



CPT/Inf (2005) 4

**Follow-up report of the San Marinese Government
in response to the report of the European
Committee for the Prevention of Torture and
Inhuman or Degrading Treatment or Punishment
(CPT)
on its visit to San Marino**

from 25 to 27 March 1992

The San Marinese Government has requested the publication of this follow-up report. The report of the CPT on its March 1992 visit to San Marino and the interim report of the San Marinese Government are set out in documents CPT/Inf (94) 13 and CPT (2005) 3, respectively.

Strasbourg, 11 March 2005

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in response to the report of the European
Committee for the Prevention of Torture and
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(CPT)
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from 25 to 27 March 1992

POINT NR.9 OF THE REPORT

Question. The CPT would like to receive information concerning the number of charges of ill-treatment filed in San Marino in 1991-1992 against officers of the police and gendarmerie, as well as officers of the penitentiary administration. Information is also requested with regard to the disciplinary/criminal proceedings instituted accordingly.

Answer. Never has any officer either of the Gendarmerie, or Civil Police Force, or the penitentiary administration been charged.

Consequently disciplinary/criminal proceedings have never been instituted.

POINT NR. 10 OF THE REPORT

Question. The CPT would like to receive information on the contents of professional training of Police and Gendarmerie officers, as well as penitentiary officers.

Answer. The military of the Gendarmerie are recruited by open competition for qualified candidates.

Subsequently they attend a 6-8 month specialization course held by Officers of the Corps, Judges and specialists in a variety of subjects including: Criminal Law, Fiscal Law, Criminology, Legal Medicine, First Aid.

After one year's probation gendarmes are included in the staff on a permanent basis.

Those wishing to make a career have to attend refresher courses at Italian Police institutions on the subjects which are most helpful.

With regard to penitentiary officers, they are given the same official recognition as the Gendarmerie staff.

As for officers of the Civil Police, the following educational qualifications are required:

Commander: university degree; Officer: either university degree or high-school degree plus 5-year service; Police Inspector: either university degree or high-school degree plus 5-year service; Sergeant: high-school degree; Police Assistant, Specially-trained Policeman, Policeman: middle school-leaving certificate.

Professional training for policemen is based on a six-month course held at the Centre for Professional Training.

After two year's service they have to take another course for car accident surveyors, which is held in Cesena (Italy) at the Centre of Professional Training for Traffic Police (C.A.P.S.).

As far as Sergeants are concerned, a course of professional training is being arranged for 1996 with the Police School of Reggio Emilia (Italy).

POINT NR. 15 OF THE REPORT

Question. The CPT would like to know whether the Great and General Council of the Republic has eventually drawn up the new Code of Criminal Procedure, and, if so, it would like to receive a copy of the new Code of Criminal Procedure.

Answer. The Council Commission deliberating on the draft "Code of Criminal Procedure" was set up by the Great and General Council by means of decision Nr. 4 of 12th July, 1990. Its composition was subsequently renewed after the 1993 general election.

The Commission examined and endorsed the draft Code of Criminal Procedure during several meetings over the last two years. Up to now, it has definitively approved of articles 1-144, with the exception of articles 1, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 22, 23, 70, 74, 75, 79, 82, 83, which will have to be examined and approved of by the Great and General Council, when the whole draft bill is passed in the last reading.

POINT NR. 17 OF THE REPORT

Question. The CPT recommends the Authorities of San Marino to adopt a series of prudential measures, should they consider it necessary to use the premises of the police and gendarmerie forces for detention purposes.

Answer. The Law Commissioner takes note of the Recommendations contained in Point Nr. 17 of the Report regarding detention conditions in the premises of the Police and the Gendarmerie.

POINT NR. 22 OF THE REPORT

Question. The CPT recommends that any possibility to exceptionally delay notification to relatives be clearly provided for by the law, appropriately guaranteed (for instance, any delay should be justified in writing; the guarantee of the judicial authority should be required), and explicitly limited in time.

Answer. The Government of the Republic of San Marino takes note of the recommendations concerning Point Nr. 22 of the CPT's Report and will duly communicate them to the competent legislative body, so that the gaps observed in the draft Code of Criminal Procedure can be filled in.

POINT NR. 23 OF THE REPORT

Question. The CPT would like to know why the arrest of Italian citizens must be systematically notified to the Italian authorities. At the same time the CPT would like to know what procedure is followed with regard to foreign detainees other than Italians.

Answer. By virtue of an explicit request put forward by the Italian Embassy on April 22nd, 1983, Italian authorities are notified on the arrest of Italian citizens systematically.

Initially the Italian request referred only to offenses linked to drug peddling and drug abuse, whereas subsequently it was extended to other offenses too.

Accordingly, notice is given by the Ministry for Foreign Affairs, which has been previously advised by the Police/Gendarmerie Forces.

With regard to foreign detainees who are not Italian, a similar procedure of notification to Foreign Governments is actually not envisaged.

Yet, on July 14th, 1994, the Embassy of San Marino to Italy, on indication of the Ministry for Foreign Affairs, did in fact notify the Embassy of Albania in Rome that three Albanian citizens had been arrested for attempted extortion and criminal association.

PONT NR. 25 OF THE REPORT

Question. The Code of Criminal Procedure guarantees the assistance of an attorney during detainment by the police/gendarmerie.

The attorney (either chosen by the detainee or officially appointed) is thereby immediately advised on the detainment by the police/gendarmerie, so that he or she is able to intervene straightforward at the first examination.

In this respect, the CPT would like to know more precisely what "assistance", as it is laid down in the draft Code, actually means and entails.

Answer. The attorney assists the person under arrest in that he or she:

- attends the examination;
- suggests to the Law Commissioner the formulation of questions or clarifications;
- checks the accurate recording of depositions;
- submits requests related to the detainee's condition;
- puts forward pleas and proposals, especially with regard to release on bail (ex art. 20 of law Nr. 86 of December 11th, 1974).

POINT NR. 26 OF THE REPORT

Question. The CPT would like to receive confirmation that, by virtue of this provision, the detainee has the right to confer with an attorney privately, as soon as he or she is arrested by the police/gendarmerie.

Answer. I herewith confirm that, at present, article 150 of the new Code of Criminal Procedure, which the competent Council Commission is still examining in the drafting phase, contains the following provision: any person provisionally imprisoned or subject to any other form of personal coercion has the right to confer with his or her defense attorney immediately, even before the examination.

POINT NR. 27 OF THE REPORT

Question. The CPT would like to receive information on article 150 of the draft Code of Criminal Procedure, which envisages the possibility of postponing the meeting between the detainee and his or her defense attorney for no longer than 5 days.

Answer. The Government of the Republic of San Marino takes note of the recommendations made in Point nr. 27 of the CPT's Report and will duly communicate them to the competent legislative body, so that the gaps observed in the draft Code of Criminal Procedure can be filled in.

POINT NR. 28 OF THE REPORT

Question. Article 21 of the penitentiary regulations enforced on February 24th, 1987, provides for solitary confinement of any person arrested by the Police/Gendarmerie and then put into jail. The detainee is thereby forbidden to have contacts with other convicts, family members and the attorney, and, as a consequence, remains in the cell all day long, except for the walk, which he or she is allowed to take alone.

This provision seems to clash with those laid down in the draft Code of Criminal Procedure. The latter, with very few exceptions, allows a meeting between the attorney and the detainee, even before the first examination (art. 150). The CPT would like to hear comments by the Authorities of San Marino in this respect.

Answer. Referring to the apparent contradiction between article 21 of the penitentiary regulations enforced on February 24th, 1987, and article 150 of the draft Code of Criminal Procedure, it has been noted that this contradiction will be overcome, simply because the law reforming the Code of Criminal Procedure will abolish ipso jure the previous regulations, in that they become jus superveniens.

POINT NR. 30 OF THE REPORT

Question. The CPT recommends the Authorities of San Marino to adopt specific provisions with regard to the following points:

- that a detainee be allowed to be visited by a physician of his or her own choice;
- that any medical examination be carried out without being listened to and, preferably, watched by the police or gendarmerie officers (except if differently requested by the physician);
- that the outcome of the medical examination, as well as the detainee's relevant statements and the physician's conclusions be officially recorded by the physician and made available to the person concerned and his or her attorney.

Answer. The Government of the Republic of San Marino takes note of the recommendations made in Point nr. 30 of the CPT's Report and will duly communicate them to the competent legislative body, so that the gaps observed in the draft Code of Criminal Procedure can be filled in.

POINT NR. 31 OF THE REPORT

Question. The CPT attaches great importance to the fact that people detained by the police/gendarmerie be advised immediately and in a language they can understand, on all their rights, including those quoted in the afore-mentioned paragraphs 18-30.

To ensure accurate information, the CPT recommends that a paper illustrating their rights be officially handed out to people detained by the police/gendarmerie as soon as they are put into jail. This paper should be available in several languages. Moreover detainees should declare that they have been informed on their rights in a language they could understand.

Answer. The Government of the Republic of San Marino takes note of the recommendations made in Point nr. 31 of the CPT's Report and will duly communicate them to the competent legislative body, so that the gaps observed in the draft Code of Criminal Procedure can be filled in.

POINT NR. 32 OF TH REPORT

Question. The CPT would like to receive information describing how examination competences are attributed to the Police/Gendarmerie, the Law Commissioner and the judge respectively.

Answer. The Law Commissioner is entrusted with judging or investigating functions.

Therefore no distinction is drawn between the career of a Judge and that of an Investigating Magistrate.

The examination of a detainee can be carried out by the officers of the Criminal Police only by proxy of the Law Commissioner.

The police and gendarmerie forces are entitled to gather only overall testimonial information. Should they find indications of guilt connecting the witness to a crime, then the police/gendarmerie have to suspend the examination, pending a new authorization by the Law Commissioner, who has meanwhile summoned either a hired counsel or a public defender.

In case of no proxy, and if detainment does not exceed 24 hours, the defendant is due to appear before the Law Commissioner who will accordingly proceed with his or her examination (art. 125, par. 1 of the Code of Criminal Procedure).

In this case the police or gendarmerie forces only:

- identify the defendant;
- ask the defendant, whether to advise his or her relatives;
- ask the defendant whether he or she wants to appoint a hired counsel;
- ask the defendant whether he or she wants to address particular pleas to the Magistrate.

POINT NR. 33 OF THE REPORT

Question. The CPT recommends the Authorities of San Marino to draw up a code establishing how examinations are to be carried out.

Answer. The Government of the Republic of San Marino takes note of the recommendations made in Point nr. 33 of the CPT's Report and will duly communicate them to the competent legislative body, so that the gaps observed in the draft Code of Criminal Procedure can be filled in.

POINT 34 OF THE REPORT

Question. The CPT recommends the Authorities of San Marino to study the possibility of elaborating an individual detention file.

Answer. The Government of the Republic of San Marino takes note of the recommendations made in Point nr. 34 of the CPT's Report and will duly communicate them to the competent legislative body, so that the gaps observed in the draft Code of Criminal Procedure can be filled in.

POINT NR. 36 OF THE REPORT

Question. The CPT believes that regular visits to detention premises by the competent judicial authorities could significantly contribute to the prevention of ill-treatment. Consequently, the CPT recommends the Authorities of San Marino to provide for "monitoring on the spot" by the judicial authorities.

Answer. The Law Commissioner takes note of the recommendation made in Point nr. 36 of the Report and will verify personally and directly the conditions of detention premises by means of regular and scheduled visits.

An explicit provision in this respect can be included in the future penitentiary regulations.

POINT NR. 38 OF THE REPORT

Question. The CPT would like to receive further information on the development of the project concerning the building of a new prison.

Answer. The Authorities of the Republic of San Marino aim at an overhaul of the existing penitentiary structure, taking the recommendations put forward in the CPT's Report into the utmost consideration, in particular as regards:

- differentiating cell typology according to detainees' dangerousness;
- creating single cells with sanitary fixtures (bathroom and toilet);
- installing appropriate call-in systems.

The competent technical bodies have been entrusted with a study on the matter.

POINT NR. 40 OF THE REPORT

Question. The CPT recommends that the rule of single imprisonment be observed as much as possible, and that under no circumstances be any cell of the prison occupied by more than two detainees.

Answer. The Law Commissioner takes note of the recommendation made in Point nr. 40 of the Report, and states that, in any case, the rule of single imprisonment has already been observed *de facto*, given the generally scarce number of detainees.

POINT NR. 42 OF THE REPORT

Question. The delegation was informed that a plan on cell restructuring was being drawn up. More specifically, the plan envisaged the reduction of the number of cells from 6 to 5, as well as the building of single cells, each with its own sanitary fixtures (W.C., washbasin, shower) and lockers. The CPT welcomes such a plan and recommends the Authorities of San Marino to give highest priority to its implementation.

Answer. The Authorities of the Republic of San Marino aim at an overhaul of the existing penitentiary structure, taking the recommendations put forward in the CPT's Report into the utmost consideration, in particular as regards:

- differentiating cell typology according to detainees' dangerousness;
- creating single cells with sanitary fixtures (bathroom and toilet);
- installing appropriate call-in systems.

The competent technical bodies have been entrusted with a study on the matter.

POINT NR. 43 OF THE REPORT

Question. The CPT recommends that all cells be equipped with such a call-in system.

Answer. The Authorities of the Republic of San Marino aim at an overhaul of the existing penitentiary structure, taking the recommendations put forward in the CPT's Report into the utmost consideration in particular as regards:

- differentiating cell typology according to detainees' dangerousness;
- creating single cells with sanitary fixtures (bathroom and toilet);
- installing appropriate call-in systems.

The competent technical bodies have been entrusted with a study on the matter.

POINT NR. 45 OF THE REPORT

Question. The CPT recommends the Authorities of San Marino to allow any detainee, both convicted or provisionally imprisoned, to carry out satisfying activities. The aim should be ensuring that all detainees spend a reasonable part of the day (8 hours or more) outside the cell, performing motivating activities (of an associational or sporting character, related to professional training, teaching, etc.).

Answer. The Law Commissioner takes note of the recommendation herewith contained aiming to allow any detainee, both convicted or provisionally imprisoned, to carry out motivating activities outside the cell (for working, learning or sporting purposes).

The Law Commissioner specifies that this practice has already been followed as far as detainees definitively convicted are concerned, and has carefully considered the possibility of extending the same treatment to those provisionally imprisoned as well.

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POINT NR. 46 OF THE REPORT

Question. With reference to open-air exercises in particular, the delegation noted that the regulations obtaining (article 9) allow any detainee to perform one-hour exercises outdoors every day. The walking area of the Capuchins' prison was satisfactory. Yet, the detainee met by the delegation stated that during the first ten days of imprisonment she could not benefit from open-air exercises. According to the CPT, such a situation would not be acceptable. The CPT would like to hear comments by the Authorities of San Marino in this regard.

Answer. During its visit to the local prison the CPT's delegation met a female detainee who remained in jail from February 28th to March 26th, 1992.

With regard to the allegation that she was not allowed to go out into the open, it was made clear after a meeting with the Investigating Magistrate, that the detainee concerned had spontaneously refused at that time to benefit from the hour in the open air.

In order to regulate the matter thoroughly the Court will propose, during the drafting of the penitentiary regulations, norms on the hour to be spent in the open air.

POINT NR. 47 OF THE REPORT

Question. The CPT suggests that the Authorities of San Marino study the possibility of strengthening surveillance in the Capuchins' prison, especially during the day.

Answer. The Government believes that the recommendation outlined in Point Nr. 47 is relevant and proper, and will accordingly mobilize the authorities responsible for Public Safety, as well as the Judiciary.

POINT NR. 49 OF THE REPORT

Question. The CPT recommends the Authorities of San Marino to revise the penitentiary regulations totally and as much as possible in line with European penitentiary rules. The CPT recommends the Authorities of San Marino to determine the type and duration of disciplinary punishment exhaustively, and to elaborate relevant procedures which ensure the detainee's right to be heard on the offense he or she has allegedly committed, as well as to appeal to a higher court.

Answer. The Law Commissioner's Court is setting up a specific Commission which, with the participation of experts appointed by the Government, will promptly submit a draft penitentiary regulation.

POINT NR. 51 OF THE REPORT

Question. The CPT would like to receive a copy of the last five reports drawn up by the Deputies of Charity sent to the Law Commissioner.

Answer. Over the last five years the Captains-Regent visited the prison only once. Their visit took place on July 20th, 1993. No report was drawn up on that occasion.

According to an enquiry at the Institutional Secretariat (i.e., responsible for relations with the Great and General Council), the Deputies of Charity have never visited the prison in the last five years.

The Commission responsible for the drafting of the new penitentiary regulations will also consider how to regulate potential visits by representatives of the state bodies.

POINT NR. 52 OF THE REPORT

Question. The CPT recommends the Authorities of San Marino to envisage the possibility for the detainee of addressing, under sealed cover, a plea or a claim to the judicial authority and, in case, to other authorities.

Answer. The Government of the Republic of San Marino takes note of this recommendation and will duly communicate it to the competent legislative body. However, the possibility of implementing this recommendation immediately, irrespective of an explicit provision in this regard, is already being examined in agreement with the Judicial Authority.

POINT NR. 53 OF THE REPORT

Question. The CPT would like to obtain detailed information on the use of the so-called security cell (such as number of annual stays; duration; usage purpose -medical, disciplinary -; detainees; potential use of means of physical constraint; medical check-ups; etc.), including all related regulations.

Answer. The cell improperly called "security cell" in the Capuchins' prison is cell Nr. 5.

It was set up in early 1989.

It was furnished with: a table, a bed and a chair fixed to the floor.

This furnishing is historically dated. The above-mentioned cell was furnished in this way only to cope with the unpredictable behaviour of detainee Fabio De Angelis, who repeatedly inflicted injuries upon himself and jeopardized the guardians' safety.

It has never been used for punishment purposes, as much is confirmed by the correspondence between the Law Commissioner and the Prison Governor.

Since 1989 onwards the cell has been used rarely, either when the prison was crowded, or at request of those detainees who preferred it because of its fixed furniture.

POINT NR. 54 OF THE REPORT

Question. The CPT would like to receive information on how juvenile delinquents are accommodated, and what regulation is followed in consideration of the specific needs related to their age.

Answer. Juvenile delinquents have always been kept in separate cells.

Even during the open-air hour the utmost attention has always been paid to avert any contact between them and other detainees, especially those extremely dangerous or who have always lived on crime.

Since there is no special juvenile area within the prison, minor detainees have often been allowed to stay longer outdoors and occupy the guardians' rooms, under their direct surveillance during the day.

Some of these infant prisoners were nomads who maintained they were not in possession of documents attesting their true identity.

In fact, most of these gypsies were simply held for a few hours rather than jailed, until the arrival of their parents, and in any case just for the time necessary to their identification.

Very young nomads did not even see the cells, and waited for their parents in the hall of the prison.

Since two cells are now available on the ground floor, these could be used, if necessary, to hold minors who have broken the law.

At the same time juvenile delinquents would remain under the continuous and constant care either of the institute for minors' assistance, or suitable medical staff.

They would be allowed, moreover, to use the prison's library.

(grafico)

Year	Detainees	Date of Birth	Detention Period from	to	Reason
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anno	detenuti	data nascita	Periodo di carcerazione		motivo
			dal	al	
1978	1	3.12.1960	8.04.1978	29.4.1978	194 - 203 C.P.
1978	2	9.6.1961	8.4.1978	29.4.1978	194 - 203 C.P.
1978	3	23.10.1962	17.8.1978	18.8.1978	194 C.P.
1979	NESSUNO				
1980	1	26.2.1965	31.3.1980	12.4.1980	194 C.P.
1980	2	23.3.1964	31.3.1980	12.4.1980	194 C.P.
1980	3	25.11.1963	1.4.1980	12.4.1980	194 C.P.
1980	4	14.8.1964	1.4.1980	14.4.1980	194 C.P.
1980	5	11.11.1965	4.4.1980	12.4.1980	194 C.P.
1980	6	20.5.1963	4.6.1980	23.6.1980	194 C.P.
1980	7	12.12.1962	4.6.1980	23.6.1980	194 C.P.
1980	8	11.3.1965	4.6.1980	23.6.1980	194 C.P.
1980	9	9.3.1963	5.6.1980	23.6.1980	194 C.P.
1980	10	27.10.1962	4.8.1980	7.8.1980	194 C.P.
1980	11	3.9.1964	7.8.1980	8.8.1980	194 C.P.
1980	12	24.10.1963	7.8.1980	8.8.1980	194 C.P.
1980	13	5.11.1962	10.8.1980	13.8.1980	401 C.P.
1980	14	11.11.1962	22.8.1980	17.9.1980	190 C.P.
1980	15	12.12.1965	30.8.1980	18.3.1981	171 C.P.
1980	16	25.11.1963	30.9.1980	6.10.1980	382 C.P.

1981	1	17.10.1963	6.2.1981	13.2.1981	244 C.P.
1981	2	14.5.1963	6.2.1981	13.2.1981	244 C.P.
1981	3	16.1.1965	7.3.1981	24.3.1981	194 - 244 C.P.
1981	4	31.1.1964	24.7.1981	25.8.1981	194 - 206 C.P.
1981	5	11.3.1964	26.7.1981	20.8.1981	194 C.P.
1981	6	29.7.1966	26.1.1981	29.9.1981	194 C.P.
1981	7	7.10.1964	10.10.1981	12.10.1981	196 C.P.
1981	8	7.8.1964	30.12.1981	12.1.1982	244 C.P.
1982	1	11.3.1965	18.2.1982	8.3.1982	194 C.P.
1982	2	7.8.1964	12.5.1982	2.6.1982	244 C.P.
1982	3	7.8.1966	17.5.1982	1.6.1982	194 C.P.
1982	4	25.4.1966	17.5.1982	1.6.1982	194 C.P.
1982	5	17.7.1964	4.6.1982	5.6.1982	382 C.P.
1982	6	30.10.1964	5.6.1982	16.6.1982	244 C.P.
1982	7	12.12.1965	17.12.1982	18.2.1983	194 C.P.
1982	8	28.1.1966	19.12.1982	20.12.1982	244 C.P.
1983	1	22.12.1965	3.4.1983	29.4.1983	194 C.P.
1983	2	29.6.1966	26.4.1983	27.4.1983	194 C.P.
1983	3	cl. 1968	21.6.1983 h. 17,20	21.6.1983 h. 20,00	26 - 194 C.P.
1983	4	14.7.1965	3.7.1983	11.6.1983	244 C.P.
1983	5	2.6.1966	3.7.1983	11.6.1983	244 C.P.
1983	6	1.1.1966	5.8.1983	8.8.1983	194 C.P.
1984	1	21.3.1968	20.2.1984	27.2.1984	194 C.P.
1984	2	7.6.1971	30.5.1984	7.6.1984	194 C.P.
1984	3	27.6.1971	30.5.1984	7.6.1984	194 C.P.
1984	4	cl. 1970	23.6.1984	25.6.1984	194 C.P.
1984	5	9.3.1967	29.8.1984	6.9.1984	194 C.P.
1984	6	31.9.1969	26.9.1984	30.9.1984	194 C.P.
1984	7	31.5.1968	26.9.1984	30.9.1984	194 C.P.
1984	8	15.1.1970	26.9.1984	30.9.1984	194 C.P.
1984	9	5.9.1969	26.9.1984	30.9.1984	194 C.P.
1984	10	16.10.1967	18.10.1984	24.10.1984	194 C.P.
1984	11	28.7.1977	18.10.1984	24.10.1984	194 C.P.
1984	12	6.8.1967	16.11.84 h. 3,30	16.11.84 h. 19,30	244 C.P.
1985	1	4.7.1967	20.3.1985	21.3.1985	203 - 239 C.P.
1985	2	10.10.1967	20.3.1985	21.3.1985	203 - 239 C.P.
1985	3	6.9.1968	20.3.1985	21.3.1985	203 - 239 C.P.
1985	4	6.2.1969	20.3.1985	21.3.1985	203 - 239 C.P.
1985	5	1.1.1968	12.3.1985	24.5.1985	244 C.P.
1985	6	11.3.1968	9.6.1985	10.6.1985	244 C.P.
1985	7	24.12.1967	20.8.1985	22.8.1985	194 C.P.
1985	8	19.7.1968	12.10.1985	14.10.1985	194 C.P.

1986	1	11.2.1969	16.1.1986	21.1.1986	244 C.P.
1986	2	23.1.1969	9.2.1986	25.2.1986	244 C.P.
1986	3	25.11.1969	18.4.1986	22.4.1986	203 C.P.
1986	4	10.1.1969	20.4.1986	21.4.1986	244 C.P.
1986	5	27.1.1969	20.4.1986	21.4.1986	244 C.P.
1986	6	4.3.1969	1.6.1986	4.6.1986	244 C.P.
1986	7	12.7.1969	1.6.1986	4.6.1986	244 C.P.
1986	8	13.11.1969	7.8.1986	12.8.1986	244 C.P.
1986	9	11.10.1968	7.8.1986	12.8.1986	244 C.P.
1986	10	21.10.1968	16.8.1986	18.8.1986	194 C.P.
1986	11	23.1.1969	12.11.1986	13.11.1986	244 C.P.
1986	12	10.2.1969	8.12.1986	11.12.1986	194 C.P.
1986	13	5.4.1970	8.12.1986	11.12.1986	194 C.P.
1986	14	21.9.1971	8.12.1986	11.12.1986	194 C.P.
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1987	1	15.5.1972	31.1.1987	6.2.1987	194 C.P.
1987	2	25.6.1969	20.2.1987	21.2.1987	194 C.P.
1987	3	19.1.1972	20.2.1987	21.2.1987	194 C.P.
1987	4	3.5.1970	20.2.1987	21.2.1987	194 C.P.
1987	5	11.3.1969	20.2.1987	21.2.1987	194 C.P.
1987	6	16.6.1971	16.10.1987	30.11.87	194 C.P.
1987	7	17.12.1972	30.10.1987	1.11.1987	194 C.P.
1987	8	29.6.1971	13.11.1987	13.11.1987	244 C.P.
1987	9	2.3.1971	13.11.1987	13.11.1987	244 C.P.
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1988	1	16.6.1971	9.2.1988	19.2.1988	194 C.P.
1988	2	22.10.1971	1.6.1988	3.6.1988	244 C.P.
1988	3	3.8.1974	19.4.1988	19.4.1988	194 C.P.
			h. 13,00	h. 19,00	
1988	4	cl. 1974	19.4.1988	19.4.1988	194 C.P.
			h. 13,00	h. 19,00	
1988	5	13.4.1973	14.7.1988	23.7.1988	194 C.P.
1988	6	25.2.1971	14.7.1988	23.7.1988	194 C.P.
1988	7	18.4.1976	17.7.1988	19.7.1988	194 C.P.
1988	8	10.4.1975	17.7.1988	19.7.1988	194 C.P.
1988	9	4.7.1971	30.10.1988	31.10.1988	244 C.P.
1988	10	27.8.1971	4.11.1988	7.11.1988	244 C.P.
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1989	1	22.4.1971	10.4.1989	11.4.1989	244 C.P.
1989	2	16.2.1971	10.4.1989	11.4.1989	244 C.P.
1989	3	10.3.1971	10.4.1989	11.4.1989	244 C.P.
1989	4	13.4.1972	10.4.1989	11.4.1989	244 C.P.
1989	5	19.3.1974	13.5.1989	16.5.1989	194 C.P.
1989	6	23.6.1974	13.5.1989	16.5.1989	194 C.P.
1989	7	7.4.1974	1.6.1989	5.6.1989	194 C.P.
1989	8	cl. 1975	1.6.1989	5.6.1989	194 C.P.
1989	9	13.6.1971	8.7.1989	10.7.1989	244 C.P.
1989	10	12.2.1972	5.8.1989	5.8.1989	244 C.P.
			h. 7,20	h. 15,20	
1989	11	4.10.1971	10.8.1989	11.8.1989	244 C.P.
1989	12	9.9.1971	12.8.1989	13.8.1989	244 C.P.
1989	13	22.8.1972	3.12.1989	7.12.1989	244 C.P.

1990	1	22.8.1972	22.3.1990	26.3.1990	194 C.P.
1990	2	20.10.1972	24.6.1990	25.6.1990	244 C.P.
1990	3	12.11.1972	24.6.1990	25.6.1990	244 C.P.
1990	4	15.4.1973	30.6.1990	9.7.1990	194 C.P.
1990	5	26.4.1974	11.7.1990	12.7.1990	244 C.P.
1990	6	11.9.1972	27.7.1990	27.7.1990	244 C.P.
			h. 11.45	h. 14.50	
1990	7	12.9.1972	24.7.1990	25.7.1990	194 C.P.
1990	8	8.8.1982	24.7.1990	25.7.1990	194 C.P.
1990	9	cl. 1977	24.7.1990	25.7.1990	194 C.P.
1990	10	22.8.1973	2.8.1990	4.8.1990	244 C.P.
1990	11	4.4.1973	9.9.1990	11.9.1990	244 C.P.
1991	1	11.3.1973	18.2.1991	22.2.1991	244 C.P.
1991	2	30.11.1973	2.3.1991	2.3.1991	244 C.P.
			h. 4.00	h. 15.00	
1991	3	23.4.1974	1.8.1991	5.8.1991	194 C.P.
1991	4	11.12.1974	10.8.1991	12.8.1991	244 C.P.
1991	5	23.12.1977	17.8.1991	17.8.1991	194 C.P.
			h. 16.30	h. 21.30	
1991	6	25.5.1982	17.8.1991	17.8.1991	194 C.P.
			h. 16.30	h. 21.30	
1991	7	10.7.1976	31.10.1991	1.11.1991	203 C.P.
1991	8	27.5.1975	31.10.1991	1.11.1991	203 C.P.
1991	9	18.7.1974	22.12.1991	23.12.1991	244 C.P.
1992	1	2.8.1975	5.7.1992	5.7.1992	244 C.P.
			h. 6.00	h. 18.00	
1992	2	21.6.1975	5.7.1992	5.7.1992	244 C.P.
			h. 6.00	h. 18.00	
1992	3	17.7.1974	7.7.1992	8.7.1992	244 C.P.
1992	4	16.6.1975	28.11.1992	3.12.1992	203 - 237 C.P.
1992	5	7.6.1976	31.12.1992	1.1.1993	244 C.P.
1993	1	10.12.1978	8.7.1993	12.7.1993	194 C.P.
1994	1	9.7.1976	7.2.1994	8.2.1994	244 C.P.
1994	2	16.2.1978	5.7.1994	17.8.1994	26 - 196 C.P.
1995	1	4.1.1978	15.2.1995	15.2.1995	194 - 203 C.P.
			h. 1.15	h. 15.00	
1995	2	1.10.1976	15.2.1995	15.2.1995	194 - 203 C.P.
			h. 1.15	h. 15.00	
1995	3	15.10.1978	15.2.1995	15.2.1995	194 - 203 C.P.
			h. 1.15	h. 15.00	
1995	4	6.9.1977	19.3.1995	20.3.1995	244 C.P.
1995	5	24.5.1976	26.3.1995	27.3.1995	244 C.P.
1995	6	29.4.1979	6.8.1995	10.8.1995	244 C.P.
1995	7	10.11.1976	6.8.1995	10.8.1995	244 C.P.

POINT NR. 55 OF THE REPORT

Question. The CPT suggests that the Authorities of San Marino reconsider the issue of telephone contacts for people under detainment.

Answer. Telephone contacts with the outside were usually authorized by the Magistrate.

Detainees have always used the "fixed" phone of the prison, both to make and receive calls to and from the outside.

Detainees have never been forbidden to make phone calls after the preliminary investigation. A telephone meter has been installed accordingly, and detainees, who are allowed to use the phone during their open-air hour or in other hours, pay the corresponding amount at the end of their call.

At the beginning of 1992 a wireless phone was installed with the two-fold aim to allow direct phone contacts with ones's own practioner, and, on the other hand, phone conversations in the privacy of one's own cell.

In mid 1993, at request of the Law Commissioner, a public phone was installed in the room used for examinations and as parlour. The phone can be used with coins, tokens and phone cards.

POINT NR. 60 OF THE REPORT

Question. The CPT recommends that a physician be assigned as responsible for the medical care of detainees.

Answer. The Law Commissioner takes note of the CPT's recommendation according to which the Capuchins' prison has no fixed medical equipment, nor a physician officially responsible for the detainees' health.

The scarce number of detainees, and the rare occasions on which a doctor would be called still render the permanent inclusion of a physician in the prison's staff unnecessary. Yet, the practitioner of the City of San Marino has been currently entrusted with the health care of and provision for detainees.

He is to be considered *de facto* fully responsible for the detainees' health.

Moreover, I have recently requested the Minister of Justice and the Hospital Manager responsible for room allotment to keep two rooms in case of urgent hospitalization of detainees.

POINT NR. 62 OF THE REPORT

Question. The CPT stresses the importance of suitable counselling before and - if necessary - after a HIV test, as well as of constant information on transmissible diseases (i.e., transmission risks and preventive means) both for detainees and penitentiary staff.

The CPT would also like to receive all instructions and existing rules of conduct concerning the treatment given to HIV sieropositive detainees, detainees suspected of being HIV sieropositive, and those who contracted AIDS.

Answer. Through its decision Nr. 41 of September 6th, 1993, the State Congress authorized the Neuropsychiatric Service to regularly intervene in the interest of the prisoners.

This Service is made up of two units: a psychologist and a sociologist.

Both of them regularly visit the prison to support detainees psychologically, especially those who are HIV sieropositive.

At the moment there are no specific rules of conduct, which will be laid down in the future penitentiary regulations, and reference is made to Point Nr. 60 which was previously illustrated.

Certainly HIV-infected prisoners are not subject to detention conditions other than the ordinary ones, though, in this case, a code of hygienic conduct is observed to preempt, inside the prison, any transmission risk both for the guardians and the other detainees.

POINT NR. 63 OF THE REPORT

Question. The CPT would like to obtain information regarding the precise role played by the Law Commissioner in the context of non voluntary hospitalization.

Answer. The Law Commissioner as Tutelary Judge substantiates the proposal of compulsory medical treatment submitted by the Centre of Mental Hygiene (C.I.M.).

In particular the Law Commissioner relates the results of medical examination to the protection needs of the sick person, his or her relatives and the whole collectivity.

Hospitalization is allowed for a maximum of seven days.

If, after a week, hospitalization is still necessary, but the patient is not consenting, then the procedure must be followed once again in order to provide for compulsory medical treatment for further seven days, and so on and so forth.

POINT NR. 64 OF THE REPORT

Question. The CPT would like to know:

- if the person concerned is allowed to request the opinion of a second doctor, specialized in psychiatry, before official internment is confirmed;
- if there is, apart from any request made by the non consenting patient, a mechanism of automatic revision of internment decisions.

The CPT would also like to know if at present there are people officially interned and the length of their internment.

Answer. With reference to the question whether the person concerned is allowed to request the opinion of a second doctor prior to a decision of official internment, this faculty is not provided for by the legal system of San Marino. Yet, should the detainee's relatives (or, in case, the detainee) request the opinion of a second doctor, the Law Commissioner, after a brief examination, may authorize this procedure for the purpose of a comparative assessment of the disease.

With regard to the question whether there is a mechanism according to which internment decisions can be revised, on principle there exists a possibility of complaining against a decision adopted by the Judge of Civil Appellations.

There is no practice, however, attesting a mechanism of automatic revision of internment decisions.

Yet the introduction of such a practice at explicit request of a party cannot be ruled out.

People officially interned:

Year 1993

1 patient for 16 days' hospitalization

1 patient for 6 days' hospitalization

1 patient for 14 days' hospitalization

Total: 3 patients for 36 days.

Year 1994

1 patient for 9 days' hospitalization

1 patient for 3 days' hospitalization

1 patient for 8 days' hospitalization

Total: 3 patients for 20 days.

Year 1995

1 patient for 9 days' hospitalization

1 patient for 30 days' hospitalization

1 patient for 24 days' hospitalization

1 patient for 36 days' hospitalization

1 patient for 14 days' hospitalization

1 patient for 17 days' hospitalization

1 patient for 14 days' hospitalization

Total: 7 patients for 144 days.