast-track Investigation, or through regular refresher courses for subordinate police officers on adherence to the Code of Ethics Regulation.

Despite the facts mentioned above, the CPT recommendations under paragraph 11 will also be reflected in a new Order of the Police President which will replace Order No 50/2010, whereby the superiors of police officers will be charged with the task of regularly instructing their subordinates on the provisions of Section 8 of the Police Act, Section 7 of the Complaints Act, MoI Regulation No 3/2002 on the Code of Ethics of the Police Officer, as amended; any failure to adhere to these regulations may give rise to liability.

Ad paragraph 12 – ***The CPT would like to be informed by the Slovak authorities on whether such protective measures exist in the Slovak Republic.***

In response to the request for information, we would like to inform you that the police officer, just like any other person, may avail himself of the control mechanisms available within the Police Force and the MoI in respect of the reporting of cases of ill-treatment by his colleagues (police officers).

Such controls are carried out by the relevant superiors of police officers in compliance with the Civil Service Act, namely Section 49 thereof, which imposes upon the former the obligation to manage, organise and control the conduct of subordinate police officers, and such controls may also be carried out in response to reports made by other police officers or by any other person.

Additional types of controls are those carried out by control departments at the levels of Regional Directorates of the Police Force, Police Force Presidium and of the MoI.

The control mechanism is based, in particular, on Act No 10/1996 Coll. on Control in State Administration, as amended, to which two internal normative acts have been issued, namely MoI Regulation No 81/2011 on Internal Control Mechanism and MoI Regulation No 82/2011 on Unplanned and Operational Inspections.

In this connection, one of the protective measures concerning the cases of ill-treatment by police officers reported by their colleagues is the possibility to initiate inquiry. The control departments at the Regional Directorates of the Police Force, the Police Force Presidium and the MoI, as well as competent superiors, deal with all submissions and handle them in compliance with the applicable legislation of the Slovak Republic and, in view of the previous recommendations addressed by the Committee, each and every such submission is dealt with individually and in all seriousness.

Moreover, the publicly accessible website of the Section of Control and Inspection Service of the MoI contains an electronic form through which it is possible, even anonymously, to report any suspected unlawful conduct by police officers and other MoI staff. The information provided in the electronic form is verified, evaluated and used by the Section of Control and Inspection Service.

If, based on a submission concerning the ill-treatment by police officers of persons deprived of their liberty, the act of ill-treatment meets the elements of a criminal offence under the Criminal Code, the provisions of Sections 136 and 137 of the Code of Criminal Procedure may apply to the person in the procedural status of a witness in criminal proceedings.

Pursuant to Section 136 of the Code of Criminal Procedure, if there are reasonable grounds to believe that by divulging his home address the witness or a person close to him could be put at risk, the witness may be allowed to give the address of his workplace or another address to which the summons can be served, or if there are reasonable grounds to believe that by disclosing the identity, domicile or the whereabouts of the witness could put his life, limb or bodily integrity at risk or if such a danger exists for a person close to him, the witness may be allowed not to divulge his personal data. At the main hearing, however, he shall testify as to how he had gained the knowledge of the facts he reported. Any documents which enable the disclosure of the witness' identity shall be deposited with the prosecutor and, in judicial proceedings, with the presiding judge. They are included in the case file only once the risk has ceased to exist. The authorisation to follow the aforementioned procedure is granted by the presiding judge and, in pre-trial proceedings, by the prosecutor.

If the police officer does not consider the application of the above procedure grounded even though the witness insists on its application stating concrete facts which, as he believes, justify the procedure, pursuant to Section 137 of the Code of Criminal Procedure the police officer may ask the prosecutor to verify the correctness of his conduct. If there is no danger of delay, the officer will postpone the questioning of the witness pending the prosecutor's decision in the matter. Otherwise, the officer will question the witness and, until the prosecutor has issued his decision, he shall treat the records of questioning as confidential so as not to disclose the identity of the witness.

Moreover, pursuant to Section 136 of the Code of Criminal Procedure, before questioning a witness whose identity is not to be disclosed, the law enforcement authority and/or court shall take appropriate measures to protect the witness, such as altering the physical appearance and voice of the witness or using technical devices, including devices for the transmission of sound or images.

Ad paragraph 13 – ***The CPT would like to receive updated information as regards the investigation and the outcome of the case (Komárno, 28 September 2013). In particular, the Committee would like to receive a copy of the two decisions referred to by the Slovak authorities in their letter of 12 December 2013, namely the decision of the Section of Section of Control and Inspection Service of the Ministry of the Interior of the Slovak Republic dismissing the case and the subsequent decision of the Regional Prosecutor's Office in Komárno quashing that decision, as well as a copy of any subsequent decisions taken in the case.***

In response to the request for updated information, we would like to inform you that the given "case" was dealt with by the Inspection Department-West of the Section of Control and Inspection Service of the MoI under **file No**: **SKIS-474/OISZ-V-2013**. The investigator of the department dismissed the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 30 October 2013. On 21 November 2013, the Inspection Department-West of the Section of Control and Inspection Service of the MoI received Ruling No. **1 Pn530/13-2** from the District Prosecutor's Office of 13 November 2013, whereby the decision of the investigator dated 30 October 2013 was quashed. Based on the ruling issued by the District Prosecutor's Office in Komárno, the investigator was instructed to secure additional evidence and render a new decision in the matter. Based on the additional facts and the evaluation of all allegations, and also based on the evaluation of underlying documentary evidence, the investigator rendered a decision on the merits pursuant to Section 197(1)(d) of the Code of Criminal Procedure under **file No: SKIS-474/OISZ-V-2013** dated 12 December 2013 whereby he rejected the motion. The above decision became final and conclusive on 28 December 2013.

Enclosed please find Annex 1 containing copies of the requested decisions of the Section of Control and Inspection Service of the MoI and the District Prosecutor's Office in Komárno.

Ad paragraph 14 – ***The CPT would like to receive copies of the final decisions taken by the Section of Control and Inspection Service of the Ministry of the Interior in these cases.***

Enclosed please find Annex 2 containing copies of the requested decisions of the Section of Control and Inspection Service of the MoI. May we also inform you that, on 29 October 2013, the Section of Control and Inspection Service of the MoI received a letter sent from the Ministry of Justice of the Slovak Republic with the information related to the 16 cases concerned notified by the General Directorate of the Corps of Prison and Court Guards of the Slovak Republic.

As these cases were reported both to the Section of Control and Inspection Service of the MoI and to the respective prosecutors, it was necessary to obtain additional information for the sake of completeness.

Based on the above, and based on the documents provided by the Corps of Prison and Court Guards of the Slovak Republic, the more specific information about the cases is as follows:

A) The findings of investigation into the cases of persons admitted to the remand section of Nitra Prison in 2013 with injuries allegedly caused by police officers, which were reported to the competent bodies of the Corps of Prison and Court Guards of the Slovak Republic. The comments by the Inspection Department-West of the Inspection Service of the Section of Control and Inspection Service of the Ministry of the Interior on individual cases of persons brought in are as follows:

1. The bringing in of A, referred to as No 1 on the list of the persons admitted to the remand section of Nitra Prison with an injury on 14 January 2013, was subject to investigation under **file No: SKIS-35/OISZ-V-2013.** The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 6 February 2013 whereby he dismissed the case. The person lodged a complaint against the decision on 21 February 2013, which was quashed by the prosecutor of the District Prosecutor's Office in Topoľčany by Decision No: **1 Pn 103/2013-8** on 20 March 2013.

2. The bringing in of B, referred to as No 2 on the list of the persons admitted to the remand section of the Nitra Prison with an injury on 16 April 2013, was subject to investigation under **file No: SKIS-219/OISZ-V-2013.** The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 9 May 2013 whereby he dismissed the case. The decision became final and conclusive on 21 May 2013.

3. The bringing in of C, referred to as No 3 on the list of the persons admitted to the remand section of the Nitra Prison with an injury on 7 June 2013, was subject to investigation under **file No: SKIS-481/OISZ-V-2013.** The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 28 October 2013 whereby he dismissed the case. The decision became final and conclusive on 8 November 2013.

4. The bringing in of D, referred to as No 4 on the list of the persons admitted to the remand section of the Nitra Prison with an injury on 8 June 2013, was subject to investigation under **file No: SKIS-487/OISZ-V-2013.** The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 13 November 2013 whereby he dismissed the case. The decision became final and conclusive on 3 December 2013.

5. The bringing in of E, referred to as No 5 on the list of the persons admitted to the remand section of Nitra Prison with an injury on 14 June 2013, was subject to investigation under **file No: SKIS-369/OISZ-V-2013.** The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 15 August 2013 whereby he dismissed the case. The decision became final and conclusive on 27 August 2013.
6. The bringing in of F, referred to as No 6 on the list of the persons admitted to the remand section of Nitra Prison with an injury on 23 June 2013, was subject to investigation under **file No: SKIS-331/OISZ-V-2013**. The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 30 July 2013 whereby he dismissed the case. The decision became final and conclusive on 13 August 2013.
7. The bringing in of G, referred to as No 7 on the list of the persons admitted to the remand section of Nitra Prison with an injury on 11 July 2013, was subject to investigation under **file No: SKIS-374/OISZ-V-2013**. The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 3 September 2013 whereby he dismissed the case. The decision became final and conclusive on 17 September 2013.
8. The bringing in of H, referred to as No 8 on the list of the persons admitted to the remand section of Nitra Prison with an injury on 12 July 2013, was subject to investigation under **file No: SKIS-363/OISZ-V-2013.** The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 15 August 2013 whereby he dismissed the case. The decision became final and conclusive on 27 August 2013.
9. The bringing in of I, referred to as No 9 on the list of the persons admitted to the remand section of Nitra Prison with an injury on 27 July 2013, was subject to investigation under **file No: SKIS-379/OISZ-V-2013.** The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 26 August 2013 whereby he dismissed the case. The decision became final and conclusive on 6 September 2013.
10. The bringing in of J, referred to as No 10 on the list of the persons admitted to the remand section of Nitra Prison with an injury on 30 September 2013, was subject to investigation under **file No: SKIS- 474/OISZ-V-2013.** The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 30 October 2013 whereby he dismissed the case. The decision was quashed by the prosecutor of the District Prosecutor' Office in Komárno on 13 November 2013. The investigator rendered a decision in the case pursuant to Section 197(1)(d) of the Code of Criminal Procedure on 12 December 2013 whereby he dismissed the case. (see paragraph 13 for more information).

In the above-listed cases identified by the CPT, coercive measures were used against individuals caught in the act of committing a crime, against individuals attempting to escape justice or against individuals deprived of personal liberty due to suspicion of them having committed a crime. None of the investigations into these cases led to the conclusion that the persons concerned had been treated in a non-standard, inhuman or degrading manner.

B) The findings of investigation into the cases of persons admitted to the remand section of Prešov Prison in 2012 and 2013 with injuries allegedly caused by police officers that were reported to competent authorities. The Inspection Department-East of the Section of Control and Inspection Service of the MoI performed procedures prior to the commencement of criminal prosecution pursuant to Section 196(2) of the Code of Criminal Procedure, as well as criminal proceedings performed after the commencement of criminal prosecution pursuant to Section 199(1) of the Code of Criminal Procedure.

The comments concerning the individuals brought in with injuries and admitted to the remand section of Prešov Prison in 2012 are as follows:

1 The accused K was brought in and admitted to the remand section of Prešov Prison on 1 February 2012 with injuries allegedly caused by members of the Railway Police. After referral of his file, the procedural steps preceding the stage of criminal prosecution had been taken pursuant to Section 196(2) of the Code of Criminal Procedure under **file No: SKIS-57/OISV-V-2012**. On 29 March 2012, the proceedings were discontinued by a decision rendered pursuant to Section 197(1)(d) of the Code of Criminal Procedure whereby the case was dismissed. The decision became final and conclusive on 14 April 2012.

2 The accused L was brought in and admitted to the remand section of Prešov Prison on 23 March 2012 with injuries allegedly caused by police officers. After referral of his file, the procedural steps preceding the stage of criminal prosecution had been taken pursuant to Section 196(2) of the Code of Criminal Procedure under **file No: SKIS-102/OISV-V-2012**. On 30 April 2012, the proceedings were discontinued by a decision rendered pursuant to Section 197(1)(d) of the Code of Criminal Procedure whereby the case was dismissed. The decision became final and conclusive on 18 May 2012.

3 The accused M was brought in and admitted to the remand section of Prešov Prison on 26 April 2012 with injuries allegedly caused by police officers at the Sub-District Police Department in Stará Ľubovňa. After referral of his, the procedural steps preceding the stage of criminal prosecution had been taken pursuant to Section 196(2) of the Code of Criminal Procedure under **file No: SKIS-136/OISV-V-2012**. On 31 May 2012, the proceedings were discontinued by a decision rendered pursuant to Section 197(1)(d) of the Code of Criminal Procedure whereby the case was dismissed. The decision became final and conclusive on 19 June 2012.

4 The accused N was brought in and admitted to the remand section of Prešov Prison on 2 June 2012 with injuries allegedly caused by police officers at the Sub-District Police Department in Svidník. After referral of his, the procedural steps preceding the stage of criminal prosecution had been taken pursuant to Section 196(2) of the Code of Criminal Procedure under **file No: SKIS-195/OISV-V-2012.** On 30 November 2012, the proceedings were discontinued by a decision rendered pursuant to Section 197(1)(d) of the Code of Criminal Procedure whereby the case was dismissed on the ground that the act is not a criminal offence and there is no reason for referral of the case. N received the decision on 12 December 2012 and lodged a complaint against it; subsequently, on 16 January 2013, the supervising prosecutor of the District Prosecutor's Office in Svidník dismissed the complaint pursuant to Section 193(1)(c) of the Code of Criminal Procedure. The decision became final and conclusive on 16 January 2013.

5 The accused O was brought in and admitted to the remand section of Prešov Prison on 3 October 2012 with injuries allegedly caused by police officers of the Motorised Rapid Response Unit of the Riot Police at the Regional Directorate of the Police Force in Prešov. After referral of the file, the procedural steps preceding the stage of criminal

prosecution had been taken pursuant to Section 196(2) of the Code of Criminal Procedure under **file No: SKIS-286/OISV-V-2012**. On 7 November 2012, the proceedings were discontinued by a decision rendered pursuant to Section 197(1)(d) of the Code of Criminal Procedure whereby the case was dismissed. The decision became final and conclusive on 16 November 2012.

The comments concerning the individuals brought in with injuries and admitted to the remand section of Prešov Prison in 2013 are as follows:

1. The accused P was brought in and admitted to the remand section of the Prešov Prison on 17 June 2013 with injuries allegedly caused by police officers at the Sub-District Police Department in Stará Ľubovňa. After referral of his file, the procedural steps preceding the stage of criminal prosecution had been taken pursuant to Section 196(2) of the Code of Criminal Procedure under **file No: SKIS-150/OISV-V-2013.** On 25 June 2013, the proceedings were discontinued by a decision rendered pursuant to Section 197(1)(d) of the Code of Criminal Procedure whereby the case was dismissed. The decision became final and conclusive on 9 August 2013.

The accused Q was brought in and admitted to the remand section of Prešov Prison on 17 June 2011 with injuries allegedly caused by other persons according to the statement of the accused. Since the Inspection Department-East of the Section of Control and Inspection Service of the MoI did not receive from the remand section of Prešov Prison any file relating to the person concerned, no procedures were initiated. However, a subsequent inquiry into the case ascertained that the aforementioned injuries were caused to Q by his son Q. For this reason, enclosed please find Annex 3 containing related documents from the Sub-District Police Department in Poprad and from the Criminal Police Department of the District Directorate of the Police Force in Poprad under **file Nos: ORP-949/PP-PP-2013, ORP-588/1-OVK-PP-2013** and **ORP-1308/PP-PP-2013,** as well as a **protocol** on remanding the accused Q in custody.

Ad paragraph 15 – ***The CPT would like to receive the comments of the Slovak authorities on this issue, in the light of the relevant case-law of the European Court of Human Rights.***

In response to the above request for information, we would like to state that the investigation into possible ill-treatment of persons deprived of their liberty in the Slovak Republic, including ill-treatment by the police, is carried out by the Public Prosecution Office of the Slovak Republic and by the Public Defender of Rights which, as authorities established by the Constitution, provide the maximum possible guarantee of institutional independence.

The Public Prosecution Office of the Slovak Republic is a body that protects the rights and interests guaranteed by law to individuals, legal entities and the State. Within the scope of its powers, the public prosecution service shall, in public interest, take measures with a view to preventing, identifying and disclosing any breach of law and eliminate the same, remedying any violation and impairment of rights, and drawing appropriate consequences. Prosecutors also supervise the observance of law at places where the persons deprived of their liberty or those whose liberty has been restricted on the basis of decision rendered by a court or another competent state authority vested with relevant powers by law, are kept.

In this context, it is not possible to apply the case-law of the European Court of Human Rights according to which the Public Prosecution Office is not sufficiently independent from the executive branch of power. The relevant decisions were rendered against the Republic of France (Medvedyev and Others v. France, decision of 29. March 2010; Moulin v. France, decision of 23 November 2010), in which the Public Prosecution Office is a part of the executive power and falls within the competence of the Minister of Justice. However, the prosecution service of the Slovak Republic is an independent system of public bodies separated from other elements of the state power.

The possible ill-treatment of persons deprived of liberty is also dealt with by the Public Defender of Rights who, as an independent body, protects the fundamental rights and freedoms of natural persons and legal entities in proceedings before the authorities of the executive branch of power whenever their acts, decisions or failures to act contradict the rule of law. At the same time, the Public Defender of Rights may take part in holding public servants accountable for the infringement of fundamental rights and freedoms of natural persons and legal entities.

The inquiry by the Section of Control and Inspection Service of the MoI into possible ill-treatment of persons deprived of their liberty by police officers represents an internal control mechanism that complements the aforementioned system.

Ad paragraph 16 – ***The CPT would like to receive updated information on the progress and outcome of the investigations into allegations of ill-treatment of persons deprived of their liberty by the police in the context of the aforementioned police operation of 19 June 2013 in Moldava nad Bodvou. Further, the Committee would like to be informed in detail of the steps taken by the Section of Control and Inspection Service of the Ministry of the Interior when investigating these allegations.***

***Moreover, the Committee recommends that the Slovak authorities take the necessary steps to ensure that police interventions of the kind described above are video-recorded (e.g. with tactical cameras as part of the equipment of the police officers concerne*d).**

As regards the investigation into the police operation in the Roma settlement at Moldava nad Bodvou on 19 June 2013, the investigator of the Inspection Department-Centre of the Section of Control and Inspection Service of the MoI commenced criminal prosecution by a ruling issued pursuant to Section 199(1) of the Code of Criminal Procedure dated 20 January 2014 for the felony of the abuse of power by a public official pursuant to Section 326(1)(a) and (c) of the Criminal Code with reference to Section 138(h) of the Criminal Code (gross misconduct) and Section 140(b) of the Criminal Code (specific motivation), and others.

The ‘gross misconduct’ pursuant to Section 138(h) of the Criminal Code means the commission of a criminal offence through the breach of an important duty prescribed by law and connected with employment, position or function, and the ‘specific motivation’ pursuant to Section 140(b) of the Criminal Code means the commission of a criminal offence motivated by vengeance.

The criminal proceedings in this case were commenced based on an instruction by the prosecutor of the Regional Prosecutor’s Office in Prešov under file No: 1 Kn 389/13.

The investigator of this particular case received a list of the aggrieved parties comprising approximately 70 persons. At present, these persons are being interviewed, but the representative of the aggrieved has indicated that the number of the aggrieved will be reduced. Fifty persons on the list have so far been interviewed; several persons are not deemed aggrieved. The questioning of witnesses and police officers who took part in the police intervention is also under way. The expert opinions on the case are being processed. Expert medical reports are yet to be drawn up. The present strength of evidence does not substantiate the bringing of charges against specific police officers. The case is under investigation.

Furthermore, concerning the CPT recommendation to video-record police "interventions", may we add that based on Section 69(2) of Chapter Four of the Police Act entitled "Processing of Information by the Police Force", the police may produce audio, video and other recordings from publicly accessible areas and the audio, video and other recordings of police conduct or interventions whenever the fulfilment of their duties so requires.

Pursuant to Section 9(3) of the Police Act, the term 'police intervention' means an activity performed by the police within the boundaries of law which directly interferes with the fundamental rights and freedoms of individuals; the performance of 'service duties' pursuant to Section 8(3) of the Police Act means the fulfilment by police officers of the tasks laid down in the Police Act or in other generally binding regulations.

Any police intervention carries a risk that the person(s) against whom the intervention is aimed will put up resistance or even assault the police. It is therefore necessary for police officers to pay utmost attention to carrying out the intervention properly. At the same time, it is necessary that another (at least one) police officer covers the intervening officer against attacks by other persons. Since two police officers are typically not enough to carry out an intervention successfully, the presence of a third one, who is actively involved in the performance of the intervention, is essential. Under the above described circumstances, when police officers are at full stretch, it is impossible to simultaneously focus on documenting the intervention.

Based on the aforesaid, it is clear that the video-recording of police operations is primarily a matter of resources and logistics behind the performance of service duties.

At the same time, an across-the-board video-recording of procedures carried out in dwellings, excluding, for example, the crime scene inspection or house search, may be perceived as an inappropriate interference with the privacy of persons. In this case, the principle of proportionality is also of significance, and hence consideration must be given to the proportionality of interference with the rights and freedoms of individuals (such as the video-recording of places of abode) against the gravity of the offence and subsequent intervention, e.g., authority to enter a dwelling forcibly pursuant to Section 29 of the Police Act.

Any such video footage must be handled as a record containing personal data. Video-recording captures the face of the person against whom police action is directed, but also other bystanders, his dwelling, which may also be the place of abode for other persons against whom the police action is not primarily aimed, but interferes with their privacy. Under Article 16(1) of the Constitution of the Slovak Republic, the inviolability of the person and his/her privacy is guaranteed. It may be limited only in cases defined by law.

In this context, however, let us inform you that the Riot Police Force Department of the Police Force Presidium is currently involved in the project ESNEV (Electronic Systems and the National Registry of Vehicles SOITRON) and participates in the project development. The objective of the project is to develop an IT system which consists of a camera for the scanning of vehicle number plates and recording of police actions, a device for sound recording and camera recordings, and of a control panel – touch screen. The system is built into police motor vehicles and,

using a SIM card, it liaises with other electronic systems. It enables the vetting of persons, vehicles and searched items, the reading of documents (IDs, roadworthiness certificates), reading and evaluation of vehicle licence plates, navigation, orientation based on maps, archiving of images, data, and the like. The pilot project was successfully implemented in the second half of 2013. Currently, the trial run is under way and, after completing the updated list of service vehicles, new equipment will be built into new police vehicles (replacement of vehicles in the MoI fleet). The system is scheduled to be put into routine operation in 2014.

In connection with the police "intervention" in Moldava nad Bodvou on 19 June 2013, a measure was taken in January 2014, namely Regulation No 4/2014 of the Minister of the Interior, which amended Article entitled "Search Operations" of Regulation No 53/2007 of the Minister of the Interior on Procedures Applicable to Searches for Persons and Things, as amended.

Under Article 39(6) of the Regulation, the commander of a search operation shall secure the video, audio or other recordings of the site where the search operation is carried out, in particular when a higher number of police staff and equipment are expected to be deployed, when a higher number of persons unrelated to the search are expected to be present at the scene, when the operational situation and nature of the intervention so enables, and when the recording is technically possible.

Ad paragraph 17 – ***In its report on the 2009 visit, the CPT referred to the incident of 21 March 2009, concerning the case of six Roma juveniles who had allegedly been forced, under threat of physical assault by police officers, to strip naked in a police station in Košice and to slap each other. Furthermore, they had allegedly been subjected to intimidation by police dogs. ...The CPT would like to receive updated information on this matter.***

In response to the CPT request for updated information on the incident of 29 March 2009 in Košice, we submit the following: on 31 March 2010, Investigation file No. SKIS-105/IS-3-V-2009, together with a motion to bring charges pursuant to Section 209(1) of the Code of Criminal Procedure was delivered to the prosecutor of the General Prosecutor's Office of the Slovak Republic. Subsequently, the prosecutor of the General Prosecutor's Office of the Slovak Republic brought charges and, at present, the District Court of Košice I is taking evidence in the main hearing.

Ad paragraph 18 – ***The CPT must once again call upon the Slovak authorities to remove wall fixtures for attaching persons from all police establishments and, more generally, to take effective measures to stamp out the practice of persons held by the police being attached to fixed objects. Every police facility where persons may be deprived of their liberty should be equipped with one or more rooms designated for detention purposes and offering appropriate security arrangements.*** *Corridors should not be used as ad hoc detention facilities.*

In the event of a person in custody acting in a violent manner, the use of handcuffs may be justified. However, the person concerned should not be shackled to fixed objects but instead be kept under close supervision in a secure setting and, if necessary, medical assistance should be sought. Moreover, where it is deemed necessary to handcuff a person during the period of custody, the handcuffs should be applied only for as long as is strictly necessary.

By way of explanation in respect to the above recommendation, we would like to state that police officers using handcuffs apply Section 52 of the Police Act which reads as follows:

(1) The police officer is authorised to use handcuffs

a) to handcuff a person being brought in, apprehended, detained or arrested, or a person to be delivered to a prison or remanded in custody, who puts up active resistance or attacks other persons or police officers or who damages property despite having been called on to refrain from such conduct,

b) to handcuff together two or more persons being brought in, apprehended, detained or arrested under the conditions referred to in subparagraph a) hereof,

c) while performing interventions or taking procedural steps in respect of the persons being brought in, apprehended, detained or arrested, or in respect of the persons placed on remand or serving a prison sentence, if there is a grounded suspicion they might attempt to escape,

d) while carrying out police transport of aliens through the territory of the Slovak Republic to the state border of the neighbouring state.

(2) The person referred to in paragraph (1) may also be handcuffed to a suitable object if circumstances so require, however, only as long as the reasons referred to in paragraph (1) persist.

(3) The police officer is authorised to use a restraining belt for the purposes stated in paragraphs (1) and (2) if there is suspicion that the use of handcuffs might be ineffective.

The above provisions are exhaustive in terms of setting the duration of and conditions under which police officers are authorised to use handcuffs.

Furthermore, with respect to the CPT recommendation and to the present need to use appropriate objects for shackling, it should be noted that police officers are entitled to handcuff persons to appropriate objects referred to in Section 52(2) of the Police Act; however, for example, a central heating pipe or a radiator are not considered appropriate objects.

The occurrence of suitable fixed objects for attaching persons and their use is rare and limited to justified cases only, for example, if a person brought into a police station puts up active resistance, attacks other persons or police officers or damages property; however, the person is handcuffed to such an object only for as long as the reasons for doing so exist. It is clear from the above, as well as from Section 52 of the Police Act, that it is a temporary measure. Preference is given to the use of rooms designated for those brought in ("designated areas") and persons are attached to a suitable object only if there is no other solution available.

The person is handcuffed to a suitable fixed object at a place where the public has no access at all, or where public access is limited. In this context, the Ministry of the Interior has adopted systemic measures in the form of, in particular, the provisions of Section 8 of the Police Act, Section 48 of the Civil Service Act as well as Regulation on Code of Ethics and Regulation No. 22/2013 of the Police President on the Activities Carried out by the Riot Police Basic Units, as amended by Regulation No 52/2014 of the Police President (hereinafter referred to as "Police President Regulation No 22/2013"), which regulates the procedures to be strictly followed and respected by police officers when interacting with persons deprived of personal liberty (police activities – paragraph 16).

The provisions of Section 48(3)(a) and (n) of the Civil Service Act stipulate that police officers are obliged to conscientiously fulfil the tasks assigned to them by the Constitution, constitutional laws, laws and other generally binding legal regulations, as well as the tasks imposed on them by decrees, regulations, orders and instructions issued by their superiors provided that they have been properly communicated to them (e.g., compliance with the provisions of Section 8 of the Police Act and Regulation on the Code of Ethics) and fulfil the obligations under other generally binding regulations.

In this context, we refer to the fact that from 2009 up until now, the Control Departments of the Regional Directorates of the Police Force, Police Force Presidium and the Ministry of the Interior, have dealt with only six complaints involving handcuffing to suitable fixed objects. Not a single complaint was found grounded, which means that police officers did not violate any of the generally binding legal regulations or by-laws of the MoI.

Furthermore, if it is proven that a police officer has transgressed his statutory powers pursuant to Section 52 of the Police Act, such conduct is sanctioned through disciplinary or criminal proceedings in compliance with the effective legislation of the Slovak Republic (paragraphs 11 and 12), and it should be noted that it is a failure of an individual which cannot be entirely prevented in spite of the aforementioned systemic measures.

In conclusion, we would like to note that not every person deprived of liberty is automatically shackled to a 'suitable object'. Each and every case of such shackling is considered individually, taking into account the behaviour of the person at the police station (person is aggressive, damages property, etc.).

The removal of the objects suitable for the shackling of persons deprived of their liberty at police stations will require an amendment to Section 52 of the Police Act.

Ad paragraph 20 – ***The CPT reiterates its recommendation that the Slovak authorities take the necessary steps to ensure that the right of all persons deprived of their liberty by the police to notify a third party of their choice as from the outset of the deprivation of liberty is recognised in law and applied in practice. Any exceptions to this right should be clearly defined and strictly limited in time and be accompanied by appropriate safeguards (e.g. any delay in notification of custody to be recorded in writing with reasons and to require the approval of a senior police officer unconnected with the case, or a prosecutor).***

Further, the Committee recommends that the Slovak authorities take the necessary steps to ensure that, when notification is performed by police officers, detained persons are provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention.

We would like to point out that in criminal proceedings, pursuant to Section 85(6) of the Code of Criminal Procedure, any person deprived of their liberty (detained suspect) has the right to choose and consult a lawyer as early as at the moment of detention without the presence of third persons and before any charges have been brought against him.

Any person deprived of personal liberty pursuant to Section 19 of the Police Act (detained person), must be enabled, upon his request, to notify without undue delay one of the persons close to him and ask a lawyer for the provision of legal assistance. If the detained person is a soldier, the police officer shall notify the nearest military unit and if the detained person is a minor, the police officer shall notify the minor's legal guardian.

As described above, any detained person who so requests is allowed to notify a person close to him of his detention and ask a lawyer for legal assistance without undue delay, which means that a detained person may exercise his right to contact his relative immediately after detention and as soon as the impediments preventing such notification have ceased to exist.

In view of the above, it should be noted that all cases of the persons brought in, apprehended, detained or arrested, as well as of those who were directly brought before the court or any other government authority based on a written letter of request by these authorities, are duly recorded at the respective police station, including all relevant data of such persons (see paragraph 26) and information on contacts with relatives, lawyer, and their visits.

It is therefore clear that the Police Force pays due attention to the rights of persons who are deprived of their liberty.

The CPT Committee recommendation concerning the feedback provided to a detained person on whether it has been possible to notify a third person of his custody will be included in an amendment to Regulation No 22/2013 of the Police President based on which police officers will be obliged to provide a person deprived of liberty with feedback on whether or not it has been possible to notify a third person of the fact of detention.

Ad paragraph No 21 – ***The CPT would like to be informed by the Slovak authorities from which moment the right of foreign nationals deprived of their liberty by the police to contact the embassy/consulate of their country becomes effective and to what extent the exercise of this right may be delayed or limited under the current legislation.***

Pursuant to Section 90(1)(a) point 2 of Act No 404/2011 Coll. on the Stay of Aliens and on amendment to certain other acts, as amended (hereinafter referred to as the "Aliens Act"), the police department shall be obliged to ensure that the third country national is advised immediately after detention (deprivation of personal liberty) in the language he understands of the possibility to inform of his detention the embassy/consulate of the country of which he is a national.

If a third country national requests to notify of his detention the embassy/consulate of the country he is a national of, pursuant to Section 90(1)(b) of the Aliens Act the police department shall be obliged to forthwith notify such embassy/consulate. If the embassy/consulate of the country is not located in the territory of the Slovak Republic, the Ministry of Foreign and European Affairs shall be notified of the detention of the third country national by the police department.

The obligation to apply the provision referred to in the previous paragraph shall, pursuant to Section 90(2)(g) of the Aliens Act, also be imposed upon the facility (location in which a third country national has been placed based on the detention decision – Detention Centre for Foreigners Medveďov or Sečovce).

In view of the above, the moment as of which the right of a foreign national deprived of liberty by the police to contact the embassy/consulate of his country becomes effective is the moment at which the foreign national is detained. Pursuant to the Aliens Act, a third country national is deemed detained upon issuance of the detention decision which is the point at which the police department shall ensure that the third country national is advised of the possibility to notify of his detention the embassy/consulate of his home country. This right can be neither deferred nor limited. In the event that a third country national requests notification of his detention, the police department or the detention facility shall forthwith notify the respective embassy/consulate or the Ministry of Foreign and European Affairs of the Slovak Republic.

Ad paragraph 22 – ***The CPT must therefore once again call upon the Slovak authorities to take the necessary steps to ensure that the right of access to a lawyer is formally guaranteed to all persons who are under a legal obligation to attend - and stay - at a police station, irrespective of their precise legal status and that this right is fully effective in practice as from the very outset of the deprivation of liberty.***

The right of access to a lawyer is guaranteed by the Constitution of the Slovak Republic, namely by Article 47(2) thereof which provides that everyone has the right to legal assistance in court proceedings or proceedings before other state or public administration bodies from the start of the proceedings, under conditions laid down by law.

Although this right is not regulated in general terms in the Code of Criminal Procedure in relation to the witness (paragraph 10), nor does the Code of Criminal Procedure regulate it in connection with the deprivation of personal liberty of the witness (Section 88 of the Code of Criminal Procedure) or in connection with the bringing in of the witness (Section 128 of the Code of Criminal Procedure), it would be erroneous to conclude that the witness does not have access to a lawyer. This fact was also confirmed by the Constitutional Court of the Slovak Republic in its finding, Case No I. ÚS 248/07, of 3 July 2008. In this respect, the Constitutional Court of the Slovak Republic held that in a situation where the legislation does not expressly set out the means of solving a particular problem, such a situation may be solved through the interpretation of law. The interpretation of Article 47(2) of the Constitution of the Slovak Republic is that everyone has the right to legal assistance in court proceedings or proceedings before other state or public administration bodies irrespective of their procedural status.

Pursuant to Section 196(2) of the Code of Criminal Procedure, the law enforcement authority involved in criminal proceedings may question a person who, based on a criminal complaint or another motion, needs to be heard in respect of the circumstances indicating that the person might have committed a criminal offence. The questioned person has the right to be legally assisted by a lawyer.

The above provision expressly confers the right to legal assistance by a lawyer even to persons who, based on a criminal complaint or another motion, need to be questioned in respect of circumstances indicating that they might have committed a criminal offence.

Pursuant to Section 85(6) of the Code of Criminal Procedure, the detained person has the right to choose a lawyer and consult him as early as of the moment of detention without the presence of a third person.

This provision expressly gives any detained suspect the right to choose a lawyer even before charges are brought and consult him at the moment of detention without the presence of any third person.

In this context, we would like to add that the CPT Report (Part I, Point B, paragraph 3) shows that the CPT mission visited only operational centres and sub-district departments of the Police Force. The issues related to the deprivation of personal liberty were not monitored with respect to the investigators of the Police Force who work at the Criminal Police departments.

For this reason, the officers at the visited police stations might have provided incomplete information concerning the access to a lawyer by persons deprived of personal liberty.

As regards the procedures under Section 85 of the Code of Criminal Procedure, this particular provision also sets forth the right to choose a lawyer before potential formal accusation.

Pursuant to Section 85(4) of the Code of Criminal Procedure, "*the police officer who carried out the detention or to whom a person detained pursuant to a separate law or a person caught committing a crime was handed over under paragraph 2, shall promptly inform such person about the grounds for detention and conduct the questioning; if suspicion ceases to be grounded or if the grounds for detention cease to exist for any other reason, the person shall be immediately released based on a written ruling. If the detained person is not released, the police officer shall charge the person and proceed with questioning. After the questioning, the police officer shall submit the file to the prosecutor who will either file a motion to take the detainee into custody or proceed pursuant to Section 204(1). The police officer or the prosecutor shall hand the detained person over to the court no later than within 48 hours from his detention or custody pursuant to a separate law or from his taking over pursuant to paragraph 2; otherwise the person shall be released based on a duly justified written order issued by the prosecutor. A detained person may also be released based on a duly justified written order issued by the police officer with the prior written consent by the prosecutor"*.

Pursuant to Section 85(5) of the Code of Criminal Procedure, *"the provisions under Sections 34, 121 through 124 shall apply accordingly even if the detained person had been questioned before any charges were brought against him"*, and the right to choose a lawyer is guaranteed under Section 34.

Pursuant to Section 85(6) of the Code of Criminal Procedure, *"the detained person shall have the right to choose a lawyer and consult him as early as the moment of detention without the presence of any third person, and to request the presence of the lawyer at questioning under paragraph 4, unless the lawyer cannot be reached within the time limit specified therein"*.

It follows from the above that the right of access to a lawyer is not only conferred upon the accused, but already upon detained suspects at the moment of detention (thus not as late as "at the time a person was formally declared 'accused'"), and he shall be advised thereof at the latest before his questioning which, if possible, should be carried out immediately. Pursuant to Section 85(3) of the Code of Criminal Procedure, the police officer who detained a person (acting as a law enforcement authority) shall forthwith notify the prosecutor who supervises compliance with law and thus also the lawfulness of procedures applied by the police officer (as a law enforcement authority).

It is necessary to distinguish between the deprivation of personal liberty occurring when a person is detained (Section 85 of the Code of Criminal Procedure) and the compelling the appearance of a witness and bringing a witness or the accused in, as explained under in paragraph 10.

As regards compelling the appearance of a witness (Section 88 of the Code of Criminal Procedure), law enforcement authorities (including investigators) may not apply this procedure.

The provision concerning the bringing in of a witness pursuant to Section 128 of the Code of Criminal Procedure does not expressly regulate that the person brought in (witness) must be advised of "the right of access to a lawyer", as the purpose of this procedure is solely the transportation of such person to appear before the respective authority (law enforcement authority or court) to take part in criminal proceedings at the beginning of which, in compliance with the Code of Criminal Procedure, the person must be advised of all his rights and enabled to exercise them. Even though the Code of Criminal Procedure does not expressly stipulate for the witness to have the right of access to a lawyer in criminal proceedings, by virtue of Article 47(2) of the Constitution of the Slovak Republic, everyone has the right to legal assistance in court proceedings or proceedings before other state or public administration bodies from the very start of the proceedings, under conditions defined by law (Finding of the of the Constitutional Court of the Slovak Republic, Case No I ÚS 248/07).

It is also necessary to add that a person detained pursuant to Section 19 of the Police Act shall, pursuant to paragraph 6 thereof, have the right to notify a person close to him and request a lawyer for legal assistance. Under Section 19(1)(c) of the Police Act, this right is also conferred on the person who was detained on the grounds of his attempt to escape when being brought in pursuant to Sections 17 or 18, and reasonable concerns of escape still exist. It means that this right of a detained person referred to expressly in Section 19 is also conferred upon the persons who attempted to escape when being brought in pursuant to Sections 17 and 18 of the Police Act. A detained person may exercise his right to contact his relative immediately after his detention and after the impediments that prevented such notification ceased to exist.

It is further necessary to state that individual rights of citizens are guaranteed under the Constitution of the Slovak Republic, namely under Articles 16(1) and 17.

Article 16(1) reads that the inviolability of the person and his privacy is guaranteed. It may be limited only in cases defined by law.

It means that the inviolability of the person and his privacy may be restricted in compliance with law, for instance during actions taken by police officers who are authorized to demand a proof of identity under Section 18 of the Police Act and to detain a person under Section 19 of the Police Act. Article 17 of the Constitution of the Slovak Republic, *inter alia*, stipulates that personal freedom is guaranteed; no one may be prosecuted on grounds other than those defined by law or prosecuted in a manner other than that defined by law; no one may be deprived of liberty solely because of their inability to comply with a contractual obligation; a person accused or suspected of having committed a criminal offence may be detained only in cases prescribed by law. A detained person must be forthwith notified of the grounds for detention, questioned, and either released or brought before the court within 48 hours at the latest.

We would like to add that exercising the right of access to a lawyer is accepted and adhered to in practice. The right is enjoyed by anyone irrespective of their legal status, who appears at a police station (e.g., sub-district department of the Police Force) together with his lawyer; such person is enabled to carry out any procedure in the presence of the lawyer or the lawyer may carry out certain procedures in lieu of such person based on a power of attorney.

Based on the aforementioned, we do not currently consider it necessary to take additional measures in relation to securing the right of access to a lawyer as the legal regulations in question sufficiently guarantee the rights of persons deprived of liberty, or of person suspected of having committed a criminal offence, as well as of any other persons.

c. Access to a Doctor

Ad paragraphs No. 23 and 24 – ***The CPT is therefore obliged to once again call upon the Slovak authorities to introduce without further delay a fully-fledged right of access to a doctor, including to one of the detained person's own choice, from the outset of deprivation of liberty (i.e. from the moment when the persons concerned, irrespective of their precise legal status, are obliged - for whatever reason - to remain with the police); the exercise of this right should not be subject to any filtering by a police officer.***

.***Consequently, the CPT recommends that the Slovak authorities take the necessary steps to ensure that all medical examinations of persons in police custody take place out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of police officers.***

Under Article 40 of the Constitution of the Slovak Republic, everyone shall have the right to the protection of his or her health.

In reaction this CPT recommendation we would like to point out that any person deprived of personal liberty who requests medical examination at the very outset of the deprivation of liberty has the right of access to a doctor. The exercise of this right and its observance by police officers is also provided for under the Police Act, in its part concerning the tasks of the Police Force, in particular in Section 2(1)(a) stipulating that the Police Force co-operates in the protection of fundamental rights and freedoms, especially by safeguarding the life, health, personal liberty and security of persons, and in the protection of property.

The additional provisions of the Police Act regulating the right of access to a doctor are under Sections 44(2), 48(1) and 63. Under Section 44(2), if a person to be placed in a cell is injured or claims to suffer from a serious illness or injury, the police officer shall arrange medical examination for him.

Under Section 48(1) of the Police Act, if a person placed in a cell falls ill, injures himself or attempts to commit suicide, the police officer shall administer first aid and call in a doctor. In practice, these are particularly acute cases of self-inflicted injuries, or diseases, requiring immediate medical attention.

Pursuant to Section 63 of the quoted Act, as soon as the police officer discovers that a person has been injured due to the use of coercive measures, the officer shall, circumstances permitting, administer first aid to the injured and ensure his medical treatment.

In this regard, it should be noted that on the Police Force cannot arrange for a detainee a doctor of his own choice, not even if the person agrees to cover the cost incurred, because the role of the Police Force is to promptly procure medical attention without putting at risk the life and health of the person requesting the treatment.

Especially in cases where the life and health of the person deprived of his liberty is put in jeopardy, it is irrelevant which doctor (either procured by the police or chosen by the person in need) will provide the treatment.

It should be added that, in practice, neither the choice of the doctor nor the right of access to a doctor is at the discretion of police officers; their role is to ensure medical intervention (e.g. by calling medical emergency service).

Another reason for police officers to follow this procedure is the fact that there are cases where the persons deprived of liberty have their permanent residence (and their doctors' practices, too) outside of the jurisdiction of the police force department which deprived them of personal liberty, which would make the provision of medical treatment much more difficult, especially in acute cases.

It follows from the above that the police procure urgent medical treatment upon request, and then in the cases of acute risk to health or sustained injuries; these persons have the full right of access to a doctor, but it is impossible for the police to ensure that the person has a doctor of his own choice.

In respect of the information gathered during the visit indicating that police officers were, as a rule, present during medical examinations of the detainees, we wish to provide the following explanation:

As the CPT Committee noted, police officers were as a rule present during medical examinations of detained persons.

In this context, we would like to refer to the provision of Section 11(8)(a) of Act No 576/2004 Coll. on Healthcare and Healthcare-Related Services stipulating that the right to healthcare provision is guaranteed equally to everyone and, subject to the conditions stated therein, everyone is entitled to the protection of their dignity and of physical and mental integrity.

According to the information provided by the Ministry of Health, the degree of the protection of dignity and respect for integrity is not specified in the statutes and hence it depends on the specific circumstances of the case and the behaviour of the person concerned, also taking into account the need to ensure the protection and security of the doctor.

There are situations where the presence of police officers is necessary, especially when it comes to persons deprived of liberty who behave aggressively, have already attempted to escape (e.g., when being brought in) and are likely to repeat the attempt (e.g., to avoid criminal prosecution), or persons whose behaviour directly puts their own or other persons' life, health or property at risk, or persons who are intoxicated or under the influence of other substances.

During the treatment of aggressive persons who pose a risk to their life or health or to the life and health of other persons, or persons under the influence of narcotic and psychotropic substances, the presence of police officers is requested by the attending doctor for the sake of his own protection, as well as for the blood tests, or tests for the presence of narcotic and psychotropic substances not to be frustrated.

If the CPT has been informed that police officers were present during medical examinations of detainees, these were probably the above cases.

In practical terms, we would like to emphasise that in the case of sensitive medical treatment of persons deprived of their liberty (e.g., a person of the opposite sex), as well as upon request of the doctor, the treatment takes place "out of the hearing" and "out of the sight" of police officers.

Furthermore, we would like to point out that police officers who are in charge of ensuring medical examination/treatment are responsible for the persons concerned from the very outset of the deprivation of their liberty; their task is to prevent the escape and avert any danger to life and health which such persons may pose, as stipulated in Article 33(2)(m) of Regulation No 83/2011 of the Minister of the Interior on the Escorts of Persons, according to which the escort commander is responsible for measures taken to prevent the escorted person from escaping and self-inflicting injury unto himself.

In the context of "discouraging" persons deprived of their liberty from truthfully informing the doctor about the "real" cause of their injuries in the presence of police officers during the medical treatment, we would like to point out the case "Komárno of 28 September 2013" (paragraph 13).

The reasoning of the decision rendered by the investigator of the Section of Control and Inspection Service of the Ministry of the Interior under File No: SKIS-474/OISZ-V-2013 dated 12 December 2013, states that J, when admitted to the remand section of Nitra Prison, said that the injuries he had sustained had been caused by police officers and, when medically examined in the presence of police officers, he told the doctor that he had fallen off a bicycle and the injuries had been caused by police officers during apprehension, which the police officers stated in Report on the Use of Coercive Measures, as the prosecutor's decision reads. Doctor A.N. also commented on the case stating that in the protocol on the injury of J concerning the origin of the injury and the way in which it was sustained he wrote exactly what the patient told him, and not what other persons, police officers including, had said.

Those who believe that the presence of police officers during their medical examination violates their rights or interests protected under law may file a complaint in compliance with the Act on Complaints, or a different type of motion which the Control Departments of the Regional Directorates of the Police Force, the Police Force Presidium and of the Ministry of the Interior handle in accordance with the applicable legislation of the Slovak Republic (listed, for example, under Paragraph 11)

We are currently not planning to adopt additional measures in respect of these CPT recommendations.

Ad paragraph 25 – ***The CPT once again recommends that the Slovak authorities ensure that all persons deprived of their liberty by the police - for whatever reason - are fully informed of their rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police). This should be ensured by provision of clear verbal information at the moment of apprehension, to be supplemented at the earliest opportunity (that is, immediately upon the first arrival at a police station) by provision of a written form setting out the detained person's rights in a straightforward manner, and available in an appropriate range of languages. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case.***

Further, the Committee recommends that persons deprived of their liberty by the police be requested to sign a statement attesting that they have been informed of their rights and whether they have availed themselves of these rights or have waived them; any absence of a signature should be duly accounted for. This would make it possible to check more accurately whether detained persons had availed themselves of their rights, and would also protect police officers against false allegations. In cases where alcohol or drug intoxication prevents a person from making a valid statement, this request should be made as soon as the person is in a suitable mental state.

Under the aforementioned provision of Section 8 of the Police Act (paragraph 11), namely under its paragraph (2), if the police officer, while performing his operational duties, interferes with the rights or freedoms of another person, he is obliged to advise such person as soon as possible of his rights which are stipulated under this Act, or under other generally binding regulations. This means that the police officer is obliged to also inform such person of his right to choose a lawyer, the right of access to a doctor, as well as of the right to notify close persons.

As regards the time of advising the persons deprived of their liberty by police officers, e.g., in relation to the provisions of Section 85(4) (without delay) and Section 128 of the Code of Criminal Procedure, please refer to paragraph 22 and, in relation to aliens under the Aliens Stay Act (immediately), please refer to paragraph 21.

In this context, we would like to draw your attention to Regulation No 22/2013 of the Police President, namely Article 46(3) (see paragraph 26), under which all cases of persons brought in, apprehended, detained or arrested, as well as persons brought directly before court or any other authority based upon written request by these authorities, must be recorded in the Logbook of Events. All these entries are highlighted red. In the record, the police officer on duty must always indicate, apart from other data, the time at which the person deprived of his liberty was advised of his rights.

In this case, it is the recording of the initial (at the very outset of deprivation of personal liberty) advice given to a person deprived of his liberty by the police officer. The advised is then invited to sign the advice printed on the respective form of the procedure to which his presence was secured.

In this context, we would like to point out a police intervention recorded by the Section of Control and Inspection Service of the MoI under file No ČVS:SKIS-286/OISV-V-2012 (Paragraph 14), during which, on 2 October 2012 at 12.20 hours, police officers deprived a person against whom the intervention was aimed of his liberty pursuant to Section 85(1) of the Code of Criminal Procedure while, at the same time, in compliance with Section 8(2) of the Police Act, the person was advised by police officers, as shown by the abovementioned decision of the investigator of the Section of Control and Inspection Service of the MoI.

As regards the forms used to record the procedural steps in criminal proceedings where the persons concerned are present, these are in particular the procedures of detention and deprivation of personal liberty of a suspect, questioning of a detained suspect, questioning of an accused adult, questioning of an accused juvenile and questioning of a witness.

The procedures in question, including the advice on rights, are recorded in the forms "PROTOCOL OF DETENTION AND DEPRIVATION OF PERSONAL LIBERTY OF A SUSPECT", "PROTOCOL OF THE QUESTIONING OF A DETAINED SUSPECT", "PROTOCOL OF THE QUESTIONING OF AN ACCUSED", "PROTOCOL OF THE QUESTIONING OF AN ACCUSED-JUVENILE" AND "PROTOCOL OF THE QUESTIONING OF A WITNESS".

The detainee signs the respective protocol, which also comprises a record of the advice on rights, as well as the person's statement to that advice. The person must also be given opportunity to exercise his rights, otherwise the right to choose a lawyer would be breached, which would have a negative impact on the admissibility in criminal proceedings of the procedures carried out in this way. In the event that the person refuses to sign the protocol comprising the record of advice on rights, the refusal to sign will be recorded in the protocol.

For the purposes of the Police Force, these forms are issued in the administrative booklet "TEMPLATES for Police Force Investigators and Authorised Officers with Explanatory Notes" (Bratislava 2005), which is freely available for download for all police officers from the Internet website of the MoI.

It should also be noted that during investigation and fast-track investigation, law enforcement authorities follow the relevant provisions of the Code of Criminal Procedure which expressly do not oblige them to hand over to detainees written forms on the advice on rights contained in the respective protocol(s).

Pursuant to Section 58(1) of the Code of Criminal Procedure, a protocol must be drawn up in respect of each procedure in criminal proceedings; as a rule, the protocol is drawn up in the course of the procedure or immediately thereafter. The Code of Criminal Procedure sets forth the essential elements of the protocol, which are as follows:

a) Identification of the court, prosecutor's office or another authority carrying out the procedure;

b) The place, time and purpose of the procedure;

c) The forenames and surnames of officials and their positions, the forenames and surnames, dates of birth and domiciles or registered offices of the parties present and, for the accused, aggrieved or witnesses, also their mailing addresses for the service of process;

d) A concise description of the procedure, showing that the procedure was carried out in conformity with the respective legal provisions, an outline of decisions made in the course of the procedure and, if a duplicate of the decision is served directly in the course of the procedure, also the certificate of its service;

e) Motions filed by the parties, note on the advice on rights and statements of the advised thereto, if any;

f) Any objections raised by the parties or questioned persons against the content of the protocol.

In addition to the general requirements for drawing up the protocol, the Code of Criminal Procedure also stipulates, in some cases, special conditions under which the protocol is drawn up, e.g., protocol on the detention of a suspect (Section 85(3) and Section 85(4) of the Code of Criminal Procedure).

Pursuant to Section 85(3) of the Code of Criminal Procedure, the police officer who performed the detention or to whom a detained person was handed over pursuant to a separate law (e.g., Section 19 of the Police Act) or a person caught in the commission of a crime, shall forthwith notify the prosecutor thereof and draw up a protocol specifying the place and time of the detention or takeover of such person and providing a detailed description of the circumstances of detention, as well as material grounds for it, plus the personal data of the detainee. The officer shall forthwith deliver a duplicate of the protocol to the prosecutor.

Pursuant to Section 85(4) of the Code of Criminal Procedure, the police officer who performed the detention or to whom a detained person was handed over pursuant to a separate law or a person caught in the commission of a crime, shall forthwith inform such person of the grounds for detention and subject him to questioning; if suspicion proves to be ungrounded or if the grounds for detention cease to exist due to other reasons, the person shall be immediately released based on a written ruling.

When a person is charged, the person against whom charges are brought must be informed that charges are formally brought upon issuance of a written ruling on charges which must be served on the accused (a person becomes accused upon issuance of the ruling on charges) and, no later than during the first questioning, the person must be advised on his rights and, at the same time, enabled to duly exercise them, including the right of access to a lawyer. In the case of mandatory defence, the accused may be advised thereof when the ruling on charges is served. During criminal proceedings held in compliance with the Code of Criminal Procedure, the accused must at all times be allowed to exercise their right to defence through a lawyer.

The said right is stipulated in Section 122(1) of the Code of Criminal Procedure which reads, *inter alia*, that the advice referred to in Section 121(2) of the Code of Criminal Procedure shall be read to the accused and, if necessary, adequately clarified to him, and the accused shall confirm by signature that he understood the advice; the provision of Section 121(2) reads as follows:

Prior to questioning, the accused shall be advised as follows: *"As the accused, you have the right to speak or remain silent. No one may coerce you into confession. You have the right to choose your lawyer. If you cannot afford to pay the cost, you have the right to request that a lawyer be appointed for you. You have the right to request the presence of your lawyer at your questioning and refuse to speak in his absence"*.

In this context, we would add that the procedures followed by law enforcement authorities are regulated by the Code of Criminal Procedure; the same applies to advising persons of their rights (in respect of detainees, it is regulated, for example, under Section 85 of the Code of Criminal Procedure) and the general provisions on the content of the protocol are provided in Section 58 of the Code of Criminal Procedure. The Code of Criminal Procedure does not expressly stipulate an obligation to advise a person involved in criminal proceedings by way of having that person sign a "written form" containing information on rights or a statement that the person has been advised. The advice on rights is contained in specific forms used for specific procedures in criminal proceedings. The detainee is advised on his rights before questioning which, under the Code of Criminal Procedure, must be performed without delay.

Under the Code of Criminal Procedure, the protocol containing statements of the questioned may be drawn up in the Slovak language even if the person does not speak it. In these cases, however, the Code of Criminal Procedure makes it mandatory to engage an interpreter. Under Section 28 the Code of Criminal Procedure, law enforcement authorities advise such persons of their rights through an interpreter. The scope of the advice on rights, as well as the statement made by the person in respect of the advice, are entered into the protocol (Section 58 of the Code of Criminal Procedure).

In relation to the advice on rights, let us inform that for situations involving the deprivation of personal liberty by police officers, the website of the MoI contains a freely accessible administrative tool entitled "Advice on Rights – a tool for advising persons deprived of their liberty" (Bratislava 2006), which was issued by the Presidium of the Police Force for persons speaking the Slovak, English, French, Spanish, Hungarian, Polish, German, Russian and Roma languages. The Vietnamese and Korean languages have also been included in the booklet.

Furthermore, we would like to state that in criminal proceedings, if charges are brought against a foreign national, police officers must advise the foreign national under Article 50 of Regulation No 175/2010 of the MoI on the Jurisdiction of Police Force Departments and of the MoI Units in Detecting Criminal Offences, Disclosing their Perpetrators and on the Procedures to be Followed in Criminal Proceedings, as amended.

The aforementioned article stipulates, among other things, that a foreign national against whom charges have been brought must be advised that he may give his written statement to the charges in the language which he speaks. The original of his written statement is included in the original file and its copy is included in the copy of the file. If he refuses to make a statement, this fact is entered in the minutes of the questioning, together with the grounds for refusal. In addition to the written statement of the accused in the language which they speak, it is also necessary to draw up a protocol on the questioning of the accused. Before the questioning, the police officer shall advise the foreign national of his rights and obligations. In particular, he shall be advised as follows: *"As a foreign national you have the right to request that the embassy/consulate of your home country in the Slovak Republic be notified of your detention (imprisonment). You have the possibility to send messages or letters to your embassy/consulate, request a visit of a consular official, and request legal representation through your embassy/consulate. You may waive these rights. The exercise of these rights must comply with Slovak law."* The content of the advice must be noted down in the protocol of his questioning.

When a police force department takes over an apprehended person from a police officer (Section 19 of the Police Act), it shall forthwith issue a decision on the detention of the person, stating the grounds for detention, and present it to the detainee without undue delay. The detainee may lodge an appeal against the detention decision.

The obligation related to advising persons of their rights also arises from the provision of Article 18 "Request for Explanation" under Regulation No. 7/2002 of the Police President 'on Detecting and Handling Misdemeanours within the Police Force, as amended (hereinafter referred to as the "Police President Regulation No 7/2002") which, among other things, stipulates that the police officer shall draw up a record of the explanation given, which also includes the advice on rights addressed to the person who gives the explanation. The record of explanation may contain the signature of the person who has provided the explanation, even with the words expressing consent with the contents of the record of explanation.

Based on the above, we are currently not planning to take additional measures in connection with the information on rights provided to persons deprived of their liberty as the relevant legislation, as well as administrative tools for police officers, are sufficient to ensure that this particular right is effectively exercised by persons deprived of liberty or persons suspected of having committed a criminal offence, as well as other persons.

Ad paragraph 26 – ***The CPT reiterates its recommendation that the Slovak authorities take the necessary steps to ensure that police officers accurately record all relevant information in the custody registers. For various issues, such as the exact date and time of the deprivation of liberty and of release, the signature of a person deprived of his liberty should be required and, if necessary, its absence duly accounted for.*** *Further,* ***custody registers maintained at police stations should register every person deprived of his liberty at any given time on their premises.***

Our comment to this particular recommendation is that the recording of data concerning persons deprived of personal liberty at police stations is regulated by the internal normative acts of the MoI. If there were cases in which certain data were not recorded, is was due to personal failure on the part of individual officers which cannot be completely eliminated even through increased frequency of inspections.

This duty of police officers is stipulated, for example, in Article 46 of Regulation No 22/2013 of the Police President.

The Article stipulates that police officers must record in the Logbook of Events (an administrative tool for police force units) all cases of persons brought in, apprehended, detained or arrested, as well as of persons who were directly brought before a court or before any other authority based upon the written letter of request by these authorities. All these records must be highlighted red. The record must always contain:

a) the time at which a person was deprived of personal liberty
b) first name, surname, date of birth and the place of residence of the person deprived of personal liberty,
c) the reason and the statutory provision justifying the deprivation of personal liberty,
d) the time at which the person was advised of his rights,
e) the signs of injury, or injury of the person,
f) subjective health problems of the person,
g) contact with a doctor and his visits,
h) contact with a lawyer and his visits,
i) contact with a consular employee,
j) contact with relatives and their visits,
k) the time of performing questioning or establishing the identity of a person,
l) the time of release or handing over to a competent authority,
m) the rank, first name and surname of the police officer who performed the given police procedure,
n) other material facts depending on the circumstances of the case.

In addition, if police officers, pursuant to Sections 17, 18 or 19 of the Police Act, bring in or detain a person, these procedures are recorded in the form "Official Record on the Person Brought In or Detained".

Furthermore, the procedures of deprivation of personal liberty pursuant to Sections 85 and 86 of the Code of Criminal Procedure (suspects and the accused persons) are recorded in the forms "PROTOCOL OF THE DETENTION AND DEPRIVATION OF PERSONAL LIBERTY OF A SUSPECT" and "PROTOCOL OF DETENTION OF AN ACCUSED" issued for Police Force use

in an administrative booklet "SAMPLE FORMS" for investigators of the Police Force and authorised officers of the Police Force with explanatory notes attached" (Bratislava 2005), which is freely accessible for download to all police officers from the internet website of the MoI.

The instances of deprivation of personal liberty are also recorded in compliance with Regulation No 16/2003 of the Police President on 'Recording the Cases of Personal Liberty Deprivation in Sample Forms at Certain Units of Judicial, Criminal and Financial Police Services'. In these forms, all cases of the deprivation of personal liberty must be recorded to the extent laid down in Article 46 of Regulation No 22/2013 of the Police President.

In addition, the obligation of police officers to draw up a record in respect of every persons deprived of their liberty and placed in a police custody cell located at police stations arises out of the Regulation of the Minister of the Interior of the Slovak Republic No 41/2003 on Police Custody Cells, as amended by Regulation of the Minister of the Interior of the Slovak Republic No 52/2005 (hereinafter referred to as "MoI Regulation No 41/2003").

In concrete terms, the above duty is specified is Article 4 of the quoted Regulation which regulates the procedures followed by police officers when placing persons in police custody cells (hereinafter referred to as the "cell(s)") which also include the obligation to fill in the form entitled "Record of Transfer of a Person for Placement in Police Custody Cell" and to make a record in the "Register of the Persons Detained and Placed in Custody", giving the date and time of deprivation of personal liberty, the date and time of placement in the cell, as well as the grounds for placement in the cell.

If a person refuses to sign the form "Record of Transfer of a Person for Placement in Police Custody Cell", the police officer shall record that fact in the aforementioned form in the section where the signature of the person placed in should have been affixed.

In the aforementioned cases, of importance is the provision of Section 8 "Obligations of the Police Officer" of the Police Act (see paragraph 11) whereby these obligations are directly imposed upon police officers who act vis-à-vis citizens on behalf of the State and directly interfere with their rights guaranteed by the Constitution of the Slovak Republic, constitutional laws, laws and other generally binding regulations and international treaties by which the Slovak Republic is bound.

Superior officers must ensure that their subordinate police officers receive training on their obligations laid down in the internal acts of the MoI on a continuous basis throughout the entire period of their service, and also on an ad hoc basis (e.g., when a particular officer is found to have acted in breach of these rules). Police officers are obliged to comply with the generally binding regulations and internal normative acts of the Ministry also in connection with the provision of Section 48(3)(a),(n) of the Civil Service Act (see paragraph 18). Those who fail to do so act in breach of the aforementioned Act and face legal consequences.

Compliance with the obligation to make records of the data relating to persons deprived of their liberty is subject to both planned as well as unplanned inspections carried out, for instance, by the staff of the Control Department of the Police Force Presidium.

Despite the facts mentioned above, this CPT recommendation will be reflected in a new order of the Police President which will repeal Police President Order No 50/2010 (see paragraph 11) as a measure designed to improve the control by the superiors over police officers' precise recording of relevant data (date, time, signature) concerning the persons deprived of their liberty.

Ad paragraph 27 – ***The CPT recommends that steps be taken to ensure that juveniles are not questioned and do not make any statements or sign any documents related to the offence of which they are suspected without the benefit of a lawyer (and, in principle, of another trusted adult person) being present and assisting the juvenile.***

We would like to state that the aforementioned CPT recommendation has, since 2012, been reflected in Act of No 372/1990 Coll. on Misdemeanours, as amended (hereinafter referred to as "Misdemeanours Act"), namely under Section 60(1)(a) which stipulates, *inter alia*, that a minor or juvenile may only be requested to provide explanation in the presence of his legal guardian or the individual into whose personal care the minor or juvenile has been placed on the basis of a decision issued pursuant to separate regulations, or the representative of a facility into the care of which the minor or juvenile has been placed based on a court decision issued pursuant to separate regulations, or a representative of the authority for social and legal protection of children and social guardianship.

The aforementioned CPT recommendation is also reflected in the Code of Criminal Procedure, which provides that the accused-juvenile must have a lawyer once charged. In this particular case, it is the so-called "mandatory defence" pursuant to Section 37(1)(d) of the Code of Criminal Procedure which provides that after the accused has been charged with a crime, he must already have a lawyer during the pre-trial proceedings if the proceedings are held against a juvenile.

Paragraph (2) of the same Section provides that the accused must have a lawyer if the court and, in the pre-trial proceedings the prosecutor or police officer, consider it necessary because they have doubts as to the ability of the accused to properly defend himself.

The Code of Criminal Procedure does not provide for the mandatory defence of a juvenile who has been detained as a suspect under Section 85 of the Code, but the Code does not rule out the possibility for such a juvenile or his legal guardian to choose a lawyer and consult him as early as at the point of detention.

May we refer to the fact that the present Code of Criminal Procedure contains a provision reflecting the CPT recommendation for juveniles in the capacity of either the accused or witnesses. This is, for instance, the case of Section 48(2) of the Code of Criminal Procedure, Section 124(3) of the Code of Criminal Procedure and Section 135 of the Code of Criminal Procedure.

Pursuant to Section 48(2), second sentence, of the Code of Criminal Procedure, in the case of criminal offences committed against a close person or a person entrusted into care, if the aggrieved party is a minor, a government authority or authorised representative of an organisation providing support to the aggrieved shall be appointed as a guardian and, pursuant to Section 124(3) of the Code of Criminal Procedure, before the questioned signs the protocol of questioning (as a witness or accused) which was performed in the absence of a recording clerk, the protocol must be read out or presented to him for perusal in the presence of an uninvolved person. If the questioned has any objections as to the content of the protocol, these shall be discussed in the presence of an uninvolved person and the result of the discussion recorded in the protocol.

Under Section 135(1)(3) of the Code of Criminal Procedure, if the person questioned as a witness is under 18 years of age and the questioning concerns matters whose recollection could, given the age of the witness, have a negative influence upon his mental and moral development, the questioning must be conducted with utmost consideration and in a manner which eliminates the necessity of its repetition in terms of content in subsequent proceedings. An education specialist, social worker, psychologist or an expert who, taking account of the subject-matter of questioning and the level of mental development of the questioned, contributes to the proper conduct of the questioning, may be called in to attend the questioning. If the presence of a legal guardian can contribute to the proper conduct of the questioning, he shall also be called in. Where a person under 18 years of age is questioned as a witness in respect of a criminal offence committed against a next of kin or against a

person entrusted into care, or where it is clear from the circumstances of the case that a repeated testimony by a person under 18 years of age could be influenced, or where there are reasonable grounds to believe that the questioning could affect the mental and moral development of a person under 18 years of age, the questioning shall be conducted using technical devices for the recording of audio and video in order to ensure that the repeated questioning of a person under 18 years of age is required only exceptionally. Where, after formal charges have been brought, the repeated questioning of a person under 18 years of age is nevertheless required, it shall be conducted in the manner specified in the first sentence; the subsequent questioning of a person under 18 years of age in pre-trial proceedings may be performed only with the consent of the legal guardian and, in cases referred to under Section 48(2) of the Code of Criminal Procedure, of the person into whose care he was entrusted.

Any questioning that does not meet the aforementioned requirements is practically inadmissible in criminal proceedings.

These aspects have been regulated, since 2012, by an internal regulatory act of the MoI, Regulation No 7/2002 of the Police President, namely in Articles 11c and 11d "Protection of Minors and Juveniles", and in Article 18(8) "Request for Explanation", which, *inter alia*, stipulate the procedures to be followed by police officers when requesting explanation and when bringing in minors and juveniles, while respecting the provision of Section 60(1)(a) of the Misdemeanours Act.

Furthermore, in the administrative tool "SAMPLE FORMS" for investigators of the Police Force with explanatory notes attached (Paragraph 26), there are forms No. 108, 114 and 115 "PROTOCOL OF THE QUESTIONING OF AN ACCUSED–JUVENILE", "PROTOCOL OF THE QUESTIONING OF A WITNESS – PERSON UNDER 15 YEARS OF AGE" and "PROTOCOL OF THE QUESTIONING OF A PERSON UNDER 14 YEARS OF AGE". In addition to other mandatory essentials, these protocols also contain signature clauses for the person present during the reading and signing of the protocol, for the lawyer, legal guardian, education specialist and the like.

If it is found that police officers failed to comply with these procedures and apply them correctly, their conduct is subject to either disciplinary or criminal sanctions, as already mentioned in previous paragraphs.

Ad paragraph 28 – ***However, at Nové Zámky District Police Directorate and at the Regional Police Directorate in Košice, ventilation in the custody cells was inadequate. Moreover, the toilet in the double-occupancy cell of Kežmarok Sub-District Police Department was not partitioned, and in two of the police stations visited (District Directorates of the Police Force in Nitra and Topoľčany), CCTV in the cells also covered the in-cell sanitary facilities. The CPT recommends that the aforementioned shortcomings be remedied.***

Based on the above findings, the directors of the Regional Directorates of the Police Force (hereinafter referred to as "RDPF") in Košice, Prešov and Nitra, have been instructed to remedy these shortcomings.

MoI Support Centres in Prešov, Košice and Nitra, which are competent to remedy such shortcomings, have been requested to cooperate with the police stations concerned in remedying them.

In this context, it is necessary to add that the organisation Rules of the MoI were modified by MoI Regulation No 154/2012, which also amended MoI Regulation No 57/2007 on MoI Organisation Rules.

Based on the above amendment, the MoI set up Support Centres which provide ancillary services in the territories of respective regions also to the police stations, e.g., in the procurement of material and technical resources and in property management. Specifically, they manage and control the activities of support units that are in charge of technical support services at MoI premises. They use their own staff or conclude contracts for the provision of services necessary to remedy deficiencies and handle emergencies, as well as for the provision of other services related to the maintenance and repair of premises.

For the above reason, the respective MoI Support Units are remedying, directly or through contractors, the identified shortcomings based on applications submitted by the police stations concerned; the shortcomings identified in the RDPF in Nitra will be remedied in the third quarter of 2014, in the RDPF in Prešov by 30 July 2014, and in the RDPF by 30 August 2014.

Furthermore, the competent officers of the RDPF in Nitra will carry out inspections of cells located in other District Directorates of the Police Force in Levice and Komárno in order to comply with the CPT recommendations concerning privacy of persons using toilets.

Ad paragraph 29 – ***The Committee reiterates its recommendation that the Slovak authorities take measures to ensure that all persons held in police custody for 24 hours or more are offered outdoor exercise under suitable conditions.***

In respect of the aforementioned CPT recommendation, we would like to provide the following explanation.

The MoI has 250 police buildings all over the Slovak Republic in which this particular CPT requirement concerning persons deprived of their liberty is largely not met. These buildings are from the 1980s and earlier. At present, it is not possible to rectify this shortcoming without additional funding; the budget of the Ministry of the Interior is extremely tight (acute shortage of funds) and suffices at best to cover the necessary maintenance of buildings and the addressing of emergencies. Equipping all police stations with areas suitable for outdoor walking (exercise) would require the purchase of plots of land which are owned by natural persons or legal entities.

For the above reasons, the MoI does not currently intend to address this issue and the persons deprived of their liberty at police stations will continue to be offered outdoor exercise in such areas which, taking into account the location and technical parameters of the premises, enable the exercise to be performed in compliance with Article 6(4) of Regulation No 41/2003 of the Minister of the Interior.

Article 6(4) of Regulation No 41/2003 of the Minister of the Interior on Police Custody Cells regulates the cell regime: a person placed in a custody cell for a period longer than 24 hours must be allowed to take at least a one-hour walk in open air every day on the site of the police station where the cell are located. The walks of ill individuals and pregnant women are subject to doctor’s approval and guidance. In exceptional circumstances, walks may be suspended due to bad weather or other serious reasons by a decision issued by the head of the police station where the cells are located. These reasons must be noted in the Register of the Persons Detained and Placed in Custody. The police officer shall record the times for shower-taking, walks and the service of meals in the Inspections Register.

As regards the District Directorates of the Police Force in Nitra and Topolčany which fall within the jurisdiction of the RDPF in Nitra, the outdoor exercise offered on the grounds of these stations is in compliance with Article 6(4) of Regulation No 41/2003 of the Minister of the Interior and the police officers on duty in the cells ward use handcuffs as coercive measures exclusively in compliance with the provision of Section 52(1) of the Police Act (referred to under paragraph 18).

If a situation occurred in which a person deprived of personal liberty and placed in a custody cell was offered an outdoor walk handcuffed, it was again a misconduct of the concrete police officer who failed to observe the provision of Section 52 of the Police Act.

The directors of the RDPF in Nitra and Košice, within whose jurisdiction the District Directorates of the Police Force in Nitra, Topoľčany and Košice–okolie fall, have taken measures to provide the police officers on duty in the cells wards with refresher training focusing on the provisions of MoI Regulation No 41/2003, as well as the provisions regulating the use of handcuffs and restraining belts under Section 52 of the Police Act.

Ad paragraph 30 – ***Therefore, the CPT recommends that "designated areas" not be used for the detention of persons for more than a few hours and never for overnight stay.***

In respect to this CPT recommendation, we would like to clarify that the Police Act expressly sets out the cases where a person may be brought into the police station, or when a person may be deprived of his liberty on other legal grounds and temporarily placed at Police Force premises. If such person is at a police station which does not have a cell, it is necessary to designate an area in which the person deprived of liberty will be placed. In designating the area, it is important to take into account a number of requirements. The first thing to take into account is the safety of police officers, the safety of other persons who may be present at the police station for any legal reason, as well as the safety of the person whose liberty has been restricted. At the same time, such a designated place should not allow the person kept therein to come into contact, be it verbal or visual, with persons other than police officers. Of course, this is without prejudice to the person's right of access to a lawyer or doctor. The physiological requirements of the persons deprived of their liberty are also taken into consideration, while the duration of stay at the police station is prescribed by law.

The aforementioned CPT recommendation will be incorporated into the new order of the Police President, repealing Police President Order No 50/2010, as a measure used by superiors checking upon police officers' conduct in relation to the persons deprived of personal liberty and to their placement in "designated areas" for strictly necessary periods of time, while observing the periods of time prescribed by law with respect to deprivation of personal liberty.

B. Prisons

Ad paragraph 34 - ***The CPT recommends once again that the minimum living space be raised to 4m^2 for each inmate accommodated in a multi-occupancy cell, and that official capacities be recalculated on that basis.***

Further, the Committee recommends that, in their efforts to combat prison overcrowding, the Slovak authorities be guided by all relevant recommendations of the Committee of Ministers of the Council of Europe.

The Committee would also like to be informed of any developments as regards the adoption, and in due course, the practical implementation of the new law on electronic supervision.

In line with Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, following the re-codification of criminal law statutes, namely the Criminal Code and the Code of Criminal Procedure, which entered into force on 1 January 2006, Slovakia introduced tangible changes in its penal policy concerning the use of remand custody in the prosecution of crime suspects and the imposition of criminal sanctions for the commission of criminal offences, as well as in the regulations governing the conditions applicable to remand and to imprisonment; they include:

1. Reduction in the number of the accused, which is repeatedly mentioned also in the CPT report (paragraph 33);

2. Use of the "open system" for the prisoners on remand, the so–called mitigated regime. The number of remand prisoners dropped from 1,720 in 2008 to 1,287 in 2013 and the percentage of those under the mitigated regime increased from 31 % in 2008 to 37 % in 2013;

3. Change in the structure of sanctions imposed on crime offenders: according to the Statistical Yearbook of the Ministry of Justice of the Slovak Republic (hereinafter the "MoJ"), the share of imprisonment sentences decreased from 20.9 % in 2006 to 16.9 % in 2012, the share of suspended sentences decreased from 68.8 % in 2006 to 60.4 % in 2012, while the share of alternative sanctions (mainly community work, pecuniary sanctions and remission of punishment) increased from 10.3 % in 2006 to 22.7 % in 2012;

4. Reduction of the length of imprisonment through conditional release (parole) -- on average 2,200 inmates annually;

5. Changes in the field of crime prevention, for example through the adoption of Act No. 583/2008 Coll. on the Prevention of Crime and Other Anti-social Activities, as amended, which entered into force on 1 January 2009, or the establishment of pre-release wards in prisons which are designed to facilitate social reintegration of inmates after their release.

The next significant step taken to reduce prison overcrowding was the adoption of the Concept Paper on the Slovak Prison System for 2011-2020 which, as a basic programming document, among other things:

a) Addresses the efficient utilisation of prison capacities;

b) Plans the reconstruction of the existing prison establishments and the construction of new buildings in order to increase the current accommodation capacity for both remand prisoners and sentenced inmates to attain the minimum floor space of at least 4 m^2 per person;

Within the current legislative framework, which guarantees the minimum accommodation space of 3.5 m^2 per inmate (4 m^2 for women and juveniles) and gives prison governors the possibility to reduce, on a temporary basis, accommodation space (particularly in the case of prison admission cells and cells used for the placement of inmates pending escort or transfer), Slovak authorities respect the established case-law of the European Court of Human Rights (e.g., case Orchowski v. Poland, Application no. 17885/04, 22.10.2009; Trepashkin v. Russia, Application no. 14248/05, 16.12.2010) which emphasises that *even if the personal space is between 3 to 4 m^2, also other aspects of physical conditions of detention are relevant (availability of ventilation, access to natural light and air, adequacy of heating arrangements, compliance with basic hygienic requirements and the possibility of using the toilette in private)*, hence the accommodation of an inmate in a space below 4 m^2 cannot be *per se* considered as being inhuman or degrading. Since the Report evaluates the physical conditions (availability of ventilation, access to natural light and air, adequacy of heating arrangements, compliance with basic hygienic requirements and the possibility of using the toilette in private) as good and acceptable (see paragraphs 70 to 72), we are of the opinion that the floor space of 3.5 m^2 can be considered sufficient in terms of respecting the principle laid down in Article 3 of the Convention for the Protection of Human Rights and Freedoms.

Slovakia plans to increase on a systemic basis the size of living space to 4 m^2 and thus respect the good practice in this area of human rights and fundamental freedoms. With effect from 1 January 2014, in order to ensure legal certainty and clarity concerning the living space of 3.5m^2, we have specified further details, including an explicit formula for the calculation of the living space for both the accused and sentenced. The living space of a room/cell (floor area 3.5m^2) is calculated as the total floor area of the room/cell minus the floor area taken up by the hygienic unit located in the cell, structurally separated WC in the cell, the floor area above which the floor-to-ceiling height is less than 1300mm, and minus the floor area taken up by built-in furniture and by the door and window jambs.

The strengthening of the trend of de-incarceration through the use of alternative punishments and electronic monitoring constitutes the legislative objective of the draft Act on the Use of Technical Means in Controlling the Implementation of Certain Decisions, which will be prepared and submitted to the government for discussion in November 2014.

In connection with the implementation of a project for the system of electronic monitoring of persons (SEMP) and its practical implementation, the Ministry of Justice set up a working group for the drafting of legislation and implementation of the SEMP, which includes representatives of the academia, practitioners in the field of criminal law, representatives of courts, prosecutors, lawyers and probation and mediation officers, as well as representatives of the Police Force and the Ministry of Justice. In addition to this working group, also other working groups set up under the ambit of the Ministry of Justice deal with specific practical aspects of electronic surveillance; these groups include, among others, also representatives of the Corps of Prison and Court Guards. In its deliberations, the SEMP working group has thus far discussed a report on the preliminary technical testing of the electronic monitoring system, heard a practical presentation on the functionalities of the system, analysed various documents concerning house arrest and electronic monitoring in selected European countries, and discussed the steps to be taken in the upcoming legislative process in Slovakia.

The working group has identified the following legislative changes that need to be taken:

- Adoption of a new law under the working title "Act on the Use of Technical Means in Controlling the Implementation of Certain Decisions, which amends certain other acts ("Act on the Electronic Monitoring of Persons"), which will regulate the technical means and their use to control the implementation of decisions issued in judicial proceedings.

- Legislative amendments (to the Criminal Code, Code of Criminal Procedure, Act on Court Clerks, Act on Probation and Mediation Officials, Decree No. 543/2005 of the MoJ on Administrative Procedures for District Courts, Regional Courts, Special Court and Military Courts, as well as amendment to the Civil Code and the Code of Civil Judicial Procedure)

Based on the proposed legislative changes presented so far, the intention is to use electronic monitoring of persons both in the criminal law and civil law areas.

A. Criminal Law

1. Service of sentences and protective measures:

- Sentence of house arrest (Section 53 of the Criminal Code)
- Prohibition of stay (Section 62 of the Criminal Code)
- Prohibition of participation in public events (Section 62a of the Criminal Code)
- Protective supervision (Sections 76–80 of the Criminal Code)

2. Control of compliance with the duties and restrictions imposed under probation – conditional postponement of imprisonment subject to probation supervision (Sections 51-52 of the Criminal Code)
- Conditional release (parole) from prison subject to probation supervision (Section 66 of the Criminal Code)
- Conditional suspension of criminal prosecution (Section 216 of the Code of Criminal Procedure).

B. Civil Law
- For some interlocutory measures ordered in connection with domestic violence (eviction of the defendant, restraining order in respect of persons or objects).

Project timetable:
- Trial run (2nd half of 2015)
- Full operation (from 2016)

The working group is currently drafting the legislative texts of the abovementioned law and amendments.

Ad paragraph 35 - ***The Slovak authorities also informed the delegation that the plans to establish a psychiatric detention centre in Hronovce and a prison for mothers with children in Nitra, referred to in the report on the CPT´s 2009 visit, had not yet materialised, in particular due to lack of financial resources. The CPT would like to receive updated information on the setting up of these two institutions.***

The Ministry of Health continues the process of establishing the detention centre in cooperation with the Psychiatric hospital in Hronovce.

Within the inter-ministerial commenting procedure to the 2015-2017 government budget outline, the Ministry of Health ("MoH") submitted to the Ministry of Finance a request to increase the MoH budget for 2015 by the required amount of funds. The construction of the detention centre will begin immediately after the required funds have been allocated.

As regards the legislative framework regulating detention, please note that the Ministry of Health provided its input to the 2011 amendment of the Criminal Code (Section 81(4)) which was reflected in the amendment.

Once the detention centre is established, the Corps of Prison and Court Guards are ready to perform all tasks relating to the security of the establishment.

The Slovak Republic continues to work towards the implementation of a plan to establish a specialised prison ward where female inmates, if they so request, will be able to care for their children above one year of age and usually below three years of age (exceptionally up to five years of age). In the preparatory phase of the project, several specific steps at the level of the Ministry of Justice have already been taken. One of those steps includes a decision to locate the ward at the female prison of Nitra–Chrenová, which has already procured an ample plot of land in its immediate vicinity. The project has been included among the priorities of the Concept Pater on the Slovak Prison System for 2011-2020, approved by Government Resolution No. 248 of 13 April 2011.

Based on the knowledge obtained thus far and given the importance of setting up a specialised unit for mothers with children, the next phase of the project will require, apart from the active impact of the ministries responsible for the protection of minors and their health, a profound knowledge of the best practices available in those countries which already operate such units. In 2015, the Corps will organise an international seminar aimed at presenting experience from the neighbouring countries and formulating qualified input for the legislative process. The necessary legislative amendments should be prepared by the end of 2016, at the latest. In the meantime, a civil engineering study for structural changes at Nitra–Chrenová prison will be commissioned in order to design appropriate facilities for mother with children and increase the accommodation capacity of the prison.

Ad paragraph 37 – ***As regards the criminal legislation, the maximum period of pre-trial detention in the Slovak Republic remains five years. As noted in the previous visit report, this arrangement is a matter of concern to the CPT, given the persistent problems identified by the Committee as regards the conditions of detention of remand prisoners. Moreover, it should be reiterated that it places the Slovak Republic among the countries with the longest maximum periods of remand detention in Europe.***

The purpose of the amendment to the Code of Criminal Procedure, which extended the duration of pre-trial detention period to five years, was to safeguard the persons, property and other values and interests protected by the Criminal Code against the perpetrators of exceptionally serious crimes which carry the most severe penalties, i.e., imprisonment for 25 years or a life sentence.

The practise has shown that, for this particular category of penal cases, the limitation of pre-trial detention to four years in criminal proceedings does not suffice and hence the period had to be extended to five years in justified cases. Otherwise, the judicial system would run the risk of having to release individuals facing the heaviest penalties, which would not only pose threat for society and concrete victims, but it would also undermine (if not degrade) the basic principles of justice and the rule of law. On the other hand, the newly introduced possibility to extend the maximum period of pre-trial detention in criminal proceedings requires a court decision in order to meet the criteria laid down in Article 17(5) of the Constitution of the Slovak Republic.

Numbers of the accused according to the duration of remand							
Type of remand	**Duration of detention**	**as at 31.12. 2009**	**as at 31.12. 2010**	**as at 31.12. 2011**	**as at 31.12. 2012**	**as at 31.12. 2013**	**as at 30.06. 2014**
Pre-trial detention	**Detention up to 6 months**	**908**	**792**	**706**	**653**	**649**	**753**
	Remand up to 1 year	**55**	**47**	**82**	**21**	**63**	**54**
	Detention up to 2 years	**16**	**10**	**16**	**19**	**5**	**13**
	Detention above 2 years	**0**	**0**	**0**	**0**	**0**	**1**
	TOTAL	**979**	**849**	**804**	**693**	**717**	**821**

Detention during court proceedings	**Detention up to 6 months**	**257**	**238**	**244**	**233**	**211**	**316**
	Detention up to 1 year	**248**	**192**	**201**	**191**	**132**	**118**
	Detention up to 2 years	**114**	**159**	**106**	**151**	**95**	**97**
	Detention above 2 years	**23**	**26**	**52**	**40**	**61**	**47**
	TOTAL	**642**	**615**	**603**	**615**	**499**	**578**
TOTAL		**1621**	**1464**	**1407**	**1308**	**1216**	**1399**

Ad paragraph 38 - ***The CPT considers that allocation and classification of prisoners, enabling each person to be assessed in terms of security risk, skills, and needs, should occur upon admission to prison and not at the sentencing stage. Reference is made in this context to Rules 51 and 52 of the European Prison Rules. The Committee would appreciate the observations of the Slovak authorities on this matter.***

In our view, the system used for the differentiation of prisoners in Slovakia's criminal law practise is sufficient from the viewpoint of historical knowledge and experience.

As regards external differentiation, which is determined by the court with a view to the gravity of the offence, the risk which the sentenced poses for society, his overall way of life and behaviour prior to the offence and his attitude towards the offence, as well as based on the evidence taken, we are of the opinion that this differentiation is done in line with the recommendations stipulated in Rule 51 of the European Prison Rules.

In the case of internal differentiation, where the differentiation group is set by the prison governor based on the proposal by a commission, in particular based on the conclusions and recommendations of a psychological examination, knowledge of the inmate's behaviour in prison and detention, knowledge of the degree of his personality disruption and knowledge of his attitude towards fulfilling his duties, we are of the opinion that the procedure is in line with recommendations stipulated under Rule 52 of the European Prison Rules.

The prison governor may suggest to the court to rule on a different way of sentence execution, taking into account the degree of risk which the inmate has posed in the course of serving his sentence.

In our view, the system of differentiation of the sentenced in the Slovak Republic respects the material requirements contained in Recommendations 51 and 52 of the European Prison Rules. The formal and temporal condition contained in Rule 51.3 of the European Prison Rules, i.e., determination of the risk "as soon as possible after admission" is irrelevant in the light of the facts considered in determining external differentiation, because the very same facts, supported by evidence, which the court takes into account when handing down the sentence, would be taken into account by the authority which places the sentenced in prison.

Ad paragraphs 39 and 42 - In the light of these findings, the CPT recommends that custodial staff at Leopoldov, Košice-Šaca, Nitra and Nitra-Chrenová Prisons be reminded that:

- ***all forms of ill-treatment, including verbal abuse/racist remarks, are not acceptable and will be punished accordingly;***
- ***no more force than strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck;***
- ***inmates who violate existing rules should be dealt with only in accordance with the official disciplinary procedure.***

The CPT trusts that the prison staff at Košice-Šaca Prison will take the necessary steps to ensure that the maintenance of order and control in the establishment remains within their exclusive remit.

In line with Recommendation Rec(97)12 of the Committee of Ministers of the Council of Europe on Staff Concerned with the Implementation of Sanctions and Measures and the Concept Paper on the Slovak Prison System for 2011-2020, the existing legislative framework guaranteeing measures against ill-treatment by the prison staff – in line with the protection of rights guaranteed by laws, including the sanction and prevention instruments ensuring its implementation, as laid down, for example in Section 326 of the Criminal Code – Abuse of Power by a Public Official, or Section 420 of the Criminal Code – Torture and Other Inhuman or Cruel Treatment – has been expanded to include:

1. Adoption of the Code of Ethics for the Officers and Staff of the Corps of Prison and Court Guards;

2. A concept designed to develop social and communication skills and social perception among those prison staff who are in regular direct contact with inmates;

3. Definition of personal security as part of the security concept – containing requirements for the personal qualities of prison staff, requirements for their training and development, and requirements of the directive for the performance of service duties and emergency situations as laid down in the *"Concept Paper on Security in the Slovak Prison System for 2011–2020".*

In spite of the fact that the allegations contained in paragraph 39 of the CPT report (bad physical or verbal treatment of inmates by prison staff) are not supported by evidence and they are not reviewable because the complainant is unidentified, thus they are allegations only, the Corps of Prison and Court Guards (hereinafter the "Corps") respect the positive commitment of the Council of Europe member states to take measures designed to ensure that individuals within their jurisdiction are not subjected to torture or inhuman treatment. In light of the above, the prison staff will be repeatedly reminded of their proper conduct and behaviour in order to prevent the occurrence of situations mentioned in the report.

Ad paragraph 41 - ***The CPT recommends that the Slovak authorities ensure that these precepts are respected in practice whenever it is deemed necessary, on the basis of an individual risk assessment, to resort to strip-searching of a prisoner.***

Body searches belong among the most sensitive legal interventions with the personal freedom of inmates. The proportionality between the intensity of intervention into private life and the legitimate objective of such intervention, given by the interest to prevent riot or crime, protect health and morals and protect the rights and freedoms of others, is one of the most frequent questions dealt with by the European Court of Human Rights with respect to breaches of Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Established case-law provides sufficient information which the Corps used in drafting its new internal rules for the carrying out of personal searches: Order No. 2/2014 of the Minister of Justice on Security Provided by the Corps of Prison and Court Guards, which entered into force as of 1 January 2014, provides sufficient procedural guarantees for ensuring security and maintaining order at prisons and, together with Section 13b of Act No. 4/2001 Coll. on the Corps of Prison and Court Guards, as amended, sets out clear rules for performing strip searches in an adequate manner:

1. The personal search of the accused and sentenced, as well as the search of their personal effects, may not pursue other objective than ensuring the purpose of detention and imprisonment, protecting the personnel and facilities of the Corps, and respecting the rules applicable therein;

2. Personal search of the accused and sentenced may only be performed by the staff of the same gender;

3. Personal search of the accused and sentenced must respect the basic hygienic rules and must not be conducted in a manner which degrades the dignity of the person subjected to it;

4. Medical examinations may only be performed by medical staff;

5. Strip search of the accused or sentenced shall be performed in the area designated for that purpose; the area must be suitable in terms of temperature and must provide for a sufficient degree of privacy;

6. Since during this type of search the inmates are strip naked, the search must be performed individually (except for extraordinary situations, such as mass-scale criminal conduct by inmates);

7. Strip search is performed only visually, in order to find out whether or not a person is injured, whether or not the person hides illicit items, and the like.

The respect for and practical application of these rules will be audited through targeted inspections performed by the General Directorate of the Corps in remand prisons, prisons and in the hospital for the accused and sentenced.

Ad paragraph 48 - ***In the light of the above, the CPT calls upon the Slovak authorities to take appropriate steps to lend meaning to the period of imprisonment for all life-sentenced prisoners by making major investments in diverse, structured and purposeful out-of-cell activities of a long-term nature (such as work, preferably with vocational value, education, sport, and recreation/association).***

Further, the Committee recommends that immediate steps be taken to ensure that life-sentenced prisoners held in single cells paired in "suites" are allowed, as far as possible, to associate with each other within the "suite" for a reasonable part of the day.

As in the case of sentenced juveniles at Sučany prison (information provided in the last sub-paragraph of paragraph 66 of the CPT report), also in the case of general prison population, including the life-sentenced, each sentenced prisoner has a general sentence execution plan set up for him, also known as the 'personal treatment plan', which is a comprehensive organisational and planning document of educational work with the inmate, containing a structured set of activities (education during free time, inclusion in the work process, relations with the outside world, plus other methods and procedures of treatment) focusing on his re-socialisation, elimination of the subjective causes of his past criminal conduct, and the formation of socially acceptable behaviour and value orientation.

Given the progress achieved, the activities set out in the treatment plan are further systemically specified, from 1 January 2014 also for the life-sentenced, so that the inmate may be included among the general prison population at a certain point during the execution of his sentence. The purpose of personal treatment in prisons is not to behave hyper-protectively, but rather motivationally, towards inmates.

In the case of life-sentenced prisoners, this means that the long-term 'out-of-cell' activities are organised differently for differentiation sub-groups D1 and D2. The classification of inmates as D1 and D2 is influenced – apart from the formal-temporal criterion – solely by the behaviour of the inmate. We wish to emphasise that since the last CPT visit in 2009 the number of inmates classified in the "more favourable" D2 differentiation sub-group increased from 17 % to 30 % of the total number of life-sentenced prisoners.

Various 'individual' forms of personal treatment (discussion, diagnostics, psychological intervention, social counselling, self-study and in-cell work) are applied in the D1 differentiation sub-group. Mutual association of inmates placed in separate cells which are paired into "suites" is possible, yet subject to individual assessment, also under the current legislation which, in Section 78(5) of the Rules for the Execution of Imprisonment Sentences, provides: "*Inmates may be allowed, based on the educator's proposal and subject to approval by the governor, mutual contacts within the D1 differentiation sub-group"*.

Personal treatment within the D2 differentiation sub-group also includes, to an appropriate extent, group activities under prison-guard supervision -- inmates may participate in selected activities organised for the entire institution. Mutual association of inmates placed in separate cells paired into "suites" is not subject to additional restrictions and is based on the provision of Section 78(6)(b) of the Rules for the Execution of Imprisonment Sentences: "*Provided that the inmate fulfils his personal treatment plan, abides by the internal rules of the institution and displays positive changes in his attitude towards his past criminal conduct and in his value orientation, he may be placed into the D2 differentiation sub-group, which is characterised by the mitigation of certain restrictions applicable to the execution of life sentences, particularly by enabling contacts with other inmates placed in the D2 differentiation sub-group"*.

Ad paragraphs 49 and 52 - ***The CPT reiterates its recommendation that transparent criteria be set for promotion to and demotion from the D2 regime, which would enable prisoners to clearly identify the action and behaviour required of them in order to qualify for placement within a group with a more favourable regime.***

Further, the Committee recommends that the regime classification of life-sentenced prisoners be reviewed at regular intervals.

The Committee reiterates its recommendation that the Slovak authorities fundamentally rethink their approach vis-à-vis life-sentenced prisoners, with the objective of (i) moving away from the current policy of having life-sentenced prisoners locked up for most of the time in their cells and (ii) integrating them at some point into the mainstream prison population.

Transparent criteria for the promotion to and demotion from the D2 regime, which would enable prisoners to clearly identify the action and behaviour required of them in order to qualify for placement within a group with a more favourable regime, i.e., recommendation contained in the report from the CPT visit in 2009, are embedded in Decree No. 500/2013 of the Ministry of Justice of the Slovak Republic, which amends Decree No. 368/2008 of the Ministry of Justice of the Slovak Republic promulgating the Rules for the Execution of Prison Sentences, which entered into force as of 1 January 2014.

Effective from 1 January 2014, under Section 78(3) of the Rules for the Execution of Imprisonment Sentences "*an inmate may be placed into the D2 differentiation sub-group after having served five years of his sentence, subject to the conditions stipulated in paragraph (6)".* The conditions stipulated in paragraph (6) comprise fulfilment by the inmate of his personal treatment plan, compliance with the internal rules of the institution and changes in the inmate's attitude towards his past criminal conduct and in his value orientation. If an inmate classified in the D2 differentiation sub-group ceases to meet these conditions (discontinues to fulfil his personal treatment plan or repeatedly or seriously breaches the rules of the institution, that is, commits a disciplinary infraction) under Section 78(4) of the Rules for the Execution of Imprisonment Sentences the inmate is re-classified back to the D1 sub-group; the nearest re-classification into the D2 sub-group is possible after 12 months provided that the inmate has not been disciplinary punished during that period.

The most significant systemic change concerning the placement of life-sentenced prisoners into one of the two available regimes lies in the new provisions of Sections 20(2) and 21(2) of the Rules of Imprisonment which, as of 1 January 2014, enable the prison governor -- based on a recommendation contained in the findings of repeated psychological examination, the inmate's compliance with his personal treatment plan and his critical attitude towards his criminal past – to place the lifer into differentiation group "B" in a prison with the maximum guarding level after having served 15 years of his sentence in the life-sentence unit. After having served additional five years in the "B" differentiation group, the inmate may be reclassified into the "A" differentiation group.

The previous model of the internal differentiation of life-sentenced inmates has been changed as follows:

Situation until 31/12/2013		Situation from 01/ 01/2014	
Classification on admission	Time	Classification on admission	Time
Life-sentenced prisoners unit, differentiation sub-group D1		Life-sentenced prisoners unit, differentiation sub-group D1	
↓	not set	↓	5 years
Life-sentenced prisoners unit, differentiation sub-group D2		Life-sentenced prisoners unit, differentiation sub-group D2	
		↓	10 years
		Standard prison – differentiation group B, maximum guarding level	
		↓	5 years
		Standard prison – differentiation group A, maximum guarding level	
Possibility of release			

Ad paragraph 50 - ***The CPT recommends that the Slovak authorities build on the above-mentioned positive development with the aim of ensuring that the handcuffing of life-sentenced prisoners when they are outside their cells is an exceptional measure which is taken only when strictly necessary, based on an individual assessment of real risks, and is never applied as a routine measure.***

The practice of systemic handcuffing of life-sentenced prisoners had been abolished, as the CPT notes in its present report. Under the applicable legislation, the current practise of using restraining tools is, in the case of handcuffing, limited by the provision of Section 35 of Act No 4/2001 Coll. on the Corps of Prison and Court Guards, as amended, according to which a Corps member is authorised to use handcuffs:

a) To handcuff an accused, sentenced or escorted person if the person puts up active resistance, jeopardises the life or health of another person or damages property despite having been called on to refrain from such conduct;

b) To handcuff together two or more accused, sentenced or escorted persons subject to the conditions stipulated in letter (a);

c) During escorting an accused or sentenced person if there are grounds to believe that the person may attempt to escape;

d) To handcuff a person who is acting in a manner that frustrates the purpose of the intervention, puts up active resistance, attacks a member of the Corps or another person, jeopardises public order or damages property, despite having been called on to refrain from such conduct".

The more frequent handcuffing of life-sentenced prisoners classified as D1 in our view does not exceed the intensity inevitably associated with the execution of life sentences, nor does it go beyond the scope deemed adequate under security requirements stipulated by law.

In connection with the handcuffing of inmates classified as D2 during the activities performed outside their unit, the General Directorate of the Corps has issued the following methodological guidance:

"The mitigation of certain restrictions associated with the execution of life sentences enables the granting of permission to inmates classified in the D2 differentiation sub-group to take part in selected activities organised for the whole institution. Such permission may only be granted to the inmates who are likely to progress across the prison classification system (placement into the B group in a prison with the maximum guarding level) and may serve as an assisted verification of the appropriateness of such placement. This means that the **permission is granted on an individual basis and, during participation in the activity, the inmate is not separated from other inmates and is not handcuffed** (this would be at odds with the logic based on which such permission would certainly not be granted to an inmate who is likely to attempt escape)".

Ad paragraph 51 - ***The CPT calls upon the Slovak authorities to implement its longstanding recommendation to put an end to the practice of handcuffing life-sentenced prisoners when they undergo a medical examination/intervention.***

In exceptional situations, justified by security considerations and where so requested by the doctor, there are legitimate reasons to temporarily handcuff inmates during medical examination.

The behaviour of inmates during a medical intervention (performed by a doctor or nurse) is governed by the requirements of medical staff. The decision to handcuff an inmate during medical or therapeutic intervention is taken depending on the type of medical intervention and considering the knowledge of the threat which the inmate may pose. Since lifers are, in a majority of cases, persons posing a high degree of risk of aggression towards other persons, it is not surprising that medical staff request that such individuals be handcuffed during medical intervention. With the exception of drawing up the inmate's medical history, medical interventions are usually carried in the immediate proximity of the inmate where the medical staff have limited possibility to react in a timely and effective manner to potential brachial attacks by the inmate. Not to mention the fact that medical interventions involve the use of sharp objects (needles, scalpels) and other instruments which the inmate may potentially use as a weapon in waging attack on medical staff. For medical staff to be able to perform their professional work without distraction and in full mental concentration, it is desirable to put in place appropriate and suitable conditions for their work. The distraction of medical staff's attention in terms of expecting them to stay wary and watchful of potential escape attempts by un-handcuffed inmates may lead to professional errors and subsequent iatrogenicities, which would be of no benefit to both medical staff and, in particular, the inmate concerned. In order for medical staff to perform their profession without undue distraction, appropriate conditions for their work must be put in place. In the case of dangerous inmates, such appropriate conditions are created by restraining their ability to move, for example by handcuffs.

Although the objective of handcuffing is in no way to degrade or humiliate the person concerned and the use of handcuffs is limited only to situations where the objective of an intervention cannot be, beyond all reasonable doubt, achieved otherwise also in an apparently secure environment (prevention of escape and protection of medical staff), the Corps of Prison and Court Guards will compare its perspective with good practices in Council of Europe member states, as well as with the case-law of the European Court of Human Rights (for example, Kashavelov v. Bulgaria, no. 891/05, 20.04.2011, Garriguenc v. France, no. 21148/02, 15.11.2007, etc..).

Ad paragraph 53 - ***The CPT recommends that the Slovak authorities amend the relevant legislation with a view to introducing a possibility of conditional release (parole) to all life-sentenced prisoners, subject to a review of the threat to society posed by them on the basis of an individual risk assessment.***

As part of the ongoing process of preparing amendments to the Criminal Code and Code of Criminal Procedure, the Slovak Republic is analysing compliance with the relevant ECHR case-law of the provisions contained in the Criminal Code concerning the conditions for the release on parole of life-sentenced prisoners. Depending on the outcome of the analysis, the Slovak Republic will prepare legislative changes necessary to attain full compliance with the relevant Convention in the light of the ECHR case-law. Should the analysis confirm the need to amend domestic legislation, it will most likely affect Sections 34(8) and 67(3) of the Criminal Code (Act No. 300/2005, as amended), which currently make the conditional release of certain categories of lifers impossible.

Ad paragraph 55 - ***The CPT recommends that further efforts be made to improve the outdoor exercise facilities for life-sentenced prisoners at Leopoldov Prison. Consideration should be given to making the outdoor yard used by the general prison population regularly accessible to all life-sentenced prisoners.***

In comparison with the CPT visit in 2009, the outdoor exercise facilities for inmates improved significantly (additional equipment). The size and equipment of walking courtyards for D1 inmates is, in our view, presently sufficient for the performance of physical activities. The use of the walking courtyard intended for the general prison population by the D1 inmates is presently technically impossible given the existing legal constraints.

Ad paragraph 56 - ***The CPT recommends that the Slovak authorities take the necessary steps to ensure that, in practice, all prisoners (including disabled inmates) are able to benefit from daily outdoor exercise.***

Pursuant to Section 84(1) of the Act on the Execution of Imprisonment Sentences, the inmates with impaired work capabilities or those suffering from serious health handicaps, inmates suffering from long-term serious diseases that impair their work capabilities, inmates whose health condition so requires, and male inmates above 65 and female inmates above 60 years of age are placed (subject to prior medical assessment) in a unit for inmates with health disabilities. Such units presently exist in the Hospital for the Accused and Sentenced and Prison Hospital in Trenčín and in the Prison of Nitra–Chrenová. The inmates placed in these units have a barrier-free access to walking yards. In compliance with the above-mentioned, also lifers with serious health disabilities which prevent them from walking to the exercise yard (e.g., immobile inmates) are placed in the unit for inmates with health disabilities.

Ad paragraph 58 - ***The CPT recommends that the Slovak authorities review the regime applied to prisoners accommodated in the high-security department of Leopoldov Prison and, where appropriate, in other prisons in the Slovak Republic, in the light of the above remarks.***

Rather than the gravity of criminal offences for which they have been put on remand or sentenced, the placement of accused/sentenced prisoners into special units characterised, in particular, by tighter protective measures and restrictions, is done in reaction to the real security risk (which is regularly re-assessed) which these persons pose based on their behaviour in the prison environment. In this spirit, the General Directorate of the Corps provided methodological interpretation of Section 81 of the Act on the Execution of Imprisonment Sentences, which lays down rules for the placement of prisoners into high-security units; the guidance should be taken on board and applied, on a case-by-case basis, by all establishments concerned: *"The factors considered in placing inmates into units and groups within the same 'guarding level' follow – apart from the pro-active objectives designed to improve the efficacy of treatment (for example, through accommodation, work and joint prison life of inmates who are peers in terms of their personal integrity/disruption) and minimise negative impacts of the prison environment – also protective (=security) objectives. In spite of their general nature, prisons should be places where all (not only inmates, but also staff) feel safe. For this reason, apart from the 'standard execution of sentences' there is a 'specialised execution of sentences' in units with security regime designed for the placement of inmates whose behaviour poses a threat to security and safety and where the prison service does not have an alternative legal and immediate option to solve the situation.. Hence the governing principle which legitimises the governor's decision to place an inmate into a security-regime unit is not 'consistent violation by the inmate of the internal rules of the institution pursuant to Section 81(1)(a) of the Act on the Execution of Imprisonment Sentences', but only such consistent violation of the internal rules which poses a real threat for security".*

The regime provided in a security-regime unit:

Please note that also here the arguments presented in the first two indents of our answer to paragraph 48 are valid.

In line with repeated CPT recommendations concerning the regime applied to inmates within high-security units and in the light of the recommendation presented in paragraph 61 of the report, the following measures will be implemented in the nearest future:

1. Staffing measure – introduce into one functional position of a special educator with specialisation in psychopedia or ethopedia, or in pedagogy for the mentally challenged or pedagogy for the socially and emotionally disturbed;

2. Personal treatment programme:

    a) Introduce training programmes aimed at managing aggressive behaviour, suppressing aggressive behaviour in its initial stages, controlling inadequate mounting of tension, for example through yoga exercises, such as long royal breath, bellows breath, etc., autogenic training, Jacobson, individual receptive music therapy;

    b) Identify and develop the inmate's areas of interest and, respecting the constraints of a high-security unit, proceed with their pursuit;

c) Work with inmates solely based on the principle of merits – each pro-social behaviour needs to be rewarded;

d) Focus on the inmate's family links and use them positively in the process of re-socialisation;

e) Where an inmate suffers from a "joint accommodation phobia", apply a cognitive-behavioural therapy to dispel it.

Ad paragraph 59 - ***The CPT reiterates its recommendation that the Slovak authorities take steps to ensure that:***

- ***prisoners in respect of whom placement in a high-security department is envisaged, or in respect of whom such placement is extended, are given an opportunity to express their views on the mater after having been informed in writing of the reasons for the measure (it being understood that there might be reasonable justification for withholding from the prisoner specific details related to security);***
- ***prisoners are given the right to appeal to an independent authority against the imposition or extension of placement in a high-security department (in line with the principles laid down in the European Prison Rules).***

Pursuant to Section 89(3) of the Rules of Imprisonment, the prison governor – based on a proposal submitted by the educator or by the prevention-security service and after discussion in a specialised commission – may rule on the placement of an inmate into a high-security unit. With a view to the abovementioned, the Corps will re-assess and further specify the procedure and consider a possibility of informing inmates of such a proposal (inmates will confirm it by signature), except for cases when the reasons for placement in a high-security unit relate to the ongoing criminal prosecution, the reasons for remand are grounded and the court has ruled on such restrictions pursuant to a separate regulation.

In line with the principles laid down in the European Prison Rules (Rule 53.7), any prisoner subjected to such measures shall have a right of complaint in the terms set out in Rule 70.1 of the EPR: *"Prisoners, individually or as a group, shall have ample opportunity to make requests or complaints to the director of the prison or to any other competent authority", or in* Rule 70.3 of the EPR: *"If a request is denied or a complaint is rejected, reasons shall be provided to the prisoner and the prisoner shall have the right to appeal to an independent authority"*. In our opinion, these rules are already fully implemented through the wording of Section 36 of the Act on the Execution of Imprisonment Sentences (Protection of Rights of the Sentenced) and further specified in Sections 48 to 51 of the Rules of Imprisonment. The prosecutor who supervises the legality of prison procedures represents an authority meeting the requirement of impartiality and independence, i.e., an authority established by law and vested with sufficient powers to take decisions. Such a prosecutor has all jurisdictional powers and is under *ex lege* obligation to *abolish or suspend the execution of decisions, orders or measures taken by the authorities responsible for running prisons and remand prisons insofar they are in conflict with law or other generally binding regulations.* Each establishment has a lockable mailbox for requests, suggestions or complaints addressed to the supervising prosecutor (hereinafter "prosecutor") installed in a place commonly accessible to inmates; the mailbox must be secured in a manner which prevents access to its content by unauthorised persons. The mailbox content is picked up by the prosecutor when performing supervision or control directly at the establishment.

Ad paragraph 60 - ***The CPT recommends that the review for holding remand prisoners in a high-security cell take place at least every three months.***

According to Section §7(7), third and fourth sentence, of the Act on the Execution of Remand Detention (wording effective as of 1 January 2014): "*The establishment shall inform the supervising prosecutor of any such placement and of the placement of an accused in a high-security cell". The grounds for holding the accused in a high-security cell shall be reviewed by the governor and supervising prosecutor at least once every three months".*

Ad paragraph 61 - ***The CPT reiterates its recommendation that the Slovak authorities develop facilities suitable to accommodate prisoners suffering from learning disabilities and/or serious mental disorders, such as those currently accommodated at the Leopoldov high-security department. In this connection, the CPT also refers to paragraph 35.***

Further, the Committee recommends once again that appropriate interim measures be sought as a matter of urgency to ensure adequate care for prisoners with learning disabilities and/or serious mental disorders at the Leopoldov high-security department.

Please refer to paragraph 35 for the answer to the first part of the recommendation.

The answer to the second part of the recommendation in this paragraph was sent through a letter of the Minister of Justice dated 16 June 2014 addressed to CPT president Letif Hüseynov, including annex thereto entitled *"Measures for implementation of the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment mentioned in Point 61 of the Report to the Slovak Government from the visit carried out from 24 September to 31 October 2013".*

Text of the letter:
Dear Mr. Hüseynov, President of the CPT,

In response to your letter of 24 March 2014 addressed to Mr. Branislav Kadlečík, the CPT´s liaison officer, containing the enclosed report to the Slovak Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the Slovak Republic from 24 September to 3 October 2013, please find enclosed the *"Measures for implementation of the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment mention in Point 61 of the Report to the Slovak Government on the visit carried out from 24 September to 31 October 2013"* in the Slovak language and its translation into the English language.

Yours sincerely,

Tomáš Borec
Minister of Justice of the Slovak Republic

Ad paragraph 64 - ***In the four double-occupancy cells in the closed/disciplinary unit, in-cell toilettes were only partly partitioned. Further, some of the cells and the communal room on the ground floor were in need or refurbishment and in several cells, the number of chairs was not sufficient for the number of juveniles accommodated therein. The CPT recommends that these shortcomings be remedied.***

The separation of toilettes from the rest of the accommodation area in the cells of the closed/disciplinary unit is ensured by partition walls which obstruct direct view to the toilette area. The height of the partition wall (1.57 to 1.70 metre), distance of the toilette from the area where inmates consume food (1.75 to 2.30 metre), maximum cell occupancy (two inmates), the

temporariness of accommodation in disciplinary cells (only during the execution of disciplinary punishment) and the toilette location give, in our view, sufficient privacy to inmates.

Pursuant to the first sentence of Section 18(2) of the Act on the Execution of Imprisonment Sentences, each inmate placed in a cell or room must have a bed with mattress, bolster and bedding, plus a chair. In terms of purpose, the above-mentioned law guarantees inmates the right at any time (of their own choosing) to sit and lean against backrest, for example during reading, eating, etc. In other words, each inmate must at all times have access to his "own" chair. Hence the number of chairs in a cell must always be equal to the number of inmates accommodated therein. As regards the inmates accommodated in open rooms which enable free movement within the unit, the situation is somewhat different. Given the "free movement" type of the regime, there is no reason to restrict juveniles from moving chairs outside their rooms. What may happen then is that, at a particular point in time, the number of chairs in a room does not tally with the number of accommodated inmates (for example, if an inmate leaves his chair behind in the television room). However, this is without prejudice to the ability of the inmate to exercise his right to having a chair in his room, simply because the free-movement regime enables him to bring the chair back.

Ad paragraph 67 - ***The CPT recommends that the Slovak authorities take the necessary steps to ensure that all juvenile remand prisoners are provided with a programme of purposeful out-of-cell activities, including group association activities, tailored to their needs (education, sport, recreation, etc.). The longer the period for which juvenile remand prisoners are detained, the more developed should be the activities which are offered to them.***

In addition to the existing legislation, which guarantees every juvenile the right to move outside their cells at least four hours per day and the obligation to attend compulsory school education, the interest of the Slovak Republic in fostering the implementation of meaningful activities for accused juveniles is also reflected in changes in the law on the execution of remand imprisonment and in the main management-planning documents of the Corps.

Effective as of 1 January 2014, all accused must be provided, upon their request, with individual social counselling aimed at limiting the negative impacts of prison environment and addressing the inauspicious life situation of the inmates and their families. At the same time, those accused who, as of their admission to remand prison, studied at a secondary or tertiary school, must be enabled to continue their studies on a distance learning basis.

Also the Government of the Slovak Republic has adopted various concept papers where it committed itself to putting in place ample conditions for educational, leisure-time and sporting activities for the accused, with specific emphasis on the compulsory school education of accused juveniles.

Ad paragraph 68 - ***The CPT reiterates its recommendation that the Slovak authorities take the necessary steps to ensure that the above-mentioned precepts are effectively implemented in practice in the Slovak prison system.***

The possibility of placing an accused/sentenced juvenile into the same cell with an adult inmate is regulated in compliance with Rule 18.9 of the European Prison Rules. The conditions for such accommodation (which is still considered exceptional) can be divided into formal and material.

The formal condition for such shared accommodation is the consent of the two inmates concerned. The material condition is that such accommodation is in the interest of the juvenile, that the adult inmate will not have an adverse influence on the juvenile and will not threaten the juvenile's health or abuse his presence in the cell. In compliance with the implementation of this provision, the General Directorate of the Corps issued (on 13 January 2014) the following methodological guidance: "*From the international perspective, accommodation of juveniles separately from adults constitutes a basic preventive measure which ensures the protection of juveniles (i.e., persons below 18 years of age) and gives the prison establishment guarantees against the risk of ill-treatment (dominance and/or abuse) between inmates. If the rule cannot be respected and the exceptional possibility available under law is to be invoked, any such arrangement shall strictly require (also from the viewpoint of prison staff protection) the consent by both the juvenile and adult concerned. Such consent must last throughout the entire period of joint accommodation and whether or not it is lasting shall be reviewed regularly by a control authority designated by law.*

The key parameter for joint accommodation of inmates of two different age- categories is the selection of the adult. The selection must be beneficial not only for the juvenile (who should perceive the adult as his mentor and personal confidant), but also for the adult (meaningful spending of time – development of the feelings of responsibility and usefulness) and for the personal treatment programmes of both. The adult may be directly involved in consultations regarding the development and evaluation of the juveniles' personal treatment programme and the process of his protection from self-harm; this approach displays confidence in the adult and may help induce a change in the way in which he views himself. We recommend working with these "mentors" and preparing them for their activity.

The formal pre-condition for the placement of a juvenile in a cell or room with an adult is the mutual consent of both inmates. Since such a placement is subject to regular review, the consent will have to be documented. To this end, the most appropriate solution is to record such consent in writing into the Register of Advices, Notices and Statements which is included in the file "Additional Documentation to the Personal File of the Accused/Sentenced" for each person placed in this type of shared accommodation".

Pursuant to the above-mentioned guidance, any decision on a joint accommodation of a juvenile and adult must be comprehensibly justified and reviewable, because the establishment must notify the relevant supervising prosecutor of any such arrangement.

Compliance with the conditions provided in the guidance and their practical implementation will be inspected through targeted controls performed by the General Directorate of the Corps in all prisons.

Ad paragraphs 75 and 76 - ***In the light of the above-mentioned findings, the CPT recommends that the Slovak authorities take steps to:***

- ***ensure that the minimum standard of 4m^2 of living space per inmate in a multi-occupancy cell, not counting the area taken up by in-cell sanitary annexes, is respected in practice in all the establishments visited;***
- ***significantly improve the material conditions provided to male remand prisoners, newly admitted sentenced prisoners and inmates temporarily placed in the establishment at Nitra Prison; priority should be given in this context to ensuring that the toilets in all multi-occupancy cells are fully-partitioned (i.e. to the ceiling);***

- ***review the design of the cell windows at Nitra and Prešov Prisons so as to allow inmates, as a rule, to see outside their cells;***
- ***ensure that all cells and rooms at Nitra-Chrenová Prison are adequately heated and equipped with functional call bells.***

In several of the cells seen by the delegation at Nitra-Chrenová and Prešov Prisons, the in-cell sanitary annexes were only partitioned from the rest of the cell by a curtain. It would be preferable to fully partition the sanitary annexes with solid walls and doors.

"Living space 4 m^2":

Please, refer to the answer under paragraph 34.

"Improvement of the material conditions in the prisons of Nitra, Nitra-Chrenová and Prešov"

The improvement of accommodation standards for inmates accommodated in cells (in particular the partition of toilettes in multi-occupancy cells mentioned in the report) is on the plan of actions adopted by the Corps.

"...review the design of the cell windows...":

In evaluating the suitability of windows (their size, location of protective window panes) the Corps fully respects Rule 18.2a of the European Prison Rules, according to which *in all buildings where prisoners are required to live, work or congregate: the windows shall be large enough to enable the prisoners to read or work by natural light in normal conditions and shall allow the entrance of fresh air except where there is an adequate air conditioning system;* In addition, the Corps basis itself on the domestic legislation namely Act No. 355/2007 Coll. on the Protection, Support and Development of Public Health, based on which a cell or room must comply with the statutory requirements for natural light, artificial light, thermal and humidity micro-climate, heating and ventilation.

The accommodation facilities for inmates at Nitra–Chrenová prison comprise five buildings of which one, OKÁL, was built as a prefabricated structure made of chipboards which are susceptible to phonological factors. The remaining buildings are made of bricks. Due to the technology of construction, the temperatures inside these buildings differ and the temperature in OKÁL is lower; nevertheless, even there the average temperature has not fallen below 21 ºC. But because the temperature in the building is lower, during winter season all female inmates accommodated there receive one additional blanket above the standard. The solution lies in the demolition of the building and the construction of a new one; the plan is already included in the location-development programme.

The call bells for one-way communication (when pressed by a prisoner, the officer on duty sees the signal) are functional in all rooms. In addition, fully functional two-way communication call bells are installed in the corridors of units and are available for use by inmates anytime during the day or night because inmates are not locked in their rooms. Call bells for two-way communication are fully functional in those cells where inmates are locked (in case of a technical malfunction, the inmate is transferred to another cell with a fully functional call bell until the malfunction is fixed).

Ad paragraph 79 - ***The CPT considers it unacceptable to hold prisoners in such conditions. Consequently, it recommends that steps be taken to ensure that prisoners subjected to court restrictions are offered a programme of purposeful activities and appropriate human contact.***

The Corps respect Rule 24 of the European Prison Rules and permit communication with the outside world in line with a premise based on which the loss of liberty should not be tantamount to loss of contacts with the outside world. In line with the national laws regulating conditions for the execution of remand detention and imprisonment, each prisoner has the right to receive a visit at least once a month for no less than two hours (once a week for juveniles), receive and send letters without restrictions, make telephone calls at least twice per calendar month in a duration of no less than 20 minutes, receive a package of up to two kilograms containing items for personal use once every three months (once a month for juveniles) and, as a disciplinary reward, a package of up to 5 kilograms containing food and personal items without frequency restriction.

In order to prevent attempts by certain accused to thwart the clarification of facts material for criminal prosecution, their rights (usually the rights of the accused placed under collusion detention) may be restricted as follows:

1. The accused placed under the ‘collusion detention’ may receive visits only subject to the prior consent by the relevant law enforcement authority or court;
2. The accused placed under the ‘collusion detention’ may make telephone calls only subject to the prior consent by the relevant law enforcement authority or court; such authority or court may reserve their right to be present at the telephone conversation.

However, this legitimate restriction requires a decision by the relevant law enforcement authority or court. Still, the Act on the Execution of Remand Detention guarantees contacts with the outside world even to these “detainees under restraint”.

As regard the activities available for this category of the accused, please refer to our answer under paragraph 67.

Ad paragraph 83 – ***In the light of the above findings, the CPT must again call upon the Slovak authorities to take resolute action to provide all prisoners in all establishments visited with a comprehensive programme of activities. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/ association.***

The Slovak Republic reiterates (see paragraphs 48 and 58) that, in view of the progressive and differentiated nature of the execution of sentences, activities defined in the treatment programme also depend on the behaviour of sentenced prisoners. The objective of the execution of sentences is to make the treatment of prisoners motivational rather than hyper-protective. Prisoners assigned to the differentiation group “C” are mainly those who systematically fail to meet the terms of their treatment programme, for instance by not actively participating in or interfering with “A” or “B” group activity programmes, i. e. those to which the CPT raised no general objections.

Ad paragraph 84 – ***The CPT recommends that the Slovak authorities review the working terms and conditions for inmates and the system of deductions in order to ensure that the remuneration for their work is equitable.***

The working time of prisoners who are assigned to work is the same as that of other civilian sector employees; prison administration ensures that the amount of overtime work does not exceed the limit set out by the Labour Code.

All remand and sentenced prisoners are entitled to remuneration for work pursuant to the provisions of Decree No. 384/2006 Coll. of the Government of the Slovak Republic on the amount of remuneration for and the terms of assigning work to remand and sentenced prisoners (hereinafter referred to as the "Government decree"). It needs to be stressed that it refers to the remuneration for work and not to wages. No minimum wage requirement applies to remuneration for work performed by remand prisoners under Section 32 of Act No. 221/2006 Coll. and by sentenced prisoners under Section 45 of Act No. 475/2005 Coll. The reason is that essential living needs of prisoners detained on remand or serving their imprisonment sentences – especially meals, clothing, accommodation, medical care, as well as certain specific needs of working prisoners such as free transportation to workplace – are provided for and financed from the State budget.

Prisons as employers guarantee sentenced prisoners all remuneration supplements to which they are entitled under the aforesaid Government decree, namely supplements for time worked on weekends, public holidays, overtime and night work, for strenuous work or for work in difficult or hazardous working conditions.

Sentenced prisoners always receive their remuneration on the pay date regardless of whether the prison has been paid by the customer for the work or services performed, or has been taking steps to recover the arrears.

Deductions from remuneration may be divided into three groups:

a) deductions under generally applicable rules of social security and health insurance (in accordance with Rules 26.14 and 26.17 of the European Prison Rules),

b) deductions of alimonies payable to persons towards whom the prisoner has a maintenance obligation (this does not apply to remand prisoners who are assigned to work),

c) deductions for the costs of imprisonment.

Although deductions may seem to inappropriately infringe on the right of the inmates to freely dispose of their funds, in no way can they be considered as an inappropriate interference, since sentenced prisoners are provided free food, clothing and other items and services; moreover, the payment of debts (alimony deductions and deductions of imprisonment costs), taxes and contributions is clearly a matter of public interest within the meaning of Article 1 of Protocol 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms.

As regards the observations made in paragraph 84, the following should be explained:

Free provision of hygiene products:

- according to Section 22 of the Law on the execution of prison sentences and Section 16 of the Law on the execution of remand detention, all inmates (regardless of whether they are working or not) are regularly provided free soap, toilet paper and towels; sentenced women are also provided sanitary pads,

- inmates (whether they are working or not) who do not have sufficient funds on their account and did not make any purchase from the prison shop during the preceding month are regularly provided hair combs, toothbrushes, toothpaste, shampoo and shaving needs,

- in addition, inmates assigned to work that does not involve excessive soiling (e. g. carpenters, bricklayers, agricultural or warehouse workers) are provided 250 g of hand-wash paste a month; prisoners assigned to work that involves considerable soiling (e. g. locksmiths, plumbers, welders) are provided 500 g of hand-wash paste a month.

Prices in prison shops:

- under the agreed terms of operation of prison shops, the prices of products on their offer are comparable with usual prices in the geographical location of the prison,

- prices of goods in prison shops cannot be compared with those in large retail chains – in our understanding, comparable shops are e. g. convenience shops, college, hospital or company snack bars or cafeterias operating in the same geographical area.

Acquiring credit for telephone calls:

- no minimum sum is set for topping up the phone credit – inmates may "top up" their phone credit to the amount they want.

Ad paragraph 85 – ***Furthermore, all prisoners, whether or not they were working, had to reimburse the costs of their imprisonment. As a result, many inmates were leaving prisons with debts which they had accrued while in prison. In the CPT's view, such a situation is not conducive to facilitating the re-integration of inmates into society. The CPT would like to receive the observations of the Slovak authorities on this issue.***

The costs of imprisonment are the costs incurred by the State in connection with the execution of the sentence by the sentenced person. In principle, these costs are borne by the State. However, the Law on the execution of prison sentences sets out the amount and the terms of partial compensation for these costs by sentenced persons. In general, the obligation to compensate the State for part of imprisonment costs is imposed only on sentenced prisoners who are assigned to remunerated work and on retired sentenced prisoners (who are not required to work). The following categories of sentenced prisoners receiving remuneration for work are, however, exempted from the general obligation to reimburse the costs of imprisonment:

a) sentenced prisoners for the period during which they had not been assigned work through no fault of their own but due to the inability of the prison establishment to give them work because of the lack of work opportunities;

b) juvenile prisoners (below the age of 18 years),

c) sentenced prisoners during such time as they are engaged in educational activities,

d) participation as a witness at a court hearing,

e) if so provided by an international treaty.

In addition to the above obligation to compensate for "standard" costs of imprisonment, sentenced persons are obliged to compensate the prison establishment for the so-called increased or attributable costs incurred as a result of "irregular" conduct of the sentenced prisoner or of "above-standard" services provided under Section 92(1) of the Act on the Execution of Imprisonment sentences, which stipulates:

"A sentenced inmate shall have a duty to compensate the prison for increased guarding and transportation costs incurred because:

a) he intentionally caused bodily harm to himself or allowed another person to cause him such harm; refused without serious reasons to undergo a medical procedure that he had requested or to which he gave prior consent; repeatedly violated the treatment regime or caused bodily harm to another prisoner, as a result of which the prison incurred increased costs for guarding, transporting or transferring such prisoner to a health-care establishment,

b) he insisted to be brought before a law enforcement authority or before a court as a party to the proceedings or has been temporarily transferred to another prison for such purpose, although he had been instructed that his participation in a procedure or a hearing was not necessary;

c) he visited a sentenced prisoner or a remand prisoner in another prison."

The amount of such attributable costs is equal to one fortieth of statutory minimum subsistence allowance per day including a fraction of the day (currently 4.95 Euro/day). The amount of increased costs depends on actual transportation and guarding costs. Sentenced prisoners may challenge decisions on attributable costs or on increased costs of sentence execution, which are also reviewable by court.

As regards remand prisoners, the situation is different. The costs of remand detention are reimbursed only by those remand prisoners who are found guilty by a final convicting judgment; however, remand detention costs are payable only for the first 180 calendar days of detention. The decision on the obligation to reimburse remand detention costs (Section 555(1)(a) of the Code of Criminal Procedure) is rendered by court. The actual amount of remand detention costs (Section 54(1) and (2) of the Act on the Execution of Remand Detention) is determined by the governor of the prison establishment in which the obligor had been remanded in custody. The rate of remand detention costs is equal to one sixtieth of statutory minimum subsistence allowance per one day of remand detention including a fraction of the day (for not more than 180 days) (currently 3.30 EUR/day). Obligors may challenge decisions on the costs of remand detention, which are also reviewable by court.

Ad paragraph 86 – ***The CPT recommends that the Slovak authorities improve the arrangements for outdoor exercise at Nitra, Nitra-Chrenová and Prešov Prisons to ensure that all inmates are able to exert themselves physically. Further, all exercise yards should be equipped with a shelter against inclement weather.***

The surface area, situation and equipment of exercise yards in which the prisoners may perform their daily outdoor exercise, including sports activities, differ between individual prison establishments, the limiting factors being the structural design and layout of individual prison

establishments. Outdoor exercise areas, especially in remand prisons, have a fan-like shape and are made up by several exercise yards. Inmates at Nitra Prison have at their disposal 9 exercise yards with average area of 51 m²; at any given time, each exercise yard is used by 3 to 5 persons (depending on its size); sentenced female prisoners have at their disposal also one additional exercise yard of 154 m². Each exercise yard is equipped with sitting facilities, horizontal bar and exercise bench; basketball baskets are installed in three exercise yards; a table tennis table is available in one exercise yard in summertime. In addition, inmates are lent badminton rackets, skipping ropes or balls. Eight of the above outdoor exercise premises at Nitra Prison are sheltered by a roof covering 49% of their area. The outdoor exercise yard and the unsheltered area are not used in inclement weather, in case of which inmates may use the remaining eight exercise areas.

Sentenced female prisoners at Nitra-Chrenová Prison take their outdoor exercise (30 inmates at a time on average) in the courtyard of 750 m² (in case of good weather) or underneath a 72 m² structural vaulting between two prison buildings (in case of inclement weather). Inmates use these areas most often to play ball games, badminton, or for jumping on the skipping rope.

Five relatively small exercise yards are available at Prešov Prison – each of them with the area of approx. 41 m² (up to 5 persons use one exercise yard at a time on average) – and one larger yard with the area of 90 m² (used by 14 inmates at a time on average). Approx. 25% of the area of every exercise yard is sheltered. All exercise yards are equipped with sitting facilities, horizontal bars and equipment for doing push-ups.

Being aware of the beneficial effects of stay in an outdoor environment and of active use of exercise time by inmates, there are plans to not only gradually enlarge outdoor exercise areas in some prisons in the foreseeable future – e. g. to expand the outdoor exercise area at Prešov Prison by another 60 m² – but also to make visual arrangements that would distinguish these areas from prison cells, from which they currently differ only by not being roofed over

.

Ad paragraph 90 – *The Committee invites the Slovak authorities to review the practice of prison doctors treating both prisoners and prison staff, in the light of the above remarks*.

The number of doctors in prison health-care services and in the Prison Hospital was revisited in the process of drawing up the MoJ Regulation on minimum staffing requirements and on material and technical equipment of health-care services in establishments under the competence of the Corps of Prison and Court Guard (hereinafter referred to as the "MoJ Regulation"); its aim is to raise the standard of these services to the level comparable with the civilian sector. After its entry into force, the number of health-care staff in prisons is expected to increase by around 16 persons provided there are no changes in the capacity of some prison establishments. This increase will ensure that all categories of health-care staff in prison establishments will have adequate workload.

The number of general practitioners foreseen after the entry into effect of the MoJ decree accounts also for their duties related to providing care to persons other than the prisoners (such as custodial staff, employees of the Corps, persons on years-of-service pensions, and other persons covered by the general health-care scheme of the Corps). The decree also includes the recalculation of the staffing quota aimed at reflecting the number of prisoners, the number of other persons, and the workload represented by other duties that health-care services have to perform. When compared with the situation in the civilian sector, the average number of patients (the sum of remand prisoners, sentenced prisoners, custodial staff and employees of the Corps, persons receiving years-of-service pension and other persons) per one doctor of the Corps is up to 500 persons, while the number of patients per one health-care district in the civilian sector is 1,000 to 2,000 persons. Even

when their other duties are taken into account, the number of prison doctors seems to be sufficient, and after it has been raised under the upcoming legislation it will reach an optimum level.

As regards the CPT's reservations concerning the fact that the provision of health care to prisoners is not separated from the provision of health care to other persons, it should be noted that prison doctors are in charge of providing health care to all their patients regardless of whether they are remand prisoners, sentenced prisoners, custodial staff, employees of the Corps or other persons registered with the general practitioner's office. Identical and standardised health care services and medical treatment procedures are provided to all patients and by the same health-care staff, thus guaranteeing non-segregation and non-discrimination in the treatment of inmates who receive health-care services of the same standard as prison staff and employees of the Corps, i. e. health care provided in line with current medical knowledge and using the same standard instrumentation and equipment as civilian health-care establishments. There could otherwise be allegations that remand and sentenced prisoners are facing negative discrimination in the provision of health care.

Ad paragraph 91 – ***The CPT recommends that the Slovak authorities ensure the regular presence of a psychiatrist at Nitra Prison and fill the vacant post of a psychiatrist at Košice-Šaca Prison as a matter of urgency.***

The above MoJ Regulation will create the necessary prerequisites for ensuring access to specialised medical services at all prisons that do not have a staff psychiatrist; to this end, so-called consultative examination rooms will be set up within prison general practitioners' units to be used by relevant medical specialists, including psychiatrists. Even now prisons may employ psychiatrists under part-time work agreements (hereinafter referred to as the "agreement"); most prisons take advantage of this possibility (13 prisons establishments* have either a full-time or a part-time psychiatric doctor). The vacancy on the post of a psychiatrist at Košice-Šaca Prison is only temporary and is caused by the labour market situation and limited possibilities of recruiting a specialist in the field of psychiatry in the region; the prison currently employs a part-time psychiatrist – sexuologist who provides services in the field of protective treatment on a once-weekly basis.

* Note: the only prisons whose health-care services do not have a directly available psychiatrist are those of Nitra, Prešov, Levoča and Banská Bystrica-Kráľová.

At Leopoldov Prison, the delegation met a life-sentenced prisoner who showed clear signs of serious mental disorder. The CPT wishes to reiterate its view that prisoners with serious mental disorders should be treated in a hospital environment which is suitably equipped and has sufficient qualified staff to provide them with the necessary assistance. Reference is made in this context to the recommendations made in paragraph 61.

If a general practitioner or other medical specialist suspects that a sentenced prisoner suffers from mental disorder requiring hospitalisation, the prisoner is sent for acute or scheduled hospitalisation (depending on the urgency of the case) to the Prison Hospital. In the case in question, the sentenced person was sent for hospitalisation and determination of further treatment to the psychiatric ward of Prison Hospital at Trenčín on 23 April 2014. Reference is also made to the reply to paragraph 61.

Ad paragraph 92 – ***In the light of the above shortcomings, the CPT reiterates its recommendations that the Slovak authorities*****:**

- ***reinforce the presence of qualified nurses at Leopoldov, Prešov and Sučany Prisons;***

- ***ensure that someone competent to provide first aid is always present in every prison establishment, including at night; preferably, this person should be a qualified nurse, in particular in establishments which have an in-patient infirmary. This should inter alia make it possible to avoid the need for medication to be distributed to prisoners by custodial staff.***

During office hours, i. e. between 7 a.m. and 3 p.m., professional first aid is provided at prison establishments by doctors of prison health-care services. Outside of office hours, i. e. between 3 p.m. and 7 a.m., first aid is provided by non-medical prison staff who receive regular training from prison doctors on first aid principles, including the use of automated external defibrillators (AED) that are permanently available at all prisons, under the so-called cyclical in-service training. The provision of the first aid is then continued by civilian emergency medical services that guarantee to arrive within 15 minutes of receiving the call.

If no qualified nurse is present on the premises in the evenings and during weekends or public holidays, medications are administered by non-medical staff; they are prepared in pre-filled medication dispensers containing morning, noon or evening doses of medications for particular inmates; medication doses, their recipients and the time at which they are to be administered are clearly identifiable. Non-medical staff receive pre-filled medication dispensers from the medical staff of the prison who are responsible for correct dosages and marking. No description of individual medications is displayed on the dispensers: they only contain pills, capsules or other forms of medications placed in individual compartments without any marking; it is thus highly unlikely that non-medical personnel would be able to identify medications by their shape, size or colour, and the fear of the possible disclosure of medical secret concerning the type of medications is unwarranted.

A round-the-clock presence of qualified nurses in prison establishments would require a disproportionate increase in the number of health care personnel (by a total of 85 qualified nurses). However, not even this increase would meet the purpose referred to above because qualified nurses – except for their authorisation to administer doctor-prescribed medications from dispensers (the task that can be performed by duly trained non-medical staff) and certain nursing tasks – are not authorised to independently decide about medication therapy or administer medications and to make injections without the doctor's knowledge. Similarly, qualified nurses are not authorised to decide whether a prisoner complaining of a health problem outside of office hours requires medical attention or not – whenever a prisoner reports a health problem (i. e. complains of significant subjective difficulties), he should be examined by a doctor (the prison doctor during office hours or a first-aid medical service or emergency medical service doctor outside of office hours).

Ad paragraph 93 – ***The CPT calls upon the Slovak authorities to ensure that all medical examinations of prisoners be conducted out of the hearing and – unless the health-care staff member concerned expressly requests otherwise in a given case – out of the sight of non-medical staff.***

In this connection we refer to the reply to paragraph 51. It should also be noted that installing a call system would not remove the fears of the health-care staff during the examination or treatment of dangerous prisoners within personal or intimate distance, because an eventual assault by such prisoner would pose an immediate threat to their life or health, without the health-care staff being able to put up an effective defence, not to mention the fact that they would hardly

have time to use the call system to summon the prison staff and, even if they managed to do it, prison staff's intervention would probably not be timely enough to prevent the assault by a dangerous prisoner and bodily injury or even death of a health-care staff member.

Under such circumstances no health-care professional would be able to adequately perform his medical duties and guarantee that he would not make any mistake in administering the treatment to which he could not give his full and undivided attention.

Ad paragraph 94 – ***Moreover, the delegation was concerned that at all prisons visited, non-medical staff had – when the health-care staff were absent (see paragraph 92) – access to inmates' medical files. The CPT recommends that the Slovak authorities ensure that medical data are, as a rule, not accessible to non-medical staff.***

During the periods of absence of prison health-care staff there may be situations – with the exception of the Hospital for Remand and Sentenced Prisoners and the Prison for the Execution of Prison Sentences at Trenčín (which has a permanent medical emergency service) – where a first-aid or emergency service doctor called to the prison needs access to medical files of a sick remand or sentenced prisoner in order to obtain his medical history.

To be able to ensure appropriate treatment, civilian doctors must have access to information from the patient's medical file, in particular data on allergies, medications, co-morbidities, and on the results of the latest laboratory or instrumental exams. The absence of such data could significantly hamper the diagnosis and treatment and could be thus harmful to the patient; the failure to obtain access to such medical documentation could in some cases threaten the health or even life because of a delay in targeted treatment.

During the taking of medical history, remand or sentenced prisoners are often unable to provide information that is important for their treatment – for instance in case of reduced mental capacity; however, in quite a few cases, they purposefully mislead the civilian medical personnel in order to gain access to psychopharmacological drugs or to various advantages (such as nutrition therapy, various reliefs, etc.).

To deal with such situations, the intervening doctor of civilian first-aid medical service or emergency medical service may ask a member of non-medical staff (usually officer in charge of the shift), who is authorised to have access to medical files of remand and sentenced prisoners in the absence of health-care staff during non-working hours, to look up the prisoner's medical file in the filing cabinet and make it available to the civilian medical personnel providing medical care to the patient in prison. When they finish treating the patient, his medical file is immediately returned to the prison health-care unit.

Only health-care staff have access to medical files during working hours.

One way of dealing with this situation would be to grant access to relevant medical files to the first aid or emergency medical service after the authorised member of the custodial – non-medical – staff has opened the doctor's office for them; this actually happens quite often, but in extreme emergencies the crew of the first aid or emergency medical service are too busy administering acute medical treatment and are not able to look up the patient's medical file as quickly as they need. Another solution is to expediently implement the eHealth system in the Slovak Republic which would enable health-care personnel across the country to electronically accede to patients' medical files to the necessary extent, including the files of patients in prisons; this would eliminate the need for non-medical staff to enable access to those files.

Ad paragraph 95 – ***In the light of the above, the Committee once again calls upon the Slovak authorities to take the necessary steps to ensure that the record drawn up after the medical examination of a prisoner – whether newly-arrived or following a violent incident in the prison – contains:***

i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment);

ii) a full account of objective medical findings based on a thorough examination;

iii) the doctor's observations in the light of i) and ii) indicating the consistency between any allegations made and the objective medical findings.

The results of the medical examination in cases of traumatic injuries should be recorded on a special form provided for this purpose, and "body charts" for marking traumatic injuries should be kept in the medical file of the detainee. If any photographs are taken, they should be filed in the medical record of the person concerned. In addition, documents should be compiled systematically in a special trauma register where all types of injuries should be recorded.

Further, the results of every examination, including the above-mentioned statements and the doctor's opinions/observations, should be made available to the prisoner and to his/her lawyer.

Finally, steps should be taken to ensure that whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.

All entries in medical records must be made in conformity with Sections 19 and 21 of Act No. 576/2004 Coll. on health care, services related to the provision of health care and amending certain other acts. Medical records also include entries on subjective complaints of the patient, i. e. any health problems reported by the patient in connection with medical examination. In addition, the form "Protocol on Admission of the Accused/Sentenced to Remand Detention/Execution of Imprisonment Sentence" contains, besides the data on personal search entered by the officer in charge of the shift, also the results of medical examination and, where applicable, information about any injury found during admission screening, including information concerning the cause of the injury, possible permanent consequences of the injury, and indication of the expected duration of treatment and of incapacity for work. It is concluded with the doctor's statement on whether the inmate is fit for remand detention or fit to serve the sentence.

The form is initialled by the governor of the prison who confirms that the supervising prosecutor has been informed of the fact that a prisoner displayed an injury on admission. The prisoner receives one original copy of the completed form and confirms its receipt with his signature. In case an injury is found on a prisoner during admission screening, one copy of the form is also inserted in the medical file of the prisoner.

With a view to improving this procedure in the light of CPT's observations, the "Medical Examination Findings" section of the form "Protocol on Admission of the Accused/Sentenced to Remand Detention/Execution of Imprisonment Sentence" will be complemented with the statement on whether the nature and extent of injury are consistent with the data concerning the cause of the injury and, where possible, by a body chart on which the doctor will mark the extent and location of the injury.

Ad paragraph 96 – *The CPT recommends that the Slovak authorities develop and implement a comprehensive policy for the provision of care to prisoners with drug-related problems.*

During admission procedure, prisoners are thoroughly examined by a doctor; admission examination also includes the completion of a questionnaire if the medical history of the prisoner reveals that he had been a drug user prior to entering the prison establishment (the questionnaires are e-mailed at regular intervals to the National Health Information Centre). These persons are immediately administered symptomatic treatment with the aim of getting acute drug withdrawal syndrome under control as quickly as possible. They are administered initial medication by the general practitioner and are subsequently examined by a psychiatrist who decides on their further treatment. Methadone substitution or similar replacement therapies are not available in Slovak prisons. This is due to a very low drug penetration in Slovak prison establishments, which has made it possible to achieve, already for a number of years, complete abstinence from drugs after initial symptomatic treatment of drug addiction. We share the opinion that drug substitution programmes are preferable whenever drug users have a choice between a hard drug or its medicinal substitute. Such situation currently does not exist in prison establishments in Slovakia.

Prisoners who had been addicted to drugs prior to their prison admission must usually undergo a court-imposed protective drug treatment. Such treatment is provided in protective treatment units of selected prisons (Hrnčiarovce nad Parnou, Leopoldov) and in the Prison Hospital where prisoners are cared for by specialised professionals (psychiatrists, clinical psychologists, therapeutic education specialists and qualified nurses). Slovak prison establishments also offer the option of voluntary drug treatment.

In the framework of its drug prevention efforts, the Slovak government in cooperation with the MoJ and the Corps of Prison and Court Guard, periodically adopts government programmes (such as the National Drug Strategy of the Slovak Republic for the period 2013-2020). These government programmes also include various prevention schemes aimed at reducing drug consumption among the prison population.

Ad paragraph 98 – *The CPT recommends that the Slovak authorities take steps to review the current staffing levels at Košice-Šaca Prison*.

The staffing levels of prison staff interacting directly with sentenced prisoners – as educators – are laid down as a binding figure for all prisons in Section 9(7) of the Sentence Execution Rules as follows: *"The educator of the unit organises and secures the treatment in a group consisting as a rule of 35 sentenced prisoners; in case of sentenced juveniles, one unit usually consists of 15 sentenced juveniles. The educator of a special unit secures the treatment in a group consisting as a rule of 20 sentenced prisoners*." Similar measurable criteria will be laid down in the uniform internal management regulations to be adopted by the end of 2016 also for other prison staff functions, together with respective qualification requirements.

Ad paragraph 99 – *The CPT recommends that the Slovak authorities consider employing more female custodial officers at Nitra Prison and, where applicable, in other prisons in the Slovak Republic*.

As of the end of April 2014, women accounted for more than 15% of the prison staff of the Corps. As of the same date, the proportion of female prisoners in the overall prison population was only 6.5%. In this situation, and also taking into account the requirement that certain procedures be performed by persons of the same sex (e. g. personal searches), the current proportion of women in the prison staff is considered to be sufficient; this, however, does not preclude a medium-term

increase in the number of specialised female staff interacting directly with female prisoners (educators, correction officers) at Nitra Prison. We also add that the number of female custodial officers at Nitra Prison referred to in the CPT report only covers the staff interacting directly with prisoners. The total number of female staff members of Nitra Prison was 44. Given the current number of female inmates (56 remand and sentenced prisoners) and of female officers interacting directly with prisoners (7 women), and considering the applicable labour legislation (the possibility to legally "replace" the staff), the number of female staff members at the prison is perceived as adequate.

Ad paragraphs 101 and 103 – ***If it is deemed necessary for staff to carry batons and handcuffs in detention areas, the CPT recommends that they be hidden from view. Moreover, tear gas canisters should not form part of the standard equipment of custodial staff, and, given the potentially dangerous effects of this substance, tear gas should not be used in confined spaces. The CPT recommends that the Slovak authorities put in place comprehensive procedures concerning the use of tear gas, in the light of the above remarks.***

The CPT recommends that the Slovak authorities review the existing rules and practice, in the light of the above remarks.

To achieve further harmonisation of Act No. 4/2001 Coll. on the Corps of Prison and Court Guard with applicable international instruments binding for the Slovak Republic, namely Recommendation Rec(2006)2 of the Committee of Ministers to Member States on the European Prison Rules, and to implement the recommendations of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment made in the Report to the Government of the Slovak Republic on the visit to the Slovak Republic carried out from 24 March to 2 April 2009, an amendment to the aforesaid Act was drawn up and approved with effect from 1 January 2014. The aim of the amendment was to revise and to define with greater precision and in more detail the powers of members of the Corps, coercive means and legal requirements governing their use.

The scope of use of coercive means is laid down by law, which explicitly lays down also the requirements concerning their use. The scope of use of coercive means has been extended to also include the possibility of using more effective and more humane coercive means, such as special ammunition or devices causing spatial disorientation or concealing physical identity.

The amendment that entered into effect on 1 January 2014 exhaustively stipulates the group of coercive means that can be used also for the purpose of physical restraint of remand or sentenced inmates in order to prevent their unlawful conduct while being escorted, brought for admission, or handed over; such preventive use is always subject to prior approval by the governor of the prison or a member of the Corps appointed by him. The decision about using other coercive means is made by relevant members of the Corps depending on the need to use such means in concrete incidents of unlawful conduct of prisoners; their use must be consistent with the purpose of the intervention, and the type and intensity of coercive means must not be manifestly disproportionate to the nature and dangerousness of unlawful conduct.

It needs to be reiterated that the criteria for using concrete coercive means are laid down by law. The scope of use of coercive means is in full compliance with relevant international instruments.

In the process of evaluating the CPT report, an analysis has been made into the use of tear gas devices by members of the Corps; this has led to the effort to gradually upgrade and replace the currently used tear gas devices with more effective targeted-action tear gas devices (not harming unconcerned persons), which will not be part of standard gear of all officers, but will be deployed at the designated sites for handling emergency situations.

Ad paragraph 102 – ***The cell of this kind seen by the delegation at Leopoldov Prison was fully padded, including the floor, and was devoid of any equipment, except for a floor-level toilet. The material conditions in this cell do not call for any particular comment. However, the examination of the relevant registers revealed that, contrary to the assertions of the prison management, prisoners could be placed in this cell for prolonged periods of time, sometimes for more than 24 hours. The CPT would like to receive the observations of the Slovak authorities on this issue.***

In the Slovak prison system, aggressive and uncontrollable inmates can be placed in compensation cells, used as a measure *ultima ratio*. This means not only that this measure can be used exclusively with a prior recommendation by a medical doctor when uncontrollable and aggressive behaviour of a sentenced prisoner poses an immediate threat to his own, or another person's life or health, but also that the prisoner may be placed in a compensation room and in temporary isolation only for such time as his uncontrollable behaviour continues; the placement in a compensation room may not exceed 8 hours, or 24 hours in exceptional cases. Annex No. 9 to Order No. 23/2014 of the Director General of Prison and Court Guard on the treatment of inmates explains the purpose and procedure of using compensation rooms as follows:

"The placement of a remand or a sentenced prisoner in a compensation room is used as a more humane and more effective alternative to using restraining straps pursuant to Section 37 of Act No. 4/2001 Coll. on the Corps of Prison and Court Guard as amended. In case the intervention aimed at bringing a remand or sentenced prisoner under control is ineffective, the placement of the prisoner in a compensation room minimises the physical contact between him and the intervening officers of the Corps, eliminates the risk of bodily injury that might be caused by intervening officers of the Corps when applying or tightening restraining straps, such as impairment of blood circulation of the tied-up person, and it eliminates the potential risk of injury to the intervening officers of the Corps or other persons. The placement in a compensation room replaces permanent physical control, required while the restraining straps are in use, by the contactless monitoring of the person via a security camera or through the door eyehole. As soon as the person placed in a compensation room stops behaving in an uncontrollable manner and verbal contact is established, professional assistance (psychological, medical or psychiatric) is provided as needed and the person is placed in a standard cell or room, or may be placed in a special unit. The duration of placement in a compensation room shall not exceed eight hours; only in exceptional cases, especially when not even professional intervention prevents repeated outbursts of uncontrollable behaviour, may the placement last longer, but may not exceed 24 hours. If the placement in a compensation room or specialised interventions fails to bring the prisoner under control, the prisoner shall be escorted for hospitalisation to the Hospital for Remand and Sentenced Prisoners and the Prison for the Execution of Prison Sentences at Trenčín."

The general observation made in paragraph 102 of the report prompted a review of the complete available documentation concerning the placement of two inmates in a compensation room in 2013. Neither of the two sentenced prisoners was kept in the compensation room for more than 24 hours.

Ad paragraph 104 – ***At Nitra Prison, the delegation observed that inmates waiting for a medical examination in the corridor of the medical unit were obliged to stand facing the wall. In the CPT's view, such a practice serves no security purpose, is hardly likely to promote positive staff-prisoner relations and could be described as anachronistic. Consequently, the Committee recommends that the Slovak authorities put an end to this practice.***

This practice will be discontinued in line with the recommendation and prison staff bringing inmates for medical examination shall be instructed accordingly.

Ad paragraph 105 – ***In this respect, the CPT must stress that disciplinary sanctions should result from relevant existing disciplinary procedures and not take the form of an unofficial punishment. Moreover, any form of collective punishment would be unacceptable.***

Although allegations made in paragraph 105 of the CPT's report (unofficial collective punishment) are not supported by any evidence and, moreover, are not reviewable since the complainant's identity is not known – i. e. they represent only claims and counterclaims – the Corps recognises the positive obligation of the Council of Europe Member States to take necessary action to ensure that individuals under their jurisdiction not be subjected to torture or inhuman treatment; prison staff will therefore be systematically instructed to take account of the facts pointed to in the report and of unacceptability of any form of collective punishment.

Ad paragraph 106 – ***The CPT recommends that existing regulations and practice concerning the role of prison doctors in relation to disciplinary matters be reviewed. In so doing, regard should be had to Rule 43.3 of the European Prison Rules and the comments made by the CPT in paragraph 53 of its 15th General Report. Health-care staff should visit the prisoner immediately after placement in a disciplinary cell and thereafter, on a regular basis, at least once per day, and provide him/her with prompt medical assistance and treatment as required.***

The Slovak Republic will carry out a medium-term revision of applicable legislation in line with the recommendation made in the report.

In current practice, the prison doctor examines the prisoner before and after the execution of the disciplinary punishment of a full-day placement in a closed unit or in solitary confinement, and he visits the prisoner at least once in three days also during the execution of the disciplinary punishment. This does not affect the right of the sentenced prisoner to receive medical care as necessary.

Ad paragraph 108 – ***The CPT recommends that the Slovak authorities take further steps to ensure that the above-mentioned precepts are implemented in practice.***

Although the latest amendment to the Act on the Execution of Imprisonment sentences did not bring any reduction in the maximum duration of solitary confinement for sentenced prisoners as opposed to remand prisoners (maximum duration of solitary confinement of adult remand prisoners has been reduced to 10 days, and this type of punishment can no longer be imposed on juvenile remand prisoners), the implementation over time of the provisions on disciplinary responsibility of sentenced persons has shown that competent authorities resort to this type of punishment only very exceptionally (in the entire prison system, it was imposed only in 9 cases during the first seven months of 2014, none of them involving a juvenile; in 2013 there were only 4 such cases) and, in a majority of cases, at the lower limit of the range (only in 3 cases whose seriousness justified such punishment has the competent body imposed the punishment in the upper half of the range – i.e., for more than 11 days).

Ad paragraph 109 – ***The CPT considers that disciplinary punishment of prisoners should not include a total prohibition on family contacts and that any restrictions on family contacts as a form of punishment should be used only where the offence relates to such contacts*****.**

None of the disciplinary punishments available under Section 52(3) of the Act on the Execution of Imprisonment Sentences and Section 40(3) of the Act on the execution of Remand Detention includes a total prohibition on family contacts mentioned in the report. It is, however, true that during the execution of disciplinary punishments of placement in a closed unit during non-working hours, full-day placement in a closed unit, full-day placement in a disciplinary cell, or placement in solitary confinement, the inmate is not allowed to receive visitors with the exception of his lawyer and visitors who had already been granted visit authorisation which cannot be withdrawn under the circumstances and neither is he allowed to make phone calls. However, the right to send and receive correspondence is maintained (as is the right to receive parcels with personal need items).

The Slovak Republic will review the existing legislation and will consider the possibility of granting visit and phone entitlements also to inmates imposed one of the above disciplinary punishments.

Ad paragraph 110 – ***The CPT recommends that prisoners facing disciplinary charges be formally guaranteed the right to appeal to an independent authority against any sanctions imposed*****.**

Further, the Committee would like to receive clarification as to whether prisoners facing disciplinary charges are allowed to benefit, if desired, from the assistance of a lawyer throughout the disciplinary procedure.

Because the governor of the prison is the supreme application authority vested with disciplinary powers, it is not possible to appeal the governor's decisions on disciplinary matters with a superior authority, because there is no such higher authority with disciplinary powers in relation to prisoners. Every appeal in these matters ("*rozklad*" in Slovak) is reviewed by the prison governor on a proposal from a special commission; this is a standard procedure used in the proceedings in the area of public administration whereby administrative authorities decide about the rights, legally protected interests or obligations of natural and legal persons. The decision on the appeal ("*rozklad*") does not, however, mean that a sentenced person has no other legal possibility to seek a review of the legality of the disciplinary punishment imposed (he may, for instance, seek administrative judicial review or prosecutorial supervision over observance of legality in prisons).

Under Section 38 of the Law on the execution of prison sentences and Section 18 of the Law on the execution of remand detention, prisoners are entitled to legal assistance of their lawyer or a person representing them in a different legal matter; these persons have an unrestricted right to communicate with the prisoner within the limits of their power of attorney. Sentenced persons are thus allowed to benefit from the assistance of a lawyer also throughout the disciplinary procedure.

Ad paragraph 111 – ***The Committee recommends that the Slovak authorities make further efforts to comply with the above-mentioned minimum requirements.***

Taking account of organisational and technical possibilities of prison establishments, current visiting time and phone call entitlements are considered to be adequate. We prepare the introduction of a progressive and motivational scheme of phone call entitlements within the internal differentiation system based on the principle: "my behaviour affects the exercise of my rights" (this means that, depending on the fulfilment of the treatment programme – i.e. assignment to a particular group within the internal differentiation system – it will be possible to top up statutory phone call entitlements granted to all categories of prisoners).

Ad paragraph 112 – ***The Committee recommends that all prisoners be allowed to receive visits without physical separation, except in individual cases where there may be a clear security concern.***

The scope of prisoners' rights is linked to the system of internal differentiation along the lines suggested in the preceding paragraph. During the execution of their sentence, prisoners may be assigned to different categories within the internal differentiation system, and the actual scope of their rights will thus be affected by their approach to the fulfilment of their treatment programme.

The Slovak Republic will review the existing legislation and will consider the possibility of allowing prisoners to receive visitors exclusively on the basis of the principles of progressive internal differentiation.

Ad paragraph 113 – ***In the CPT's view, in the interest of the prevention of ill-treatment and the timely reporting of cases of alleged ill-treatment to the relevant authorities independent of the prison establishment concerned, such provisions seem to be unduly restrictive. The CPT would like to receive the observations of the Slovak authorities on this issue.***

Under the legislation governing the conditions of the execution of remand detention and of prison sentences effective from 1 January 2014, phone entitlements of remand and sentenced prisoners have been expanded by the right to call their lawyers, which was not possible under the legislation valid until 31 December 2013. Moreover, in contrast to phone calls to close persons, the law does not limit the duration of prisoner's phone calls to his lawyer. The prison governor has the right to allow prisoners to call their lawyers more often than allowed under the law (once a week).

Ad paragraph 114 – ***The necessary steps should be taken to ensure that any information suggesting that a prisoner has been subjected to threats and/or reprisals for having exercised his/her right to lodge applications or complaints is investigated properly and, if confirmed, that this results in appropriate sanctions*****.**

The following comparison of complaints filed by imprisoned persons over the last five years clearly shows the wide extent to which imprisoned persons exercise their right to seek protection of their rights or legally protected interests which they believe to have been violated by action or inaction of prison administration, or point to concrete problems (mainly violations of legal provisions that can be remedied under the authority of the Corps). It is also possible to demonstrate that the Corps "does not close its eyes" to justified complaints and that each year it finds several claims to be substantiated also through this form of overseeing the performance of individual prisons. Every complaint addressed to the Corps is properly investigated in accordance with Act No. 9/2010 Coll. on Complaints as amended by Act no. 289/2012 Coll., and if it is found to be justified, the prison governor is obliged:

1. to identify the person responsible for ascertained shortcomings,
2. to take measures to remedy the ascertained shortcomings and their causes,
3. to notify the authority investigating the complaint of adopted measures,
4. to submit the authority investigating the complaint a report on the implementation of measures and on assignment of legal liability,
5. except where the complainant's identity is confidential, to inform the complainant of adopted measures; if the complainant's identity is confidential, to inform him of adopted measures through the authority competent to deal with the complaint.

The above and other procedural safeguards concerning the lodging of complaints show that the allegations of sentenced prisoners who claimed that the lodging of applications with the prison administration referred to in the report was ineffective, are misleading. If the complainant does not agree with the result of the investigation into the complaint and has a different legal opinion concerning the subject matter of the complaint, this does not necessarily mean that the complaint was not investigated in accordance with the law. If the complainant is convinced that his complaint was not properly resolved, he can take further steps pursuant to Section 22 of Act No. 9/2013 Coll., i.e., lodge a complaint against the decision concerning his initial complaint with a superior authority.

Overview of the number of complaints lodged by inmates										
	in 2009		in 2010		in 2011		in 2012		in 2013	
	A	B	A	B	A	B	A	B	A	B
remand prisoners	97	1	95	3	89	1	66	2	32	2
sentenced prisoners	353	10	390	9	393	14	478	14	403	10

A – number of complaints lodged B – number of substantiated complaints

Section 13(5) of Act on the Public Defender of Rights stipulates that written applications filed with the public defender of rights by persons deprived of their liberty or persons whose liberty has been restricted are exempted from official inspection. Paragraph 6 of the provision provides that complainants may request that their identity not be disclosed.

This means that inmates may file ill-treatment complaints with the public defender of rights without the prison staff's knowledge of their content. To avoid the fear of reprisal for filing a complaint, inmates may request that their identity not be disclosed. When investigating complaints in such cases, personal data of complainants are not provided to the remand prison or the prison for the execution of sentences.

The investigation of complaints by the public defender of rights and relevant surveys also confirmed that some prisoners are afraid to complain about ill-treatment to educators and/or to the prison governor. According to some prisoners, there is no use to complain because this would not lead to resolving the problem anyway. The public defender of rights therefore welcomes the CPT's recommendation to take the necessary steps to ensure that any allegations of reprisal for filing a complaint be properly investigated.

Ad paragraph 115 – *The CPT recommends that supervising prosecutors regularly use their power to interview prisoners in private.*

"*De lege lata",* this CPT's recommendation has already been implemented. According to Section 18(5)(c) of Act No. 153/2001 Coll. on Prosecution as amended, when performing the supervision, the prosecutor has *inter alia* the right to *"c) interview persons in places referred to in paragraph 1 without the presence of a third person*".

The prosecutors overseeing observance of legality in places of detention of persons who were deprived of their liberty by decision of a public authority, in particular establishments falling under the competence of the Ministry of Justice (remand prisons, prisons for the execution of sentences), the Ministry of the Interior (police custody cells), the Ministry of Education (re-education homes) and the Ministry of Health (psychiatric hospitals), visit these establishments according to a specific schedule (Orders of the Prosecutor General of the Slovak Republic Nos. 6 to 10/2010) where, among their other supervisory powers, they also exercise their power to interview detainees without the presence of a third person.

Information about measures adopted:

The Police Force investigator of the Section of Control and Inspection Service Section, Inspection Service Office, Inspection Service Department – Bratislava West (hereinafter referred to as the "police investigator") rejected, by decision ČVS: SKIS-474/OISZ-V-2013 dated 12 December 2013 adopted pursuant to Section 197 paragraph 1(d) of the Code of Criminal Procedure, the complaint alleging a felony offence of the abuse of power by a public official pursuant to Section 326 paragraph 1(a), paragraph 2(a) of the Criminal Code, based on the "Protocol of Interview with a Person Showing Injuries at Admission to Remand Detention" of 2 September 2013 referred by the Nitra Remand Prison. In the interview protocol, J reported that at around 11 p. m. on 28 September 2013, police officers of Komárno Subdistrict Police Department used physical violence against him at Košická Street in Komárno: a police patrol car allegedly pulled up to him and two police officers who stepped out asked the complainant to show them his piece of identification; subsequently, one of the officers handcuffed the complainant and when the latter verbally objected, the officer who handcuffed him slapped him in the right side of the face and punched him in the eye region with the fist, causing him the injuries described in the medical record drawn up on 29 September 2013, namely a haematoma of the right eye and a small laceration on the right side of the face below the eye, requiring the treatment time of approx. 5-6 days; the complaint was rejected because of the absence of grounds to initiate prosecution or to proceed according to Section 197(2) of the Code of Criminal Procedure.

In criminal proceedings conducted against accused J, Komárno District Court issued penal order under File Ref. 3 T 16/2014 dated 18 March 2014, finding the accused guilty of the misdemeanour of assaulting a public official pursuant to Section 323 paragraph 1(a) of the Criminal Code on the ground of the following facts: at around 11.20 p. m. on 28 September 2013, a police patrol – warrant officer ("WO" hereinafter) A and WO B of Komárno Subdistrict Police Department – warned the accused at Krátka St. in Komárno that he should refrain from unlawful conduct, namely vulgar abuse against patrol officers of Komárno Subdistrict Police Department and that he should stop shouting; however, he did not heed the warnings of police officers and carried on, kicking WO A in the left leg and repeatedly trying to punch him in the face; although WO A blocked his blows, the accused managed to punch the officer in the arm and the chest; WO A and WO B then brought the accused under control using coercive means pursuant to Section 50(1)(a) and (c) of the Police Act, exercising their powers under Section 51(1)(a) and (c) of the Police Act

and under Section 52(1)(a) of the Police Act; they subsequently brought the accused to Komárno Subdistrict Police Department where he was placed in the room for persons presented to the permanent service of Komárno Subdistrict Police Department. Because of his unlawful conduct described above, the accused was sentenced to imprisonment of 2 (two) years and 4 (four) months, to be served in a prison with medium guarding level. In addition, the court ordered the accused to pay damages of EUR 244.76 to the Ministry of the Interior of the Slovak Republic, Nitra Regional Police Directorate, Piesková 32, Nitra.

No misconduct warranting the adoption of prosecutorial measures has been found in connection with the findings of the CPT.

Designated prosecutors of Prešov Regional Prosecution Authority and Nitra Regional Prosecution Authority were instructed to carry out an extraordinary inspection at Prešov Remand Prison and Prešov Prison for the Execution of Prison Sentences and at Nitra Remand Prison and Nitra Prison for the Execution of Prison Sentences; the purpose of the inspection was to review the cases from 2012 and 2013 in which persons screened for admission to remand detention displayed injuries that had been allegedly caused by police officers and that were recorded by the prison doctor during admission screening, and to determine whether the prisons fulfilled their legal obligation to notify this alleged police misconduct to the Inspection Service Office, Section of Section of Control and Inspection Service, Ministry of the Interior of the Slovak Republic.

It was found by looking into the records from these extraordinary inspections that the prosecutors, after examining relevant background documents, checked personal files of concrete prisoners and inspected in this connection also prison mail logbooks in which they verified the date of dispatch of particular mail items by the prison and their addressees.

In every examined case, prison establishments adhered to the procedure laid down in the primary and secondary legislation. After the first contact, persons screened for admission to remand detention were *inter alia* examined by the prison doctor; if the doctor noted any injuries that had allegedly been caused by police officers, a so-called protocol of interview was drawn up, in which these persons described in their own words the subject and the mechanism and origin of their injuries. Prosecutors were provided these protocols as annexes to prisoners' personal files. In addition to the above procedure, the prison officer in charge drew up a report on extraordinary event, which was immediately sent (by fax) also to Prešov District Prosecution Authority and Nitra District Prosecution Authority, responsible for overseeing observance of legality in places of detention of persons deprived of their liberty and of persons whose liberty has been restricted. In this context, prison mail logbooks show that these reports were also sent to the competent Inspection Service Office, Section of Section of Control and Inspection Service, Ministry of the Interior of the Slovak Republic. At the competent district prosecution authorities, these cases are registered in the "Pn" register. The comparison of the names from the records on extraordinary inspections with CPT conclusions established that – except for accused Q remanded in custody by Order of the Poprad District Court Proc. No. OTp/167/2013 for suspicion of the criminal offence of serious threats according to Section 360 paragraph 1, paragraph 2(b) of the Criminal Code – the names of the accused in relevant lists are matching. Concerning Q– although his personal search revealed injuries such as fractured nose, facial bruises, lacerations on the right shoulder, chest and multiple scratches on the back – the accused stated that these injuries were caused by other persons.

These findings were communicated to the Ministry of Justice of the Slovak Republic by a letter of the Deputy Prosecutor General of the Slovak Republic for Criminal Matters of 17.2.2014.

As regards the intervention by police officers at Moldava nad Bodvou, the investigator of the Police Force, Ministry of the Interior of the Slovak Republic, Section of Control and Inspection Service Section, Inspection Service Office, Inspection Service Department Banská Bystrica – Centre issued the decision, File Ref. SKIS-15/OISS-V-2014 dated 20 January 2014, to initiate prosecution under Section 199 paragraph 1 of the Code of Criminal Procedure for the felony offence of the abuse of power by a public official according to Section 326 paragraph 1(a), paragraph 2(a)(c) of the Criminal Code with reference to Section 138(h) of the Criminal Code and Section 140(b) of the Criminal Code, misdemeanour of the abuse of power by a public official according to Section 326 paragraph 1(a) of the Criminal Code, misdemeanour of a forcible entry into dwelling according to Section 194 paragraph 1, paragraph 2(b) of the Criminal Code, misdemeanour of bodily harm according to Section 156 paragraph 1, paragraph 2(a) of the Criminal Code, with reference to Section 139(1)(a) of the Criminal Code, and felony offence of torture and other inhuman or cruel treatment according to Section 420 paragraph 1, paragraph 2(e) of the Criminal Code. The observance of legality in pre-trial proceedings is supervised pursuant to Section 230(1) of the Code of Criminal Procedure by a prosecutor of Prešov Regional Prosecution Authority, File Ref. Kv 13/14/7700. The supervision over the on-going criminal proceedings in this matter is performed by a prosecutor of the Criminal Department of the Office of the Prosecutor General of the Slovak Republic, File Ref. IV/1 GPT 39/14/1000. Currently performed pre-trial procedures involve the examination of witnesses and of victims and procurement of relevant documentary evidence.

Section 17(2)(d) of Act on the Public Defender of Rights provides that when investigating submitted complaints, the staff of the Ombudsperson's office have the right to speak with persons in pre-trial detention or persons serving imprisonment sentences without the presence of a third person.

Whenever the investigation of a complaint involves a prison visit, the staff of the Office always insist on speaking with the inmates without the presence of a third person. In the opinion of the public defender of rights, relevant testimony can be obtained from a prisoner only through direct personal contact without the presence of a member of prison staff. In practice, the management of prisons for remand and sentenced prisoners has always readily granted such request.

Since the prosecution authorities do not fall under the remit of the public defender of rights, the latter did not examine their practice and does not have the knowledge of the manner in which supervising prosecutors carry out their periodic inspections with prison inmates. The public defender of rights, however, supports the CPT recommendation to introduce the rule requiring that supervising prosecutors conduct interviews with prisoners without the presence of a third person.