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**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 Slovakia**

from 22 February to 3 March 2005

The Government of the Slovak Republic has requested the publication of this response. The report of the CPT on its February/March 2005 visit to Slovakia is set out in document CPT/Inf (2006) 5.

Strasbourg, 2 February 2006

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on the visit to Slovakia carried out by the European Committee
for the Prevention of Torture and Inhuman or Degrading Treatment
or Punishment (CPT) from 22 February to 3 March 2005

At its session of 18 January 2006 the Government of the Slovak Republic considered and took note of the Report to the Government of the Slovak Republic drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Slovakia from 22 February to 3 March 2005 (the 'CPT Report' hereinafter).

On the same occasion, the Government of the Slovak Republic gave its consent with the publication of the CPT Report and of the Response by the Government of the Slovak Republic to the CPT Report.

A. Cooperation between the CPT and the Slovak authorities

The degree of cooperation received by the CPT delegation from the Slovak authorities at central level was evaluated as very good. At local level, the delegation met with a very good reception at most places visited, without any disturbing moments.

In its letters dated 24 March, 15 April, 16 May and 1 June 2005, the Slovak Republic provided relevant information and explanations concerning the situations that the CPT highlighted at the final meeting held on 3 March 2005, and that are described in more detail in paragraphs 6 and 7 of CPT Report – the failure of police officers at Trebišov to take a forthcoming attitude toward the request of documents by the CPT delegation; and in paragraphs 9 and 10 – two immediate observations made under Article 8 paragraph 5 of the European Convention for the Prevention of Torture and of Inhuman or Degrading Treatment or Punishment (the 'Convention' hereinafter) in connection with security measures applied to long-term prisoners at Ilava Prison, and the use of a cage-bed at Sokolovce Psychiatric Healthcare Centre. This information and explanations were taken into account in the relevant sections of the CPT Report.

recommendations

Paragraph 7: *The CPT recommends that efforts be made with a view to ensuring that all relevant authorities, including those working at local level, receive detailed information on the Committee's mandate and their obligations vis-à-vis visiting delegations. The provisions of Section 65 of the Code of Criminal Procedure should also be reviewed in the light of obligations flowing from the Convention establishing the CPT.*

Practical implementation of the above recommendation dates way back to the past. The most recent date when this was done was 15 February 2005 when the President of the Police Corps informed members of the Police Corps ('police officers' hereinafter), in the form of a written instruction, about the upcoming visit of the CPT and, at the same time, ordered that necessary measures be taken to enable the CPT delegation to carry out its mandate (in particular, familiarise all senior police officers and their subordinates with a model letter of credentials, make them aware of their obligation to enable the Committee to have unrestricted access to police detention cells at any time of day or night); at the same time, they were instructed to execute the tasks outlined in the previous instructions of the Police Corps President, namely those of 9 January and 31 May 2004, concerning the implementation of measures to secure the third regular visit of the CPT to the Slovak Republic, approved by Government's Resolution No. 438/2004 of 13 May 2004. The instruction of the Police Corps President included, *inter alia*, detailed tasks aimed of enabling the CPT to exercise its mandate in conformity with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Moreover, in connection with the CPT visit to eastern Slovakia, the Regional Police Directorate in Košice repeatedly reminded the District Police Directorate at Trebišov by a letter dated 16 February 2005 about the duties flowing from the abovementioned instructions of the President of the Police Corps. The head of the internal affairs department of the District Police Directorate at Trebišov informed the staff of the operating centre of the Police Directorate about the content of the letter (including Article 8 of the Convention); at a regular daily meeting, the content of the letter was brought to the attention of the director of the Judicial and Criminal Police Office and his deputy, and of the heads of individual departments of the District Police Directorate at Trebišov.

The CPT delegation visited the District Police Directorate at Trebišov on 25 February 2005. The CPT delegation was received and necessary arrangements were made by the director of the Judicial and Criminal Police Office and deputy director of the District Police Directorate at Trebišov. The CPT delegation was given access to all the premises utilised to hold persons deprived of their liberty. Its members were also given access to the requested documents concerning the placement and stay of persons in police detention cells. In a concrete case, CPT members requested photocopies of previously inspected files of two persons placed in police detention cells, namely those of J.H. and V.K (*). The operating officer made photocopies of these files for the CPT delegation after he had been instructed to do so by the head of the Operating Centre of the Internal Affairs Department of the Regional Police Directorate at Košice.

The request of the CPT delegation to be provided the file on investigation into the death of Radoslav Puky was not fulfilled because the investigation file was located at the Constitutional Court of the Slovak Republic in Košice.

(*) Only the initials of these persons are given (cf. Article 11, paragraph 3, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment).

As regards the recommendation to “review the provisions of Section 65 of the Code of Criminal Procedure in the light of obligations flowing from the Convention establishing the CPT,” the Ministry of Justice adopted a position of principle, which was transmitted to the Ministry of the Interior and other bodies having competence for the facilities used to hold persons deprived of their liberty by the decision of a state administrative authority.

The position reads: “ within the meaning of Article 8 paragraph 2 of the European Convention for the Prevention of Torture and of Inhuman or Degrading Treatment or Punishment (Strasbourg, 26 November 1987), members of the CPT are authorised to request competent Slovak authorities to be provided information they need to perform their tasks. This also includes the right to inspect criminal files in concrete cases falling within the remit of the CPT. Although the provision of Article 8 of the Convention does not explicitly address the issue of inspecting the files, it implicitly provides for such right and, consequently, members of the CPT may not be denied that right in the performance of their duties, nor can this right be restricted in any other unsubstantiated manner. Moreover, according to the Constitution of the Slovak Republic, the Convention is a presidential international treaty that takes precedence over national laws (Article 7 paragraph 5 of the Constitution). The provision of Section 65 paragraph 4 of the Code of Criminal Procedure enumerates the entities that have access to the files in the proceedings before national authorities. Even though Section 65 of the Code of Criminal Procedure does not explicitly mention the CPT, this does not have the consequence of automatically excluding the Committee from its scope. Moreover, last sentence of the provision of Section 65 paragraph 1 of the Code of Criminal Procedure implies the right to inspect the files also by other persons the exercise of whose rights makes it necessary.”

B. Police establishments

Preliminary remarks

requests for information

Item 13: *The CPT would like to receive up-to-date information regarding the legislative developments (the Criminal Code, the Code of Criminal Procedure).*

In connection with this request we inform the CPT that the re-codification of criminal legislation was completed in 2005 with the adoption by the National Council of the Slovak Republic of brand new Act No. 300/2005 Coll. – Criminal Code, repealing Act No. 140/1961 Coll. – Criminal Code as amended, and of brand new Act No. 301/2005 Coll. – Code of Criminal Procedure, repealing Act No. 141/1961 Coll. on Criminal Procedure (the Code of Criminal Procedure) as amended. Both Codes will enter into effect on 1 January 2006. Moreover, the Ministry of the Interior of the Slovak Republic is drafting amendments to internal regulations falling within its scope of competence that will enter into effect as of the same date.

Ill-treatment

Paragraph 14: *The CPT states that the amount of information indicative of ill-treatment of persons deprived of their liberty by law enforcement agencies – including by officers from special operations units wearing balaclavas – remains significant. In a notable proportion of the cases the alleged victims of ill-treatment were Roma.*

Because of the general character of this statement, it is not possible to give a concrete answer. However, as a general rule, police officers must draw up a record about every use of the means of restraint and, should their use result in an injury, provide assistance to and ensure medical treatment for the persons concerned. Regarding the remark about notable proportion of Roma, it needs to be stated that, in order to prevent discrimination, the police do not ascertain the ethnic origin of alleged victims. No position can therefore be given on this claim, because it lacks concreteness.

Paragraph 15: *The CPT mentions two cases of ill-treatment.*

The complaint filed by J. R. was handled by the Košice Control and Inspection Department of the Control and Inspection Service of the Police Corps of the Ministry of the Interior (the 'Košice Control and Inspection Department' hereinafter) on the basis of the examination record concerning a suspect who displayed injuries on admission to the establishment for remand and sentenced prisoners. According to the record, the complainant was brought to the remand prison by police officers from the Subdistrict Police Department of Košice – Dargovských Hrdinov. The Department rejected the complaint pursuant to Section 159 paragraph 1 (c) of the Code of Criminal Procedure. The competent prosecutor, who reviewed the decision and examined the investigation file, did not find any irregularities in the actions of the police body. The complainant, who was served the decision on 8 December 2004, did not file an appeal within the statutory time limit. The decision stated that the means of restraint had to be resorted to in order to subdue the complainant who resisted apprehension. J. R. was interviewed in the presence of defence lawyer. According to the records drawn up by police officers on duty in the police establishment, he hit his head against the wall and reported that he was beaten by the police.

The second case was dealt with by the Bratislava Control and Inspection Department of the Police Control and Inspection Service of the Ministry of the Interior (the 'Bratislava Control and Inspection Department' hereinafter) on the basis of a petition filed by the competent body of the Corps of Prison and Court Guard of the Bratislava Remand Prison. The case was decided on 26 June 2004 when the Department, having requested additional information and evaluated the evidence, dismissed the petition as unsubstantiated pursuant to Section 159 paragraph 1 (c) of the Code of Criminal Procedure. The competent prosecutor took note of the decision of the police body of the Bratislava Control and Inspection Department, and endorsed it. The decision was served on the complainant on 29 July 2004 and no appeal was filed. According to the objective medical examination, the complainant displayed the following injuries on admission to the remand prison on 25 June 2004: "swollen and reddish nose, small bruises on the hands, reddened area of approx. 10 x 3 cm on the back".

recommendations

Paragraph 16: *The CPT recommends that senior police officers regularly instruct police officers that: ill-treatment will not be tolerated, that all information regarding possible ill-treatment will be investigated, and that perpetrators of such treatment will be subject to severe sanctions.*

The Ministry of the Interior of the Slovak Republic, its Police Corps, and all senior police officers give systematic attention to the issues connected with the respect for fundamental human rights of citizens.

This CPT recommendation has been consistently implemented in practice (since 2001) by senior police officers at individual police departments, who are ensuring implementation of written order No. 15/2005 issued by the President of the Police Corps as a systemic measure for improving professional training of police officers (former Order No. 43/2001 of the President of the Police Corps), making sure that all police officers attend regular quarterly training courses and, once in two years, sit an examination on generally binding legal acts (such as the Criminal Code, the Code of Criminal Procedure, the Act on the Police Corps, the Misdemeanour Act, etc.) and internal regulations where, among other things, they must demonstrate their knowledge of the powers of the police, in particular as regards the use of firearms and of the means of restraint, emphasis being laid on the proportionality of police actions, and on the treatment of persons who are brought in, apprehended or detained.

In order to suppress the commission of criminal offences by police officers, including ill-treatment of persons brought in, apprehended or detained, the Control and Inspection Service of the Police Corps of the Ministry of Interior of the Slovak Republic (the 'Control and Inspection Service' hereinafter) draws up a Police Crime Report in February of each year in respect of the preceding year, and submits it to the management of the Ministry of the Interior. The Report contains statistical indicators and especially an analysis into the causes and circumstances of the commission of crime by police officers. An inseparable part of the Report is a proposal of adequate remedial measures. The importance attached to the observance of human rights by police officers is also demonstrated by the fact that the Minister of the Interior has been submitting the Slovak Government annual reports since 2001 on the situation in this area.

Paragraph 17: *The CPT recommends that the Slovak authorities continue to give a high priority to police training, including as regards practical skills for handling high-risk situations such as the apprehension and interrogation of suspects.*

Police officers receive specialised training in secondary vocational schools of the Police Corps. The issues mentioned in the CPT recommendation are covered by the courses on "Ethics and Psychology of Police Work" and "Law", and by vocational courses corresponding to students' specialisations. The thematic bloc on "Police and Human Rights" also includes the topic of "Respect for Fundamental Human Rights in Practical Performance of Police Duties".

The "Law" course teaches basic concepts of human rights and freedoms, understanding of their content, and possible ways and forms whereby state authorities may curtail human rights and freedoms. The educational objective of the course on "Law" is to expand students' awareness of the issues related to fundamental human rights and freedoms in the performance of police duties, with emphasis on the respect for fundamental human rights and freedoms laid down in the Constitution of the Slovak Republic and other relevant generally binding legal acts, and on lawful restrictions of fundamental human rights and freedoms in the framework of criminal procedures carried out by police authorities.

The objective of the course on “Ethics and Psychology of Police Work” is to teach basic notions of ethics and psychology in police work by means of model situation training. This course also addresses such topics as professional ethics, the Charter of Fundamental Rights and Freedoms, police officers’ code of ethics, etc. Participants of this course are also acquainted with the principles of communication with offenders, special communication situations, and problem-solving in police work. The educational objective of the course on police ethics is to teach the students to practically apply the principles of police ethics, laying emphasis on human dignity – the basic attribute of the performance of police profession, and on the aspects of proportionality and constructive communication; the course also teaches the principles that underlie the use of appropriate procedures and methods in police work.

Individual specialisation courses teach the forms and methods of police work applied at the basic level, with a view to enabling police officers to independently exercise their powers, use the means of restraint, carry out police procedures with due respect for human rights, and to comply with the requirements for the performance of police duties.

The study at secondary Police Corps vocational schools teaches or enhances basic theoretical knowledge in relevant fields. Police officers develop practical abilities and skills directly by performing police duties. An important role in this process is played by their immediate superiors.

The Police Service Department of the Police Academy provides vocational training and instruction to police officers especially in such areas as public order, traffic and security, and special police activities, with the aim of enabling them to provide quality service to the public. The curricula are designed with a view to attaining the objective of teaching police officers to refrain from performing random, unlawful, arbitrary or discriminatory acts that could undermine the trust in the police and respect for human rights and freedoms in the performance of police duties. Students learn to avoid inappropriate use of force and to refrain from performing acts amounting to torture, or to inhuman or degrading treatment or punishment.

The courses in which students learn to correctly perform police operations and other activities focus mainly on: the use of firearms by the police, police and search operations, role of public order units of the Police Corps, the theory and practice of public order policing, the theory and practice of traffic policing, the theory and practice of security policing, and special occupational activities.

The Department of Public Law Disciplines of the Police Academy offers a course on “Police and Human Rights” (the European Concept). The course informs about the current European system of protection, represented primarily by the Council of Europe. The main focus of the course is therefore on the Convention for the Protection of Human Rights and Fundamental Freedoms and its interpretation by the European Court of Human Rights. The course also includes separate lectures on the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Each lecture is followed by a panel discussion. Lectures and discussions lay emphasis on the necessity of police officers refraining from the use of such practices in the performance of their duties that could amount to the degrading treatment or ill-treatment of offenders.

In addition to its regular curriculum, the Department of Public Law Disciplines of the Police Academy is involved in the organisation of a practical and theoretical seminar for senior police officers on the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment with international participation. The seminar to be organised in cooperation with the Information Office of the Council of Europe and the CPT will present Slovak and international lecturers (a judge of the European Court of Human Rights, members of the CPT, and the lecturers of the Council of Europe). The objective of the seminar is to familiarise the staff of regional and district directorates of the Police Corps with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and, in particular, with powers and tasks of the CPT. In the practical portion of the seminar, participants will learn about the typical format of CPT's visits to Police Corps departments, the type of cooperation the CPT expects from police officers, and its powers. An important item on the agenda of the seminar is information to the participants about the CPT's Report on its visit to the Slovak Republic in February and March 2005.

The courses offered by the Criminology Department of the Police Academy are derived from Articles 7 and 10 of the Deontology Code of the French national police, which states: "Under no circumstances may a police officer lose dignity. He always behaves in an exemplary manner. He shows absolute respect for people irrespective of their nationality and ethnic origin, social situation, political, philosophical or religious conviction. Detained or arrested persons are under police protection and responsibility. They must not be exposed to violence, inhuman or degrading treatment by police officers or other persons".

Lectures and practical assignments (exercises) comprised in the course on "Substantive Criminal Law" teach basic skills necessary for analysing the elements of crimes against humanity, in particular the criminal offence of torture and other inhuman or cruel treatment, as well as criminal offences committed by public officers, emphasising in this connection the gravity and inadmissibility of similar acts in the performance of official police duties. To enhance the practical applicability of instruction, specific examples are used to illustrate unlawful procedures that may constitute one of the abovementioned criminal offences. Lectures and practical assignments (exercises) comprised in the course on "Criminal Law of Procedure" focus mainly on the legal basis for and lawful application of the procedures used to achieve compliance of persons for the purposes of criminal proceedings, and on individual procedures carried out in respect of persons charged with crime, criminal suspects, and other persons (such as witnesses or victims). The objective of the exercises is to demonstrate theoretical knowledge on practical examples. It is emphasised throughout the course that such procedures must be performed in strict compliance with the law and within its limits.

The Social Science Department of the Police Academy provides instruction in the relevant areas through courses on "Police Ethics" and "Police Psychology". The instruction also comprises a set of lectures on the topics of torture, inhuman or degrading treatment or punishment.

The teaching programme for police officers doing their bachelor and master studies also focuses on socio-cultural and socio-psychological factors underlying various forms and expressions of violence.

Paragraph 18: *The CPT recommends that no more force than is reasonably necessary should be used when effecting an apprehension. Furthermore, once apprehended persons have been brought under control, there can be no justification for their being struck.*

In addition to vocational training (see the previous paragraph) and systemic measures designed to improve vocational training of police officers (see paragraph 16), this recommendation is implemented by senior police officers during instruction sessions held prior to the beginning of every turn of duty.

Paragraph 19: *The CPT points out that handcuffs should not be used as a substitute for secure holding facilities and calls upon the Slovak authorities to take immediate steps to ensure that persons detained by the police are accommodated in adequate facilities from the very outset of their custody, and that all metal rings are removed from police establishments throughout the Slovak Republic.*

Persons apprehended while committing a crime are brought to a police facility and, depending on local conditions, are placed in the premises reserved for this purpose (these premises are separated, sometimes by bars, from the rest of the reception area, entrance hall, etc.) and fitted with benches for the detainees to sit on. Detained persons are placed in these premises only for the shortest time necessary to perform the procedures and measures leading to the decision by the competent authority to release or remand them in custody. This is why these premises do not meet the characteristics of police detention cells defined in Section 42 ff. of the Police Corps Act, because they only serve to prevent the escape or self-mutilation of persons presented to the police or apprehended, and to protect other persons present at the police establishment and police officers from being assaulted during the execution of relevant procedures or measures (e.g. identification, telephoning, etc.). If there are no such premises at the police establishment, police officers have the right, subject to certain statutory conditions, to apply Section 52 of the Police Corps Act, i.e. use handcuffs, a belt/handcuff combination or, where the circumstances warrant it, to attach persons presented for interrogation, detained, apprehended or arrested, to a suitable fixed object for as long as lawful reasons for their detention continue to exist. It needs to be mentioned that such cases occur only exceptionally and that the Police Corps makes sustained efforts to reduce their occurrence; it is, however, unacceptable to deprive policemen of the possibility to control criminals, and to eliminate gross disturbances and violence committed by a perpetrator or by several perpetrators if no other options are available to prevent or to end the perpetrator's assault. It should also be noted that the provisions of the Slovak law governing this area do not constitute an exception in the European Union. In this connection, the President of the Police Corps issued a written instruction already in 2003 to ensure that every person presented for questioning, and every detained, apprehended or arrested person be allowed to sit down and be duly supervised, and that the procedures and measures be carried out expeditiously in order to minimise the time spent by these persons in the police facility. The police are gradually creating adequate spatial conditions in their holding facilities.

Fight against impunity

Paragraph 21: *The CPT pursued the issue of accountability by examining information related to alleged ill-treatment in the context of large-scale police operations in Trebišov and Čaklov in February 2004.*

It should be noted that the District Police Directorate at Trebišov did not receive any complaint in connection with police actions carried out during Roma riots on 23 to 25 February 2004 at Trebišov. The Košice Control and Inspection Department examined two cases of alleged ill-treatment.

As regards alleged ill-treatment of juvenile J.H., the Establishment for Remand and Sentenced Prisoners in Košice (the 'Košice Prison' hereinafter) informed the Department on 14 April 2004 through the intermediary of the Regional Prosecution Office in Košice that J.H. was brought for remand at 10.00 p.m. on 25 February 2004 with a left hand fracture. The suspect stated that his left arm was injured by police officers at the moment of his apprehension at 7.00 p.m. on 23 February 2004, when he was running from the JOKO grocery shop at Trebišov, which he entered with the intent to steal. According to the witness examination report of 24 Feb. 2004, J. H. stated during police interrogation that as he was leaving the store, he noticed the police and started running; tossing a box of cookies, he fell and injured his left arm. At this point he was apprehended by the police and brought to the police station. The ascertained facts and supporting written documents revealed inconsistencies in the statements made by Mr H., who started to allege that the injury to his left arm was caused by the police only after the investigator decided to remand him in custody. On 30 April 2004, the Košice Control and Inspection Department issued a resolution pursuant to Section 159 paragraph 1 (c) of the Code of Criminal Procedure whereby it dismissed the claim alleging that police officers from an unidentified police department committed the offence of abuse of authority pursuant to Section 158 paragraph 1 (a) of the Criminal Code. The case was brought before the District Military Prosecution Office in Prešov which upheld the conclusion of the Department.

According to the second claim submitted in writing to the Košice Control and Inspection Department on 11 March 2004 through the intermediary of the District Military Prosecution Office in Prešov, police officers allegedly restricted personal liberty of G. K. at around 7.00 a.m. on 24 Feb. 2004 when they unjustifiably prevented him in conflict with the Police Corps Act from leaving the Roma settlement at Trebišov where he was visiting his relatives, forcing him to remain there until the end of the police action, i. e. until around 5 p.m. of that day, although he did not violate any law. The police body dismissed the complaint by a resolution issued on 8 April 2004 pursuant to Section 159 paragraph 1 (c) of the Code of Criminal Procedure, which was upheld by the competent prosecutor.

Paragraph 23: *The CPT states that in case of apprehension and custody of J.H., the police took no concrete steps to investigate this allegation of ill-treatment. From a careful examination of all relevant documents, it would also appear that Mr H. was never physically brought before the judge concerned prior to being taken to Košice Remand Prisons in clear violation of the Code of Criminal Procedure.*

The allegation of ill-treatment made by juvenile J.H. was duly investigated (see paragraph 21). Regarding the claim that no reference to alleged ill-treatment was made either in the charges brought against J.H. or in the remand decision of the court, it should be stated that the resolution to bring charges against J.H. and other persons dated 23 February 2004 contains all the particulars prescribed by the Code of Criminal Procedure in connection with criminal acts underlying the charges.

The claim that J.H. was never physically brought before the competent judge is unfounded. The records contained in file No. Tpv 31/04 of the Trebišov District Court clearly demonstrate that J.H. was brought before a judge at 5 p.m. on 25 February 2004. He was interviewed in the presence of defence counsel JUDr. M. T.

Paragraph 24: *The CPT states that the case of J.H. highlights inaction by police, prosecutorial and judicial authorities in the face of allegations and medical evidence indicative of possible ill-treatment, as well as other deficiencies, including: the apparent failure to provide the person concerned - who was a minor - with access to his legal guardian, as well as to a lawyer, during his presence on police premises; no record as to his whereabouts between 8.35 p.m. on 23 February and 10.15 a.m. on 24 February 2004; and the failure to give him the opportunity to directly inform the judge concerned about the manner in which he had been treated.*

For the sake of precision, it should be noted that J.H. was not a minor, but a juvenile. During his stay at the police station J.H. had access to defence counsel and his legal guardian who were present at the interrogation. A representative of the Office of Labour, Social Affairs and Family at Trebišov was also present. The time spent by J.H. at the police station was properly documented. J.H. was brought in at 8.35 p.m. on 23 February 2004 on the basis of Section 17 paragraph 2 of the Police Corps Act. At 9.00 p.m., he was taken over by police officers of the District Police Directorate at Trebišov. J.H. and other persons brought in at the same time remained in the premises of the Subdistrict Police Department at Trebišov. At 10.05 a.m. on 24 February 2005, the investigator who interrogated the suspect decided to remand him in custody; J.H. was placed in a police detention cell at 10.15 a.m.

recommendations

Paragraph 25: *The CPT reiterates its recommendation that, whenever the competent authorities (i.e. investigator, prosecutor or judge) receive a complaint of ill-treatment by the police, they immediately request a forensic medical examination of the person concerned and take the necessary steps to ensure that the allegations are properly investigated. This approach should be followed irrespective of whether the person concerned bears visible injuries. Even in the absence of an express allegation of ill-treatment, a forensic medical examination should be requested whenever there are other grounds to believe that a person could have been the victim of ill-treatment. The CPT recommends that the Slovak authorities take the necessary measures to enable persons who allege ill-treatment, or their lawyer or doctor, to themselves request a forensic medical examination.*

The entire process of the examination of claims of ill-treatment by police officers is laid down in the Code of Criminal Procedure. The principle governing this process in the Slovak legal system requires that before it can be established that a police officer caused an injury or bodily harm to the person he/she presented to the police, a causal relationship must be conclusively established between the conduct of the police officer and the concrete injury of the person concerned. If, however, even medical examination fails to confirm the alleged injury, no such conclusion can be made.

During the taking of evidence, investigators and police officers may also perform body check on interviewed persons in conformity with Section 114 of the Code of Criminal Procedure (after 1 January 2006, Section 155 of the new Code of Criminal Procedure); everybody must suffer such examination if it is essential for detecting the traces or consequences of a criminal act on a person's body. Where the physician is not available to perform the examination, it can only be performed by a same sex person.

In the established practice, if the investigator or police officer finds that the person presented to the police is injured or complains of pain or other health problems, such person is always made to undergo medical examination regardless of whether he/she alleges police involvement or not. The medical examination report is inserted in the investigation file. The same procedure applies to persons who are to be placed in a police detention cell or remanded in custody. In the latter case, medical examination of persons who report having suffered injuries is arranged by officers of the Prison and Court Guard. Because medical treatment is provided in the Slovak Republic to the extent necessary to fulfil the purpose of the treatment, we believe that the demand of the CPT to secure forensic medical examination in these cases is not substantiated.

If the investigator or police officer performing criminal procedures receive complaints alleging ill-treatment by police officers, the complaint is always referred to the Control and Inspection Service, which has the competence to conduct its own investigation, including for the recruitment of expert witnesses to evaluate the alleged injuries in accordance with Section 105 of the Code of Criminal Procedure (after 1 January 2006, Section 142 of the new Code of Criminal Procedure).

Judges may receive complaints alleging ill-treatment by the police on two occasions:

- 1) when making the remand decision,
- 2) when examining the indicted person during the main trial.

In the former case, signs of ill-treatment may be visible and evident also for a lay person (i.e. including a judge assessing the health condition of the suspect). In the established court practice, if a judge observes visible signs of injury, he/she records this observation and/or complaint and his/her own findings, including the advice for the person concerned, into the examination protocol.

In case of persons remanded in custody, medical examination is **always obligatory** at the time of their takeover by officers of the Corps of Prison and Court Guard, irrespective of whether the judge has ordered examination or not. The relevant procedure is laid down in Act No. 156/1993 Coll. on Enforcement of Remand Imprisonment as amended, Section 4 paragraph 5, as follows:

“(5) Persons remanded in custody must suffer a body search, medical examination and necessary hygienic and anti-epidemic measures.”

The results of medical examination performed on admission are recorded in the health file.

It needs to be mentioned in this regard that the concept of “forensic medical examination” is used neither in the medical environment, nor within the Corps of Prison and Court Guard (the ‘CPCG’ hereinafter). Medical examinations in healthcare facilities of the CPCG are performed by staff doctors who also provide information about the health condition of persons and who enable access to health files in conformity with the relevant generally binding legal regulations.

Organisational units of the CPCG that handle ill-treatment complaints always request that the complainant be examined by a staff doctor, and take other necessary measures to ensure a proper investigation of the complaint. This approach is applied irrespective of whether the complainant bears any visible injuries. Competent officials investigating ill-treatment complaints apply similar procedures also in the absence of explicit claims of ill-treatment, but where there are other reasons to believe that the complainant may have suffered ill-treatment. Staff doctors are absolutely autonomous in the performance of their duties and procedures, and their decisions are based on purely medical grounds.

If the suspicion of ill-treatment concerns a crime suspect who is not remanded in custody, the judge notes down this fact and advises such person that he/she should seek medical examination by a doctor of his/her choice and then submit his/her case, together with the medical report, to the Control and Inspection Service of the Police Corps of the Ministry of the Interior.

In case of persons charged with a crime, who are not remanded in custody and who bring up the issue of ill-treatment only during the proceedings before the court, the judge may not be realistically expected to order medical examination. As a matter of fact, court proceedings may be initiated as late as 3 to 4 months after the filing of the claim, at which time the doctor can no longer detect any signs of possible ill-treatment.

The concluding recommendation in paragraph 25 has more the character of abstract premise than of concrete instruments available to judges. It recommends that a forensic medical examination be performed (the category of forensic doctors does not exist in our system) and, moreover, that it be performed even if **there has been no** express allegation of ill-treatment **but there are other grounds to believe** ... Since those other grounds are not specified, it is not possible to take a responsible position on this recommendation.

Paragraph 26: *The CPT states that the Control and Inspection Service only rarely interviews the persons alleging ill-treatment; rather, it relies on allegations and other information recorded by prison officers and health care staff upon the persons' admission to a remand prison.*

All received complaints are processed in a standard manner set out in the relevant provisions of the Code of Criminal Procedure. The Code lays down the obligation to confirm the receipt of every complaint and provides for only two ways of obtaining additional information (Section 158 paragraph 2 of the Code of Criminal Procedure), namely additional interview of the complainant who, in these cases, is almost exclusively the Corps of Prison and Court Guard rather than the person with injuries. The second way is to request written documentation. This legal procedure has been preserved also in the re-codified Code of Criminal Procedure – Act No. 301/2005 Coll.

Under a cooperation arrangement between the Corps of Prison and Court Guard and the Control and Inspection Service, if the officers of the Corps of Prison and Court Guard find any injury on the persons they are taking over for remand or for the execution of sentence, they conduct an informal interview with these persons in order to establish how they came about their injuries. The officers then draw up records of such interviews, which they submit to the Control and Inspection Service along with other documents (such as the statements made by injured persons). In addition to these documents, the Service gathers all the records about the procedures performed in respect of these persons before they had been placed in custody, i.e. the interrogation protocol, the record of the examination of a criminal suspect by the judge who made the remand decision, etc. Thus, it is not true that the Control and Inspection Service does not take interest in the opinion of injured persons themselves. The police start taking action based on a complaint filed either by a citizen or a by a prison for remand or sentenced prisoners, or on other complaints they have been submitted. In practice, only rarely does it happen that the victim is not heard; this is limited to those cases where the submitted evidence is sufficient to decide the case.

It should be mentioned that under Section 174 paragraph 1 of the Code of Criminal Procedure and Prosecution Act No. 153/2001 Coll., the body that has competence to oversee the legality of actions of the police inspection service in each criminal matter is the prosecution office.

Paragraph 27: *The CPT is not convinced that the present approach of the Control and Inspection Service meets the criteria of independence and thoroughness.*

Under Item D.2. of Resolution No. 979/2001 of 10 October 2001 concerning the draft response of the Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from the second periodic visit to Slovakia carried out on 9 to 18 October 2000, the Minister of the Interior was instructed to “pay permanent attention to the Control and Inspection Service Section of the Ministry of the Interior in the investigation of complaints brought by apprehended, detained and accused persons concerning the injuries that they claim to have been caused by members of the Police Corps (‘submissions’ hereinafter) and to submit a report to the Government once a year.” The first such report was submitted to the Slovak Government in 2002. It is drawn up as a periodic document.

The control and inspection service receives submissions filed by the Corps of Prison and Court Guard, the prosecution service, individual citizens, or other entities (e.g. those referred by other services of the Police Corps). A total of 204 submissions were received by the Control and Inspection Service between 1 January 2004 and 31 December 2004. Of this number:

- 2 submissions were handled by referring the case to another body for the purposes of disciplinary proceedings according to Section 159 paragraph 1 (b) of the Code of Criminal Procedure,
- 158 submissions were dismissed by a resolution taken according to Section 159 paragraph 1 (c) of the Code of Criminal Procedure,
- 1 submission was set aside prior to the commencement of criminal prosecution according to Section 159 paragraph 2 of the Code of Criminal Procedure,
- 2 submissions were proceeded upon according to Section 160 paragraph 1 of the Code of Criminal Procedure, and a resolution was issued to file charges,
- 2 submissions were handled according to Section 163 paragraphs 1 and 3 of the Code of Criminal Procedure, and a resolution was issued to file charges,
- 1 submission was handled by transmitting the file to the prosecutor with a motion to bring indictment according to Section 166 paragraph 3 of the Code of Criminal Procedure,
- 2 submissions were handled by a motion to refer the case according to Section 171 of the Code of Criminal Procedure,
- 27 submissions were handled by a motion to stay the criminal prosecution according to Section 172 paragraph 1 of the Code of Criminal Procedure,
- 9 submissions are pending because they are still under investigation.

It should be noted that most persons sustained their injuries while being apprehended in the act of committing a crime. They failed to obey the orders of intervening police officers, who thus had to resort to a procedure available under the law – the use of necessary force, i.e. of the means of restraint. Given the nature of these lawful means, their use may result in minor injuries. The overwhelming majority of complaints involved very small injuries. The use of the means of restraint is always reviewed by the immediate superior of police officers concerned. When the Control and Inspection Service requests additional information, this is done in order to ascertain whether the use of force was appropriate considering the nature of the injuries and the means of restraint used. It is a fact that even if the person that the police are trying to subdue suffers an injury, such injury is not deemed to be the ground for initiating disciplinary and/or criminal proceedings, since the overwhelming majority of such actions are carried out in conformity with the law. As a result, the number of criminal and/or disciplinary proceedings is low.

It should also be noted that the reason for requesting the reports from intervening police officers is that they have an obligation to make records of their actions pursuant to Title Six, Chapter Three of Police Corps Act No. 171/1993 Coll. as amended.

Although no intentional causation by a police officer was proven in any of the cases of alleged ill-treatment brought up by the CPT in the preceding paragraphs, the Police Corps and/or the Ministry of the Interior do not claim and do not want to create an impression that there have been no isolated incidents of human failure in the performance of the demanding profession of police officers, and that there have been no cases of violation of the law or of internal regulations by individual policemen. The Slovak Republic does not intend to hide the fact that, in 2004, prosecution was initiated against 250 police officers who committed 282 criminal offences. However, it is also a fact that as regards the number of offences committed in 2004, the largest decline was recorded in the number of cases involving the abuse of authority by a public official pursuant to Section 158 of the Criminal Code (–13), violence against a group of the population or individuals pursuant to Section 197a of the Criminal Code (–6), and restriction of personal liberty pursuant to Section 231 of the Criminal Code (– 4).

The Ministry of the Interior of the Slovak Republic assures the CPT that it responds to important developments (accession of the Slovak Republic to NATO and the European Union and the related security issues) in a flexible manner, by introducing a number of measures in such areas as the training of police officers, improvement of the salary and social situation of police officers, etc., and exerts a concentrated and purposeful pressure towards eliminating the breaches of generally binding legal regulations and criminal offences by police officers.

Paragraph 28: *The CPT recommends that the relevant authorities review the existing arrangements, in the light of the remarks made in paragraphs 26 and 27, and that they ensure that the precepts set out in the Committee's 14th General Report (CPT/Inf (2004) 28) are systematically applied in the context of all official investigations (criminal or disciplinary) in cases involving allegations of ill-treatment. The CPT also recommends that relevant prosecutors always be immediately notified, in writing, of information relating to possible cases of police ill-treatment which comes to light during internal accountability procedures. The information transmitted should include, inter alia, all relevant statements made by the person concerned and all related medical findings.*

The procedures applied in the cases mentioned in the Report were exactly the same as those applied in the handling of other complaints, and are in strict compliance with Section 158 of the Code of Criminal Procedure. Likewise, in conformity with the provisions of the Code of Criminal Procedure, the prosecution service is submitted complete documentation – i.e. original copies of relevant documents and decisions.

Competent specialised bodies of the Slovak Ministry of the Interior take a responsible approach towards investigating complaints alleging ill-treatment and/or inappropriate use of force, and will continue to strictly apply legal provisions and internal standards governing the actions of these bodies, in particular the Code of Criminal Procedure.

Paragraph 29: *The CPT has also made it clear that it has strong misgivings regarding the practice of law enforcement officials wearing masks or balaclavas when performing arrests. The CPT recommends that the Slovak authorities review the practice of police officers wearing balaclavas in the course of their duties, in the light of the above remarks.*

The use of balaclavas by police officers in the execution of their duties is governed by the provisions of Sections 68 and 68a of the Police Corps Act. The use of balaclavas by police officers intervening against dangerous perpetrators of organised crime or perpetrators of exceptionally serious intentional criminal offences is decided by commanding officers (of SWAT teams); or, if the police takes action against a person suspect of having committed an exceptionally serious criminal offence, or against dangerous offenders, the decision is made by the head of the relevant Police Corps department. The legal precondition for the use of balaclavas is the necessity to ensure personal safety of police officers or close persons in the course of their duties. As regards security measures implemented in response to mass thefts, looting and suspicion of the commission of such acts by persons from socially weaker population groups in eastern Slovakia in February 2004, it proved to be necessary, in order to protect lives, health, personal liberty, safety of persons and property, and public order from mass breaches of law, to deploy special police forces in addition to soldiers on active duty (assigned to perform police duties by a Slovak Government's Resolution). No violations of generally binding legal regulations or of internal regulations of the Ministry of the Interior were established in connection with police actions taken to suppress large-scale unlawful activities. In order to ensure the highest possible transparency of the actions of police officers wearing balaclavas, senior police officers and police departments concerned permanently oversee compliance with legal requirements and recommendations of the CPT.

requests for information

Paragraph 22: *The CPT would like to be informed of the outcome of the appeal against the decision to dismiss the criminal proceedings in the case of Mr Radoslav PUKY.*

On 7 March 2004, the District Police Directorate at Trebišov issued a resolution to initiate criminal prosecution in the death of Radoslav Puky pursuant to Section 224 paragraph 1 of the Criminal Code. The criminal procedure included the commissioning of expert opinion on the cause of death, which concluded that the case involved violent death – suffocation by drowning. Neither the internal nor the external expert examination of the body revealed any signs of mechanical force that would indicate the involvement of another person. Experts did not find any skin abrasions or haematomas on the body, and they established the absence of traumatic injuries to the bones of the head, torso, limbs or internal organs. The gas chromatography method detected the presence of organic solvent – toluene – in the blood and fatty tissues. None of several witnesses interviewed during the investigation testified that the late Radoslav Puky had been beaten by the police and none of them reported to have been eyewitness to such act. After the police authority gathered the necessary evidence, it submitted the District Prosecution Office at Trebišov a motion on 24 April 2004 to stay the criminal prosecution pursuant to Section 172 paragraph 1 (a) of the Code of Criminal Procedure, whereupon the competent prosecutor stayed the prosecution.

On 14 June 2004, the prosecutor of the District Prosecution Office at Trebišov issued a resolution whereby he ordered the investigator of the District Police Directorate at Trebišov to resume investigation into the criminal matter in question and to carry out certain additional investigative procedures. The investigator resumed criminal prosecution in the criminal offence of bodily injury according to Section 224 paragraph 1 of the Criminal Code. In the course of further investigation, an expert opinion was commissioned from another expert institution – the Jesenius Faculty of Medicine of Comenius University in Martin. The expert opinion stated that no other person was involved in the death of Radoslav Puky. Based on the prosecutor's instructions, new witnesses were examined and additional interviews were conducted. The expert opinion and further investigation indicate that after the police action Radoslav Puky must have spent several days in an unknown place for unknown reasons until the probable time of his death; the efforts to determine his movements were not successful. On 22 October 2004, the investigator stayed the criminal prosecution. The resolution to that effect was challenged by a complaint filed by Dr. C. I. acting as a representative of the mother and the brother of the deceased. The prosecutor of the District Prosecution at Trebišov dismissed the complaint as unsubstantiated by a resolution of 11 November 2004.

Based on an instruction from the prosecutor, the investigator renewed criminal prosecution in the case pursuant to Section 224 paragraph 1 of the Criminal Code by a resolution issued on 11 March 2005, and carried out further investigative procedures in conformity with the instructions from the prosecutor; he subsequently stayed the prosecution again by a resolution of 16 June 2005. Dr. C. I. lodged a complaint against the resolution on 1 July 2005; the prosecutor dismissed the complaint as unsubstantiated on 7 July 2005.

It follows from the above that the prosecution service did not repeal any of the investigator's resolutions to stay the prosecution, because it was unquestionable that no other person was involved in the death of Radoslav Puky.

Safeguards against the ill-treatment of persons deprived of their liberty

recommendations

comments

Paragraph 30: *As had been the case at the time of the 2000 visit, the CPT's delegation found that in a significant number of cases the rights of notification of custody and of access to a lawyer were often not fully effective in practice. The CPT is particularly concerned that the above-mentioned rights were not always respected as regards minors. According to the CPT, written comments provided by the Ministry of the Interior concerning the delegation's end-of-visit observations on safeguards ("the conclusion of the Committee is of a general and unspecific nature") can only cast doubt on the willingness of the Slovak authorities to ensure the effectiveness in practice of the legal provisions on fundamental safeguards against ill-treatment by law enforcement officials.*

Paragraph 32: *The CPT calls upon the Slovak authorities to take steps, as a matter of priority, to devise and implement a comprehensive regime of out-of-cell activities (including group association activities) for remand prisoners. Appropriate steps should also be taken to ensure the effectiveness of the legal aid system throughout the procedure, including at the initial stage of police custody. The CPT suggests that the Bar Association be consulted in this context.*

Pursuant to Section 33 paragraph 3 of the Code of Criminal Procedure (after 1 January 2006, Section 34 paragraph 4 of the new Code of Criminal Procedure), all law enforcement agencies have the obligation to inform suspects of their rights and enable the exercise thereof. According to Section 33 paragraph 1 of the Code of Criminal Procedure (after 1 January 2006, Section 34 paragraph 1 of the new Code of Criminal Procedure), these rights include the right to retain and talk to a lawyer also during the procedures carried out by law enforcement agencies. Persons charged with crime can also request that their lawyer be present at the interrogation and at other stages of pre-trial proceedings. The accused remanded in custody or persons serving an imprisonment sentence may talk to a lawyer in private.

Access of detainees to lawyers is provided for in Section 76 paragraph 6 of the Code of Criminal Procedure. It stipulates that detained persons have the right to retain and talk to a lawyer already at the time of apprehension; they have the right to request that the lawyer be present at the interrogation. The re-codified Code of Criminal Procedure has expanded the rights of detained persons (with effect from 1 January 2006, Section 85 paragraph 6 of the new Code of Criminal Procedure) by laying down the right to talk to a lawyer in private also during police custody.

Law enforcement bodies consistently enforce the right to defence, since the failure to respect this right would render the procedural acts that had been carried out in criminal proceedings invalid and inapplicable.

It is not necessary to consult the Bar Association on police custody since the rights of persons in police custody are adequately provided for in Section 76 of the Code of Criminal Procedure (Section 85 paragraph 6 of the new Code of Criminal Procedure after 1 January 2006) and are fully implemented in practice.

As regards the cases mentioned in paragraph 30 of the Report, i.e. that the rights of persons were allegedly violated “in a significant number of cases” or “in a number of cases”, we have to object again to the wording used and emphasise that, except for the case of a 16-year old girl mentioned below, it lacks concreteness and, consequently, it is not possible to take an objective position. This is not because we want to deny or hide potential occurrence of such cases – just the opposite, it is because we are genuinely interested in identifying these potential violations of generally binding legal regulations. If the information about these cases of violations of the law were more specific, it would not only be possible to conduct their investigation by the Control and Inspection Service and to bring the responsible police officers to justice, but it would also be possible to involve the prosecutors overseeing the legality of pre-trial proceedings who would examine the actions of investigators or police officers. We therefore emphatically deny the claim of the CPT that “Such a reply (of the Ministry of the Interior to the comments concerning the safeguards expressed by the CPT at the final talk): ‘[the conclusion of the Committee is of a general and unspecific nature]’ can only cast doubt on the willingness of the Slovak authorities to ensure the effectiveness in practice of legal provisions on fundamental safeguards against ill-treatment by law enforcement officials.” This shows a complete lack of understanding, because the opposite is true.

Regarding the case of a 16-year-old girl, we assume that the girl in question was 16-year-old M. Z., apprehended by the Judicial and Criminal Police of Bratislava 5 District Police Directorate at 8.05 p.m. on 24 November 2004 (File No. ORP-280/1-OVK-B5-2003) on the suspicion of criminal offence of unauthorised production and possession of a narcotic drug, psychotropic substance, poison or precursor under Section 187 of the Criminal Code. She was placed in the police custody and escort facility of the Operating Department of the Bratislava Regional Police Directorate at 01.00 a.m. on 25 November 2004, i.e. after 5 hours of interrogation at the Bratislava 5 District Police Directorate. On 28 November 2005, judge JUDr. B. of the Bratislava 5 District Court ordered to remand the suspect in custody; she was therefore transferred to the Bratislava Remand Prison at Chorvátska St. at 10.45 a.m. on 28 November 2004. No statutory time limits set out in the Code of Criminal Procedure were breached in this case.

Paragraph 33: *The CPT recommends that it be ensured that, whenever injuries indicative of ill-treatment are recorded following a medical examination of a detained person, the record is brought to the attention of the relevant public prosecutor.*

We note in connection with this CPT recommendation that the record of medical examination is always inserted in the investigation file. Section 76 paragraph 4 of the Code of Criminal Procedure provides that if the investigator or police officer do not release the apprehended person, they must forthwith transmit the interrogation protocol and the motion to file charges and other evidence, which also includes, where applicable, the medical examination report, to the prosecutor who may file the motion to remand the person in custody. Moreover, the prosecutor who has the task of overseeing the legality of pre-trial proceedings and is authorised to propose the judge to remand the suspect in custody, has also the right to request – at any stage of pre-trial procedure – to be provided the investigation file from the investigator or police officer for review purposes.

The Control and Inspection Service did not find any case where an injured person and/or a seriously ill person were denied medical examination.

Paragraph 34: *The CPT reiterates its recommendation concerning the provision of written information on their rights to all persons deprived of their liberty by the police, at the very outset of their deprivation of liberty.*

As regards this recommendation, we refer to the replies to paragraphs 30 and 32 of this document. Moreover, practical exercise of the right to be informed of one's rights is governed by the provision of Section 8 of the Police Corps Act which stipulates that police officers who curtail individual rights or freedoms in the performance of their official duties must inform the persons concerned about their rights as soon as practicable. Besides these generally valid legal provisions, the President of the Police Corps issued Order No. 10/2003 already in 2003 whose Article 2 sets out the duties of police officers connected with the provision of information to persons deprived of their liberty (persons presented to the police, apprehended, detained or arrested persons). Also in 2003, the Police Corps Presidium issued a manual (in the form of a brochure) concerning the provision of information to persons deprived of their liberty, which was distributed to relevant Police Corps departments, and which police officers carry with them while on duty.

Persons placed in police detention cells are informed of the cell regime in Slovak, Russian, German and English in accordance with Article 6 of the Executive Order of the Minister of the Interior No. 41/2003.

Conditions of detention

recommendations

Paragraph 35: *The CPT recommends that appropriate steps be taken to rectify the shortcomings in the visited police detention cells.*

The lighting fixture at the Regional Police Directorate in Bratislava is built-in into the wall structure in compliance with Executive Order No. 41/2003 of the Minister of the Interior and is used to provide dimmed night light of 5-lux intensity; it is used only at night between 10.00 p.m. and 6.00 a.m. (besides enhancing the security of apprehended and detained persons, it also enables camera surveillance). In case of adverse weather during the day (overcast skies), lighting intensity is 150 lux; the cells have also emergency lighting in case of power failure.

The layout of premises used for holding persons brought to police stations (i.e. other than police detention cells) depends on spatial possibilities of the buildings.

One week before the CPT visit, renovation work was completed in police detention cells at the Regional Police Directorate in Košice (replacement of sanitary equipment, new beds, installation of a two-way signalling system, wall plaster repairs, painting). The premises were therefore insufficiently ventilated at the time of the visit, but this is no longer the case. The ventilation system is the same as it was during the CPT visit in 2000 when no ventilation problems were signalled.

Paragraph 36: *The CPT would like to receive confirmation that all persons detained by the police in the Slovak Republic are currently receiving food at appropriate times, including at least one full meal every day.*

Under Section 81a of amended Police Corps Act No. 171/1993 Coll. effective from 1 May 2005, the provision of meals to persons deprived of their liberty is ensured at appropriate times, depending on local conditions and taking due regard of sound nutrition rules and of age, health condition and religious beliefs of these persons. The first meal is provided if the deprivation of liberty lasts for more than 6 hours. The provision of food to detained foreign nationals is governed by the relevant provisions of amended Act No. 48/2002 on the Stay of Aliens, which also took effect on 1 May 2005. The Ministry of the Interior subsequently issued Decree No. 43/2005 laying down the details of the provision of food to persons deprived of their liberty, applicable to all persons detained by the police (i.e. not only those that are placed in police detention cells).

C. Prisons

Preliminary remarks

During its third visit from 22 February to 3 March, the CPT visited the Remand Prison in Bratislava (the 'Bratislava Prison' hereinafter), the Establishment for Remand and Sentenced Prisoners in Košice (the 'Košice Prison' hereinafter), and the Establishment for Remand and Sentenced Prisoners in Ilava (the 'Ilava Prison' hereinafter).

recommendations

Paragraph 39: *The CPT recommends that the Slovak authorities vigorously pursue the adoption and implementation of a coherent strategy designed to combat prison overcrowding and, in doing so, be guided by the Recommendations of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation (R(99)22), on improving the implementation of the European Rules on community sanctions and measures (Rec(2000)22) and on conditional release (parole) (Rec(2003)22). Further, the CPT recommends that the standard concerning living space per prisoner in multi-occupancy cells be raised to at least 4 m²; official capacities should be recalculated accordingly.*

In connection with addressing the problem of prison overcrowding, the Corps of Prison and Court Guard (the 'CPCG' hereinafter) expects the number of inmates in remand establishments to slightly decrease and the number of persons serving imprisonment sentences to gradually increase.

At present, the requirement of Section 6 of the Act on Enforcement of Remand Imprisonment and Section 11 of the Act on Enforcement of Imprisonment Sentences, i.e. living area of 3.5 m² per one prisoner, is complied with. This living space can be reduced only in justified cases and only for such time as necessary. The capacity of individual establishments is calculated on the basis of living space as defined by law; an increase of living space to 4 m² per inmate would considerably reduce the available capacity.

Notwithstanding the above, Section 70 paragraph 3 and Section 74 paragraph 1 of the revised Act on Enforcement of Imprisonment Sentences (effective from 1 January 2006) provide that living space for juvenile sentenced prisoners and sentenced women is 4 m². The same principle is laid down (Section 44 and Section 47 paragraph 1) also in the revised Act on Enforcement of Remand Imprisonment (which is currently under consideration by the National Council of the Slovak Republic).

The CPCG is committed to addressing the issue of inadequate accommodation capacities for enforcing remand imprisonment and imprisonment sentences through their further enlargement. A report on the evaluation of the current state of prison accommodation capacities has been prepared and submitted to the Government of the Slovak Republic. The Slovak Government discussed and took note of the report at its session on 19 January 2005. The report points to the developments in the numbers of remand and sentenced prisoners, to inadequate accommodation capacities of establishments for remand and sentenced prisoners, and proposes measures to remedy the current unsatisfactory situation. The report proposes the implementation of concrete building projects with relevant timetables and financial resources. However, the building of additional accommodation capacities depends on allocations from the national budget of the Slovak Republic.

Insofar as allocations from the national budget will allow, the CPCG will create conditions for a gradual reduction of the prison occupancy rate.

Ill-treatment

recommendations

Paragraph 41: *The CPT recommends that prison staff of all categories be reminded that:*

- *all forms of ill-treatment of prisoners, including slapping and verbal abuse, are not acceptable and will be punished accordingly,*
- *if, on occasion, prison officers have to use force to control violent and/or recalcitrant prisoners, the force used should be no more than is strictly necessary and, once prisoners have been brought under control, there can be no justification for striking them;*

Any remand or sentenced prisoner may file a complaint against ill-treatment and deposit it in a box for the prosecutor who is in charge of supervising the enforcement of remand imprisonment and of imprisonment sentences.

Vocational training and building of legal awareness are described in the reply to paragraph 42.

Paragraph 42: *The CPT recommends that:*

- *the Slovak authorities continue to give a high priority to the development of prison staff training, both initial and ongoing. In the course of the training, considerable emphasis should be placed on the acquisition of interpersonal communication skills,*
- *prison officers do not carry batons in full view of inmates.*

Professional ethics is one of the most important factors underlying effective social reintegration of sentenced persons in the penitentiary context. The building of positive relations with remand and sentenced prisoners is conditional on the effective acquisition of interpersonal and communication skills. Continued emphasis is therefore laid on the systematic theoretical and practical training of prison custodial staff in this area. Acquisition of basic theoretical knowledge and of interpersonal and communication skills is also a prerequisite for a successful completion of training required for the recognition of the relevant level of professional competence.

The issue of interpersonal communication skills is given systematic attention and is part of vocational training and education on biodromal psychology. The topics of in-service vocational training also include special forms of treatment of sentenced prisoners that include socio-psychological training of selected members of the CPCG who are engaged in the treatment of prisoners.

A course for lecturers opened in 2003 focused mainly on the acquisition of social and psychological skills. Upon their graduation from the course in February 2004, the participants obtained a certificate authorising them to provide training to CPCG officers in social and communication skills needed to build positive relationships with sentenced prisoners. The team of lecturers provide in-service communication training courses in prison establishments.

The system of training for CPCG officers is implemented in accordance with the approved Concept for Training Officers and Civilian Staff of the Corps of Prison and Court Guard in the period of 2004 – 2015 (Document No. GR ZVJS-186/50-2004). Priority tasks defined in the Concept include compliance with the qualification requirements set out by law for basic vocational training and specialised vocational training of CPCG officers assigned to preparatory state service or temporary state service positions, and the creation of optimum conditions for lifelong learning of CPCG officers assigned to permanent state service positions. The objective of the Concept is to ensure that CPCG officers meet relevant educational and professional requirements; professional requirements mean the level of qualification, formal education, training and acquisition of professional attitudes, habits and skills by newly recruited CPCG officers.

To attain the above goal, the training of prison staff focuses mainly on educational programmes aimed to develop:

- a) creative and critical problem-solving skills (identification, analysis and proposal of solutions, etc.),
- b) personal and interpersonal skills (self-improvement and improvement of effectiveness, rational and independent learning, self-control, regulation of behaviour, building progressive interpersonal relations, respect for the law and ethical values, etc.),

- c) professional ethics as a prerequisite for problem-free communication with remand and sentenced prisoners in the framework of social reintegration activities,
- d) communication skills (verbal and written expression, foreign language competence),
- e) ability to use information technologies and means, computer skills, use of the Internet and various information sources.

To fulfil this objective, CPCG officers are provided professional training, specialisation training, and lifelong training.

Professional training of CPCG officers consists of:

- a) basic training – after the abolition of conscription, basic training has substituted the military training and is provided to both men and women; it is designed to teach CPCG officers to respect basic rules of military conduct in their mutual relations, service discipline, service politeness, discipline related to clothing and equipment, theoretical knowledge and practical skills in the area of topographic, chemical and communications training, close-order drills, use of weapons, and physical fitness,
- b) professional training for CPCG officers has the aim of making them acquire qualification for police work, and is provided to every newly recruited CPCG officer in conformity with Section 13 of Act No 73/1998 Coll. on State Service of Members of the Police Corps, the Slovak Intelligence Service, the Corps of Prison and Court Guard, and Railway Police as amended, and comprises the training in such areas as penology, law, security, psychology, pedagogical aspects of the treatment of prisoners, professional communication and ethics.

Specialisation training of CPCG officers (designed for those CPCG officers who are assigned to specific state service positions) comprises:

- a) a training course on social psychology – for social workers, educators, pedagogues and psychologists,
- b) a professional course for CPCG officers – members of the court guard,
- c) professional course for dog leaders training service dogs for a variety of uses,
- d) professional course for CPCG officers assigned to preventive and security services – officers performing procedures laid down in the Code of Criminal Procedure.

Lifelong education of CPCG officers (differentiated depending on the rank, individual career development plans, and the needs of the CPCG) is an essential prerequisite for the professionalisation of the CPCG, and its aim is to enable each CPCG officer to upgrade or enhance his/her education level in keeping with the changing conditions for the performance of their service and the changing context of the society as a whole; lifelong education of CPCG officers comprises:

- a) training of CPCG officers – practical training provided in the conditions that are comparable to real-life conditions; this type of training is provided every year in classrooms, shooting ranges, sports and other adequate facilities, and on the ground,
- b) professional seminar for senior officers – is organised every year for CPCG officers holding specific management positions,

- c) professional seminar for personnel reserves – is organised every year for specifically designated CPCG officers,
- d) professional training of health personnel – the training of doctors, nurses and other healthcare workers in conformity with generally binding legal regulations in the healthcare area,
- e) professional training for the lecturers of the CPCG Training Institute – is organised every year for lecturers holding state service positions in the Institute,
- f) professional seminar for CPCG officers on the topics of recruitment, production and sales – is organised every year for CPCG officers working in these areas,
- g) professional training for CPCG officers in the area of information technologies – for the personnel working with application software of the CPCG information system and for IT personnel,
- h) language training of CPCG officers – is provided to selected officers who may need language skills in the performance of their duties,
- i) other professional seminars and training courses – for selected officers, depending on the scope of their duties and on the current needs of the CPCG.

The use of the means of coercion – baton – is governed by Section 33 paragraph 1 of Act No. 4/2001 Coll.; CPCG officers may use the baton for their own protection or for the protection of other persons from unlawful attacks, to prevent disturbances and intentional damage to property or other gross violations of established rules by remand or sentenced prisoners, to control remand or sentenced prisoners who put up active resistance, and to prevent forceful entry by unauthorised persons to the guarded premises of the CPCG or to the places where the entry is prohibited. For this reason, the guards must carry batons so as to be able to immediately intervene if remand or sentenced prisoners commit unlawful acts. There is also a large number of CPCG officers whose official duties involve the treatment of remand and sentenced prisoners and who do not carry batons. These include “regime officers” who ensure the fulfilment of the rights and obligations of remand prisoners with a view to meeting the purpose of remand imprisonment, pedagogical and specialised staff working with sentenced prisoners (educators, pedagogues, social workers, psychologists and others). Depending on the character and specific conditions of individual establishments, certain CPCG officers who are in direct contact with the inmates, or in charge of organising the life of inmates in the prison and ensuring compliance with the rules of the establishment, must carry batons. Given the design of service uniform (and its summer version) and the shape and material of the baton, it is not possible to carry it out of sight. The custodial staff of closed and semi-closed sections, where the risk of unlawful conduct is lower, do not carry batons.

After the adoption of a new law on the enforcement of imprisonment sentences and in view of the re-codification of criminal legislation, the CPCG will reconsider, *inter alia*, the possibility to differentiate the carrying of batons by officers who are in charge of the treatment of prisoners, and will lay emphasis on a new system of internal and external differentiation of sentenced persons.

requests for information

Paragraph 40: *The CPT would like to be kept informed of the outcome of the proceedings and inquiries, as well as of any measures taken in response to the following cases:*

- a) a serious incident had occurred in June 2004, when an inmate – who had already been subdued and handcuffed – had sustained a fractured rib from being kicked by a prison officer in the area of the chest,*
- b) in February 2005, an inmate was slapped in the Ilava Prison.*

Ad a)

At around 10.45 a.m. on 5 June 2004, the court guard on duty used means of coercion against a remand prisoner in the outdoor exercise area. The prisoner in question failed to obey the guard's order to stop breaching the rules of the establishment by shouting. When the inmate was already lying on the ground and was held by two CPCG officers, the guard kicked him in the chest, causing him a fracture of the tenth rib and contusion of the chest wall. The guard violated the provision of Section 31 paragraph 3 of Act No. 4/2001 Coll. on the Corps of Prison and Court Guard as amended.

The police body of the CPCG brought charges against the guard on the grounds of abuse of authority pursuant to Section 158 paragraph 1 (a) of the Criminal Code, and bodily harm pursuant to Section 221 paragraph 1 of the Criminal Code.

The case is currently pending before the Bratislava I District Court following the indictment filed on 14 June 2005, File No. 4 Pv 588/04.

Ad b)

On 10 February 2005, a regime officer from the section for the enforcement of remand and sentence imprisonment used means of coercion (hand holds, grips, punches, and kicks of self-defence) in conformity with Section 33 paragraph 1 of Act No. 4/2001 Coll. against a sentenced inmate placed in a disciplinary punishment cell. The officer's superior evaluated the use of the means of coercion as appropriate and being in compliance with Section 44 paragraph 2 of Act No. 4/2001 Coll.

As regards the terminology used in the Report (e.g. slapping, beating), we would like to point to the translation of professional terms into English and back. According to information provided by the prison, the means of coercion that was used was a hand blow rather than the slapping as stated in the Report.

Paragraph 41: *The CPT would like to receive the following information for the period from 1 January 2004 to the present time:*

- *the number of complaints lodged of ill-treatment by staff in establishments under the authority of the Ministry of Justice and the number of disciplinary and/or criminal proceedings initiated as a result of those complaints,*
- *an account of the outcome of any such proceedings and of disciplinary/criminal sanctions imposed on the grounds of ill-treatment by staff.*

A total of 19 complaints alleging ill-treatment were filed in the period from 1 January 2004 in the establishments under the competence of the Slovak Ministry of Justice. All the complaints were investigated and found to be unsubstantiated. Consequently, no disciplinary or criminal proceedings were initiated based on the complaints.

Conditions of detention

recommendations

Paragraphs 43 and 44: *The CPT notes that as regards material conditions, there has been virtually no change to the sections revisited in Bratislava and Košice Prisons. In addition to overcrowding, the following shortcomings were observed. The CPT calls for resolute action to remedy these shortcomings; immediate measures should be taken to ensure that minors are held separately from adults (paragraph 45).*

General improvement of material conditions in the Bratislava Prison will be addressed during the reconstruction of the establishment in 2005 to 2009; the selected contractor is currently preparing design documentation for comprehensive reconstruction. Among the aims of the planned reconstruction is to substantially improve the conditions of detention by building partitioned sanitary facilities including showers in every cell, to increase the number of outdoor exercise areas, to create the premises for special-interest and sports activities of inmates in the remand imprisonment section, to create the premises for remand prisoners placed in a lighter regime, and to improve conditions for the performance of duties by the personnel of the establishment, etc. A separate room has been provided within the existing premises for special-interest activities of the inmates, and a room for physical exercise used mainly by juvenile and female remand prisoners. Technical equipment installed in the prison chapel enables videoproduction, and is used also for cultural and educational activities offered to remand prisoners in conformity with the purpose of detention.

Preparations for partitioning sanitary facilities in the cells of the Košice Prison are currently at the design stage. The CPCG will gradually deal with the issue of inadequate separation of sanitary facilities inside the cells not only in the Bratislava and Košice prisons, but also in other remand prisons. At this time, sanitary facilities are partitioned in the cells of prisons in Banská Bystrica, Ružomberok, and partly also those in Levoča, Nitra and Leopoldov.

Juvenile remand prisoners are held separately from adult prisoners in compliance with Section 11 paragraph 1 (b) of the Rules on Enforcing Remand Imprisonment. Exceptions to this rule are allowed in justified cases where it is not advisable to accommodate juveniles separately from adults, mainly because of security or health reasons. Adult remand prisoners who are exceptionally accommodated in cells with juveniles in justified cases are chosen with due emphasis on their personality characteristics and reasons for remand detention.

Isolated cases of breaching the above rules on placing the juveniles in cells in the Bratislava Prison were caused by individual staff members and cannot be considered as a systemic problem. After their superior officers considered the situation, they immediately took follow-up measures to eliminate such shortcomings.

Most metal slats placed before cell windows in the Košice Prison were removed. The CPCG will consider the need for keeping remaining metal slats and will remove them where appropriate.

Paragraph 46: *The CPT calls upon the Slovak authorities to take steps, as a matter of priority, to devise and implement a comprehensive regime of out-of-cell activities (including group association activities) for remand prisoners. The aim should be to ensure that all prisoners are allowed to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature (group association activities; work, preferably with vocational value; education; sport). The legislative framework should be revised accordingly. Moreover, the necessary steps should be taken, as a matter of urgency, to ensure that juveniles held on remand are provided with a full programme of educational activities, including physical education.*

As of now, remand prisoners may borrow books from the prison library, study relevant professional literature on an individual basis, and may use the money kept on their accounts to subscribe to daily papers, journals or order books of their choice. Remand prisoners may borrow table games, which they can play during their leisure time, or may listen to radio broadcasts in their cells. They are provided spiritual service by members of churches or religious societies recognised by the state.

Subject to the consent of the relevant law enforcement agency, remand prisoners who want to work may be allowed to do so where the prison offers such possibility.

Under the methodological guidance issued by the General Director of the CPCG (No. GR ZVJS-116-45/20-2003) in conformity with the current legislation on the enforcement of remand imprisonment, remand prisoners are allowed to have their own TV sets subject to certain conditions. The methodological guidance issued by the General Director of the CPCG (No. GR ZVJS-116-38/20-2003) provides for certain leisure-time activities and allows the performance of certain sports and special-interest activities, in particular to juvenile and female remand prisoners. Remand prisons take permanent efforts to create spatial and material conditions for special-interest activities of remand prisoners, and for sports activities both inside and in outdoor premises of prison establishments.

The issue of creating adequate programme of activities for remand prisoners is addressed also in the new draft law on remand imprisonment, which is currently considered by the National Council of the Slovak Republic in connection with the re-codification of the Criminal Code and of the Code of Criminal Procedure. The new draft law on remand imprisonment aims at introducing a lighter remand regime and proposes that remand prisoners be differentiated by categories to enable their participation in special-interest activities that can mitigate or reduce the negative impact of incarceration on remand prisoners. The implementation of adequate activity programmes proposed for all remand prisoners is conditional on the creation of adequate spatial, material and staffing conditions. After the new law has entered into effect, the CPCG will gradually create material conditions for abovementioned programmes and start with their practical implementation.

Paragraphs 47 and 48: *The CPT notes that long-term prisoners at Ilava Prison were being held in a highly restrictive solitary confinement regime for years on end. Most of them were not allowed to associate with any other prisoner, their interaction with staff was minimal, and direct contact with visitors was prohibited on the rare occasions when visits took place; further, whenever a prisoner was taken outside his cell, he was handcuffed behind his back. Such a situation is totally unacceptable; the combined impact of the impoverished regime, the lack of human contact and the systematic handcuffing could fairly be described as amounting to inhuman and degrading treatment.*

The information that has been provided to the CPT in the meantime from the Slovak authorities indicates that positive steps are being taken to address this problem. The CPT has requested certain additional information concerning this development and emphasised certain general rules that should be taken into consideration in connection with long-term imprisonment.

Paragraph 53: *The CPT recommends that the Slovak authorities redouble their efforts to revise the regime applicable to long-term prisoners, taking the remarks made in paragraphs 51 and 52 above into account, as well as the principles contained in Recommendation R (2003) 23 of the Committee of Ministers of the Council of Europe on the management of life-sentenced and other long-term prisoners.*

The section for male inmates serving extraordinary sentences (i.e. long-term or life sentences) was set up in the Ilava Prison on 1 September 1992. As of now, 13 out of 39 inmates in this category held in the section are serving life sentences. Prisoners serving extraordinary imprisonment sentences account for 8.04 % of the total of 485 prisoners held in the establishment.

In the practice of enforcing extraordinary sentences, long-term prisoners are assigned to teams or groups, in which they usually work and are accommodated. When assigning prisoners to groups, due regard is paid to keeping strongly disturbed persons with violent tendencies or persons with pronounced personality disorders separate from other prisoners. The prisoners serving extraordinary sentences are provided, as appropriate, individualised care by pedagogues, psychologists, and/or other professionals, in particular psychiatrists and social workers. Exceptionally dangerous prisoners serving extraordinary sentences are placed in single cells, where they also perform prison work and where they are locked round the clock. Cells used for enforcing extraordinary sentences are equipped with a sanitary facility, washbasin, bed, cabinet, chair, table, radio, TV set and closed-circuit TV system. In general, visitation rights of long-term prisoners are identical with those of other prisoners placed in high security category (category III) – i.e. they may receive visits of close persons once in 6 weeks for two hours; visits take place without direct contact and under direct supervision of prison guard.

The section of extraordinary sentences is independent and separated from other accommodation premises of the prison. The section has its own shower facilities, and a room for occupational activities and therapy. Each cell constitutes a self-contained unit with special security features.

The treatment of prisoners serving extraordinary sentences – except for life prisoners – was improved by offering them the possibility of staying in multi-occupancy cells with 4 inmates living and working together. The cell consists of premises for sleeping, and premises for work and leisure time activities.

At the time of CPT visit, 26 persons (out of 39), i.e. 66%, were assigned work – hand-stitching of shoes. Eight persons in the section of extraordinary sentences were considered to be unfit for any work on health grounds (psychopathologies), and 5 persons were irregularly assigned auxiliary work tasks within the section.

Treatment programmes, forms and methods of work with long-term prisoners are always individualised and based on the needs of sentenced persons, taking account of the need to ensure the safety of the staff and of fellow inmates because, but for a few exceptions, these prisoners are dangerous or exceptionally dangerous.

When carrying out their activities, the inmates must comply with the rules of the establishment and with the prison schedule. The prison schedule includes outdoors exercise (1 hour/day), shower, shopping, leisure-time activities, consultations with medical staff, individual activities with pedagogues, educators, psychologists, personal leisure time, watching TV, meals.

The treatment of prisoners serving extraordinary sentences is governed by the law on enforcement of imprisonment sentences, which lays down the means of treatment such as special educational procedures, cultural work, prison work, fixed house rules and discipline (regime) in the premises used for the enforcement of imprisonment sentences.

Special care is taken to create conditions enabling the provision of personalised care to prisoners sentenced for 15 to 25 years of imprisonment or for life, who display various psychological, social or moral pathologies and present a high risk; such care is provided in conformity with the internal regulation – Instruction on the Application of Individual and Group Forms of Treatment of Sentenced Prisoners. In the formulation of treatment programmes, the following criteria are taken into account for this category of sentenced persons:

- a) psychological – the degree of psychological personality disorder,
- b) social – seriousness of behavioural disorders and level of socialisation,
- c) somatic – health condition, disorders, defects and treatment,
- d) criminal law criteria – criminal disturbance, gradation of criminal acts,
- e) security – the level of danger for individuals and for the society.

An individual social reintegration treatment programme elaborated for every inmate in the extraordinary sentence category is updated as needed to reflect the current situation. The programme comprises activities designed to:

- a) correct the behaviour, cultivate the feeling of responsibility for one's own conduct,
- b) meaningful ways of spending leisure time performing special-interest, sports, literary activities that enable using the time in an effective manner. Assignment of work to prisoners has, besides economic benefits, also positive mental hygiene, social and moral effects, and significantly contributes to reducing the feelings of frustration and tension connected with inactivity,
- c) help maintain relations with the family and contacts with the outside world, charitable or religious organisations,
- d) educational programmes in the form of self-study, provision of spiritual or pastoral care.

Sentenced persons are allowed to perform sports or religious activities in groups. Chess and table tennis tournaments are held on a regular basis. Religious activities include baptisms or confirmation ceremonies for prisoners.

As regards the system of treatment, it includes security measures that are commensurate with the risks arising from the attitude of exceptionally dangerous inmates to the enforcement of their sentences. These prisoners present a permanent and high risk of endangering the lives or health of other persons through their uncontrollable behaviour. Where appropriate, the inmates held in the section for the enforcement of extraordinary sentences are handcuffed before being taken out of their cells. The practice of handcuffing is detailed in the Rules of the Establishment, and is in conformity with the use of the means of restraint under Act No. 4/2001 Coll. designed to protect CPCG officers and other persons from unlawful attacks. Its purpose is to prevent violent acts, and is deemed to be necessary in view of the degree of dangerousness of the prisoners who committed criminal offences of murder, some of them including during the enforcement of their imprisonment sentence.

The Corps of Prison and Court Guard has systematically paid attention to the issues connected with the treatment of long-term prisoners.

In 1996, the CPCG's General Directorate organised a specialised seminar in cooperation with the Council of Europe at Trenčianske Teplice on the enforcement of long-term imprisonment sentences under the Themis programme. The seminar presented findings on the enforcement of long-term imprisonment sentences in individual countries, and information about pedagogical and psychological aspects of long-term imprisonment.

A research into the impact of long-term exposure to imprisonment was carried out in 2000 among the prisoners serving extraordinary sentences. It brought not only relevant information concerning the attitudes and perceptions of persons serving extraordinary sentences of imprisonment, but also objective data concerning their treatment, health care provision, contacts with prison staff, demands, opportunity to work, and other aspects of enforcement of long-term sentences.

The issues related to the treatment of long-term prisoners were discussed at several meetings of the Advisory Body to the Director of the Establishment for Sentenced Prisoners and the Establishment for Remand Prisoners at Ilava; in October 2002, the Advisory Body discussed the document on “The Analysis, Characteristics, and Treatment of Persons Serving Extraordinary Sentences”. The findings and recommendations of the Advisory Body were used in the drafting of a new law on the enforcement of imprisonment sentences.

The new law on enforcing imprisonment sentences, which takes effect on 1 January 2006, introduces new provisions governing the enforcement of life sentences, and the possibility of alleviating restrictions for prisoners serving life sentences.

The new law on enforcing imprisonment sentences envisages the creation of a pre-release section also for the category of persons serving long-term sentences. In the pre-release section, prisoners will undergo intensive preparation for independent life after the release from prison and will, with the help of supervisors, be engaged in the activities designed to help their successful social reintegration. At every time, however, a high degree of security will be maintained, i.e. the movements and activities of prisoners will be closely watched.

New legislation will create the necessary conditions not only for a differentiated enforcement of extraordinary custodial sentences, but also for more intensive personalised treatment programmes. It will create conditions for performing the activities that are more effective in alleviating the negative impacts of life sentences, especially within the subgroup of inmates who are open to influence, and who have a positive attitude to the enforcement of their imprisonment sentence and to the fulfilment of prescribed obligations.

The legislation envisages the creation of two differentiation subgroups. Prisoners placed in the lighter regime will have a wider access to group activities, cultural and public education activities, special-interest activities, sports and religious activities, i.e. to interactive activities and mutual communication. This will make it possible to eliminate stress and tensions arising from restrictions on their activities. Not only will the range of activities widen, but the space for the movement within the section will also be expanded.

The category of prisoners qualified as strongly disturbed, aggressive and therefore dangerous to the staff and fellow inmates, and prisoners who breach the prescribed rules and discipline, will be placed in a stricter regime and stricter conditions, and will be engaged primarily in individual activities, always with necessary security precautions.

In addition to legislative and systemic measures outlined above, the following measures were taken as a follow-up on observations made by the CPT delegation:

1. A designated team of specialists reviewed individual risk assessments of all sentenced prisoners serving extraordinary custodial sentences; the review exercise was completed on 20 April 2005;

2. Individual re-assessment of risk, which was carried out among sentenced prisoners, resulted in the following revisions of the rules of the establishment (with effect from 1 May 2005):
 - a) handcuffing of prisoners (is used only in specified and justified cases),
 - b) the treatment of prisoners who accept the incarceration situation: it has been modified so as to apply adequate security precautions and to systematically expand the possibilities of interactive activities, especially in the area of cultural and educational work, counselling, and application of social psychology training procedures;
3. It has been decided to prepare a project for the second stage of research aimed to monitor and evaluate the impact of extraordinary sentences, with special focus on re-assessing individual behavioural risks of inmates; implementation of this project is to be included in the plan of tasks for 2006.

Paragraph 54: *The CPT recommends that outdoor exercise facilities are made sufficiently large to enable prisoners to exert themselves physically.*

At present, spatial limitations do not make it possible to enlarge outdoor exercise facilities in the Bratislava Prison. However, rooftop outdoor exercise areas that are to be created as part of the 2005 – 2009 reconstruction programme will expand the capacity of outdoor exercise facilities. The increased capacity of these facilities will make it possible to lengthen the duration of outdoor exercise and improve conditions for the programmes of active rest for the inmates. The existing outdoor exercise facilities will be adapted during the reconstruction to enable remand and sentenced prisoners to engage in group sports.

Between 2001 and 2003, all remand establishments were gradually creating conditions that would enable the inmates to exert themselves physically during outdoor exercise. At present, remand prisoners may perform basic physical exercises in the outdoor exercise areas that are equipped, as a rule, with body-building gym equipment such as high bars, benches with weights, and other equipment.

After the adoption of a new law on remand imprisonment, the CPCG will strive to create the necessary conditions that would enable remand prisoners to perform sports activities also in the outside areas, including activities requiring physical exertion. However, in this effort it will have to deal with the problem of spatial restrictions in certain remand prisons located in built-up urban areas.

requests for information

Paragraph 44: *The CPT points to bad conditions in ground level isolation cells in wing 5 in the Ilava Prison, with malfunctioning sanitary facilities and missing windowpanes. The CPT would like to receive confirmation that the other ground-level isolation cells in wing 5 at Ilava Prison are not being used, pending the necessary improvements. The CPT would also like to receive detailed information on the progress made as regards reconstruction of the disciplinary/punishment section at Ilava Prison referred to in the Slovak authorities' letter of 29 March 2005.*

Isolation cells on the ground floor of wing 5 in the Ilava prison were put out of use until the removal of the deficiencies pointed out by the CPT.

Technical measures carried out in the cells eliminated the smell of sewerage in the cells coming out through sanitary facilities. Missing windowpanes in disciplinary cells were replaced. The walls of disciplinary cells were coated with hygienic paint.

As a result of building adaptations performed in three ground-level cells of wing 5 with a view to expanding the accommodation capacities of the prison, these cells may now be used for accommodating sentenced prisoners.

Paragraph 49: *The CPT would like to receive up-to-date information regarding the legislative developments that will introduce the possibility of alleviating restrictions imposed on prisoners serving life sentences.*

The National Council of the Slovak Republic approved the new law on imprisonment sentences on 22 September 2005 with effect from 1 January 2006.

Paragraph 50: *The CPT would like to receive detailed information on the results of the first stage of the risk assessment of long-term prisoners, and the measures taken in response. Further, it would like to receive clarification as to the actual impact in practice of the revised rules concerning handcuffing.*

See the replies to paragraphs 47, 48 and 53.

Health services

In paragraph 55, the CPT notes that the health-care service of the Slovak prison system was led by a psychiatrist, who supervised a team comprising a doctor, a dentist, a clinical psychologist, a psychotherapist, three medical nurses, and a social nurse.

The body in charge of providing methodological guidance in the healthcare area is the Healthcare Department of the General Directorate of the CPCG, consisting of its director – doctor of internal medicine with specialisation in expert medical opinions, deputy director – general practitioner with specialisation in expert medical opinions, chief medical opinion specialist – general practitioner with specialisation in expert medical opinions, hygienist – hygiene and epidemiology medical specialist with expertise in occupational medicine and healthcare organisation, head nurse, and a specialist on logistics and statistics.

The findings reported in the CPT report for the Government of the Slovak Republic refer to the healthcare facility at Ilava Prison.

recommendations

Paragraph 56: *The CPT recommends that the number of nursing staff be increased and ensure that someone qualified to provide first aid is always present at the prison. It also recommends that a doctor also be present at weekends.*

All prisons have at least one doctor on duty who provides medical service during regular working hours. At all other times, medical service is provided by medical emergency and first-aid medical service. This system ensures the provision of healthcare for 24 hours a day throughout the year.

As part of extensive healthcare reforms in Slovakia, the CPCG is preparing a Concept of Healthcare in the CPCG that will address, *inter alia*, the need to ensure the provision of healthcare services to remand and sentenced prisoners by nursing staff also outside of regular working hours.

Paragraph 59: *The CPT recommends that the record drawn up after a medical examination of a prisoner, whether newly-arrived or not, contain:*

- a) a full account of statements made by the prisoner concerned which are relevant to the medical examination, including any allegations of ill-treatment made by him,*
- aa) a full account of objective medical findings based on a thorough examination,*
- aaa) the doctor's conclusions in the light of a) a aa).*

The full record should be made available to the prisoner and his/her lawyer.

Medical examinations are performed very thoroughly. All healthcare data provided by remand or sentenced prisoners during medical examination are recorded in their personal health history files. Examined persons confirm their medical history records with a signature. The examination then continues with general health checks and lung radiography. If it appears to be necessary to evaluate the dynamics of the disease, an excerpt from the civilian health file is procured.

The physician evaluates medical findings and determines whether the inmate is fit to work. Moreover, the inmate is informed in writing about the risk of diseases connected with risk behaviours, and about the legislation on healthcare fees.

Before being transferred to another establishment, inmates are examined by a health worker; if the result is negative, the health worker issues a stamped confirmation that the inmate does not display any signs of the use of force.

According to generally binding legal regulations, patients have the right to view their health documentation and to take notes.

Legal representatives of inmates may view the health documentation only with the consent of the inmate concerned.

Paragraph 60: The CPT recommends that:

- e) that all medical examinations of prisoners be conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers,*
- f) that medical examinations of prisoners be conducted without the presence of guards, that preventive examinations be ensured, and that the prisoners be provided adequate healthcare regardless of their financial resources.*

The CPCG will ensure that prison guards be present during medical examinations only in exceptional cases, and where so requested by the doctor.

Preventive and follow-up examinations are conducted in conformity with generally binding legal regulations in the same way as in the civilian population. Remand and sentenced prisoners are guaranteed healthcare services irrespective of their financial resources. Prison guards are present during medical examinations only where their presence is necessitated by reasons of safety of the healthcare personnel.

comments

Paragraph 57: The CPT invites the Slovak authorities to review the current practice of prison doctors treating both prisoners and prison staff.

According to the Decree of the Ministry of Justice of the Slovak Republic published in the Collection of Laws under No. 359 of 29 November 1996, healthcare facilities of the CPCG provide healthcare services mainly to remand prisoners, sentenced prisoners, persons who are in a service relationship with the CPCG, and persons who are in an employment relationship with the CPCG. The staffing quota of the healthcare personnel are fixed with due regard to this fact. Medical care is provided also by external doctors, mostly from clinical areas. The number of these positions for the entire CPCG is 12. According to the 2004 statistics, the number of CPCG officers or civilian employees who were examined or received treatment in that year was 25,090. The average number of doctor's visits per officer or employee of the CPCG was 5.05. Over the same period, the number of remand and sentenced prisoners who were examined or received treatment was 160,509; the average number of doctor's visits per one inmate was 17.21.

The hours at which the doctor is available for CPCG officers and staff, and the hours reserved for the inmates are posted in every healthcare facility. On the average, 25% of work hours are reserved for officers and civilian staff. If more than one doctor are working in the prison (as is the case of most prisons), healthcare is provided to remand and sentenced prisoners during 8 hours a day.

Remand and sentenced prisoners have the same rights and possibilities related to healthcare as other citizens of the Slovak Republic (Section 15 of Act No. 156/1993 Coll. on Enforcement of Remand Imprisonment as amended, and Section 11 paragraph 3 of Act No. 59/1965 Coll. on Enforcement of Imprisonment Sentences as amended). Hospital care is provided to remand and sentenced prisoners in the Hospital for Remand and Sentenced Prisoners in Trenčín with a capacity of 156 beds. Hospital care is closely coordinated with civilian hospital facilities in that town.

Paragraph 65: *The CPT recommends that current practice be reviewed (under Slovak law, juveniles held on remand may be placed in solitary confinement for up to 10 days) to ensure that it is in conformity with the foregoing remarks; the same precepts should be reflected in the new legislation on imprisonment.*

The placement of juvenile remand prisoners in solitary confinement for up to 10 days is used in practice as the ultimate means to attain the purpose of remand imprisonment in case of inmates who systematically breach the rules of the establishment and who do not respond to other, less severe disciplinary sanctions. When imposing this type of disciplinary sanction, account is taken of the seriousness of the breach of discipline, the mode of its commission, its consequences and the circumstances under which it was committed. Under the new draft legislation on remand imprisonment, juvenile inmates who take part in educational activities may continue to do so also during solitary confinement. Remand prisoners placed in solitary confinement have the right to outdoors exercise in a designated open-air area within the establishment for at least one hour a day. Similar legislation governs solitary confinement imposed as a means of disciplinary sanction on sentenced prisoners; this type of punishment is imposed only for the most serious breaches of the rules of the establishment.

requests for information

Paragraph 58: *The CPT would like to ensure that handcuffs are no longer used during medical examinations of prisoners, and that the metal rings are removed from the Ilava prison.*

The examination room in wing 5 at Ilava Prison is used only for preliminary examinations of patients and/or for prescribing medication, giving shots or changing bandages. The attending physician decides whether the patient should be taken to the prison medical office for a more thorough examination. Metal rings were removed from the walls of the examination room. To guarantee the safety of healthcare personnel, it may become necessary to use lawful means to control aggressive patients; the decision on whether the patient should be handcuffed during examination for security reasons is made by the physician.

Other questions

recommendations, comments

Paragraph 61: *The CPT calls upon the Slovak authorities to revise the relevant legal provisions in order to increase substantially the visit entitlement for remand prisoners. The objective should be to offer the equivalent of a visit every week, of at least 30 minutes duration. Further, the Committee invites the Slovak authorities to introduce more open arrangements for visits to remand prisoners.*

Under the new draft legislation on remand imprisonment, the visit entitlement is to be extended from one visit of at least 30 minutes a month to a visit of at least one hour once in three weeks. In justified cases, the prison governor will have the right to grant more frequent visits. The visit entitlement of juvenile inmates is to be extended from a visit of at least 30 minutes once in 14 days to a visit of at least one hour once a week.

The visit entitlement as proposed does not include direct contacts between the prisoners and their visitors; in justified cases, the prison governor has the right to allow visits with direct contact. The visit entitlement of remand prisoners placed in lighter regime will normally include direct contacts, i.e. more open arrangements will be created.

Paragraph 62: *The CPT recommends that the visit entitlement of long-term prisoners be significantly increased; as an immediate measure, they should be permitted at least one visit per month. Further, the Committee invites to explore the possibility of having more open arrangements for visits to this category of prisoners.*

As compared with current legislation, under which the prisoners serving extraordinary sentences are allowed to one visit of at least two hours in six weeks, the new law on enforcing imprisonment sentences gives sentenced prisoners the right to receive visitors for two hours at least once a month. No direct contact is normally allowed during the visits to persons serving life sentences, and the visits take place under direct surveillance of prison guards.

The new law on enforcing imprisonment sentences provides that the purpose of the life imprisonment sentence is not only to protect the society from further criminal activities of sentenced persons by secluding them in a prison, but also to exert a positive influence on their behaviour and stabilise their mental and physical condition. The restrictions applied to the inmates sentenced for life can be eased by means of internal differentiation, defined in the relevant provisions of the implementing regulation. Sentenced persons who consistently comply with the treatment programme and with the rules of the establishment, and who display positive tendencies concerning their attitude to crime and value orientation, may be assigned to differentiation subgroups that are entitled to the alleviation of certain restrictions normally applied to life sentences; in particular, they are allowed to move within a defined perimeter outside of their cells, to interact with other prisoners assigned to the same differentiation subgroup, to have direct contact with visitors, to take part in group activities and in selected activities organised for the establishment as a whole. The main focus is, however, on maintaining a stable psychological condition of inmates, suppressing negative behavioural manifestations, reinforcing positive personality traits, and creating a positive view of oneself and one's current life situation.

Paragraph 66: *The CPT recommends that the rules concerning means of restraint be revised, taking into account the above remarks.*

Section 31 of Act No. 4/2001 Coll. sets out the list of authorised means of restraint, and Sections 33 to 43 describe the circumstances under which individual means of restraint may be used. Striking with and using firearms within detention facilities is not possible, as it is strictly prohibited to enter prison premises carrying any weapon, and this prohibition is duly enforced. The only CPCG officers who carry firearms while on duty are those who perform guard duty (in accordance with the schedule of fixed guard positions), and officers performing escort service outside of the prison. Action detonators can be used only in exceptional cases (according to Section 40 of Act No. 4/2001 Coll., CPCG officers are entitled to use action detonators in a closed space against remand or sentenced prisoners who refuse to obey the order to surrender or to come out of the hiding). The statistics show that action detonators were not used as a means of coercion in the last 15 years. The decision on the use of action detonators can be made by the governor of the prison, and only under exceptional circumstances. Gas shock devices have not been used in the last five years, either.

The electric shock device was used in 1997 against an exceptionally aggressive inmate, and again in 2000 against the inmate who lost control over himself and brutally assaulted prison officers. Electric shock devices are not part of the standard equipment of CPCG officers. They are issued these devices only when there is a reason to fear an assault by persons they are going to present or subject to a procedure. The tear gas spray was used twice – in 2003 and 2005. Service dogs were not used as a means of coercion against inmates.

In view of these facts, the CPCG does not contemplate revising the use of the means of restraint.

requests for information

Paragraph 63: *The CPT expects to be informed of the possibility of both remand and sentenced prisoners to have telephone contacts in the new rules.*

Under the new law on enforcing imprisonment sentences and its implementing regulation, sentenced prisoners are entitled to one ten-minute telephone call a month, using the payphone located inside the prison. However, the prison governor or the CPCG officer designated by the governor can authorise a more frequent use of the telephone by sentenced prisoners in case of compelling family or personal reasons, or where it is consistent with the treatment programme. Hearing-impaired sentenced prisoners are allowed to send text messages from a mobile phone at least once a month for 30 minutes in the presence of an CPCG officer. A payphone installed in the prison may be used by the inmates who may purchase telephone cards in the prison shop. Similar provisions apply to the use of the telephone under the law on enforcing remand imprisonment and its implementing regulation, taking due account of the requirements of “collusion custody”, and subject to prior consent of the relevant law enforcement agency.

D. Social services homes

Preliminary remarks

requests for information

***Paragraph 69:** The CPT would like to receive confirmation of the transfer date of all of Velký Biel's residents to the new facilities, together with precise information concerning the capacity of those facilities, the number of residents in each facility, residents' living conditions, the various categories of staff employed and their number, and treatments and activities proposed. The CPT also wishes to receive confirmation of the date of closure of the Velký Biel Home.*

The transfer of all residents of the Social Services Home for Adults is scheduled to take place in the period between September and November 2005.

In November 2005, 55 residents will be placed in the Social Services Home at Plavecké Podhradie.

In November 2005, 54 residents will be transferred to the Báhoň facility of the Senec Social Services Home.

The creation of these two budgetary organisations was approved by Resolution No. 75/2005 of the regional parliament of the Bratislava Self-Governing Region on 21 September 2005 with effect from 1 November 2005.

Under Resolution No. 75/2005 adopted by the regional parliament of the Bratislava Self-Governing Region on 21 September 2005, the contributory organisation Social Services Home for Adults at Velký Biel, whose legal successor is the Social Services Home at Plavecké Podhradie, will be dissolved as on 31 October 2005.

The Social Services Home at Plavecké Podhradie will house 55 residents, i.e. its capacity will be used to the full; the same applies to the Social Services Home at Senec – Báhoň that will accommodate 54 residents for a capacity of 54 persons.

The newly built facilities have new and modern premises and new furnishings, and will therefore provide better and more comfortable conditions for their residents.

Thirty-five out of 55 residents of the Social Services Home at Plavecké Podhradie are immobile, and some of them are totally incapable of communication. This situation will be taken into account in the recruitment of its staff – all 40 staff members will be selected through open competition. Nineteen staff members will work in the financial management and operations section, 14 in the healthcare section, and 7 in the education and social section. The number of rehabilitation and special pedagogy personnel will be reinforced.

A similar policy will be pursued in the Social Services Home for Adults at Senec – Báhoň. Because most residents of this home are mobile and have similar psychiatric diagnoses, the emphasis will be laid mainly on increasing the number of educational personnel. The facility will also have 40 staff members.

Social services establishments are situated in pleasant surroundings, in a lovely natural setting. They are located in an ideal environment for outings, and for various therapeutical activities. In the words of some of the residents themselves, they are looking forward to the change, which they will certainly find very agreeable because the rooms are furnished with modern and tasteful furniture, social rooms are equipped with new TV sets and audiovisual technology that will be available to all residents. All rooms will have new electrically and mechanically adjustable beds that will be used as required by the health condition of residents.

The staff will meet the qualifications prescribed for their functions in the area of education, healthcare, social activities or management. The selection procedure is expected to ensure recruitment of personnel with a caring attitude for persons with disabilities, capable of creating a family-like environment. It is assumed that because of the small size of the establishments the residents will find it easier to feel like at home. This will have a beneficial impact on their treatment and on their health condition, which is the primary prerequisite for expanding the range of their activities.

Residents' living conditions and treatment

comments

Paragraph 74: *The CPT trusts that all those involved (management, staff, regional and national authorities) will continue their efforts to provide residents with adequate living conditions and proper care and treatment.*

Act No. 416/2001 Coll. on the Transfer of Certain State Administration Competencies in the Area of Social Affairs, Family and Employment Services, amending and supplementing certain other laws, granted the Bratislava Self-Governing Regional Authority the competence of a founding and decision-making body for the Social Services Home for Adults at Veľký Biel.

The CPT noted an improvement in the living conditions of residents in the Social Services Home at Veľký Biel since its last visit in 2000, mainly as regards hygienic conditions, educational methods, and a change in the staff's attitudes to residents.

In keeping with its human resource development policy, the Bratislava Self-Governing Regional Authority devotes great attention to the staff of social services establishments, with emphasis on their vocational upgrading, career and personality development.

Safeguards

recommendations

Paragraph 79: *The CPT recommends that brochures of the type used at Velký Biel be introduced in social care homes throughout Slovakia.*

The Bratislava Self-Governing Regional Authority is the founding body for 15 social services homes, 3 of them retirement homes and homes – pensions for the elderly. Each one of them has its own publicity material.

Paragraph 80: *The CPT recommends that the Velký Biel Home for disabled women (as well as other social services homes in Slovakia) be regularly inspected, as provided for by the legislation in force.*

The Social Services Department of the Bratislava Self-Governing Regional Authority carries out regular checks on social services establishments within its founder's competence. It makes new snapshots of the facilities, evaluates the quality of provided social services, performs satisfaction surveys among the residents, handles complaints from the citizens, provides professional counselling to the residents and also to the population of the region.

requests for information

Paragraph 77: *The CPT would like to receive the comments of the Slovak authorities concerning the possible conflicts of interest in connection with the appointment of the social officer of the Velký Biel Home as legal guardian for 40 residents.*

Information about the persons declared legally incompetent in connection with the appointment of a social officer as their legal guardian at the Velký Biel home was probably provided as a result of misunderstanding.

The Social Services Home at Velký Biel currently houses 109 residents. Forty of them have been declared legally incompetent. It needs to be emphasised that every one of these 40 residents has been appointed a legal guardian by a final decision of the court; legal guardian must be a natural person who meets the criteria for being entrusted this status, and is always a relative. In no case has the court appointed a social worker as legal guardian.

Paragraph 78: *The CPT would like to receive further information concerning the rationale for the apparently cautious approach of courts to the restoring of legal capacity to the residents that had been declared incompetent by a court.*

The situation in this area can also be expected to improve over time after the residents have started living in new and completely different conditions. The courts are cautious when deciding on the petitions to restore legal capacity because of their concern over the ability of the residents to make autonomous decisions. Many residents are unable to manage their financial affairs, are naïve and trust various speculators, and may be easily swindled out of their property. The residents must be taught that the situation has changed in comparison with the past, and they must learn to be cautious and responsible.

Paragraph 81: *The CPT would like to be informed of any progress made in connection with a draft new law on social services homes and to receive a copy of the new law in due course.*

The National Council of the Slovak Republic approved Act No. 305/2005 Coll. on Social and Legal Protection of Children and on Social Curatorship, amending and supplementing certain other laws, sponsored by the Ministry of Labour, Social Affairs and Family.

The Act guarantees social and legal protection of and social curatorship for children with the aim of preventing crisis situations, safeguarding the rights and legally protected interests of children, preventing the deepening and recurrence of mental development disorders in children and adults, and exacerbation of social pathologies. The Act provides for educational measures to be taken by the bodies ensuring social and legal protection of and social curatorship for children, placement of children in substitute family environment, foster care and adoption, and educational measures ensuring social and legal protection of and social curatorship for children in such establishments as children's homes, crisis centres and social reintegration centres for drug addicts.

Although the Bratislava Regional Self-Governing Authority is not the founding body for the latter establishments, it administers 5 foster-care facilities that are not legal persons and in which foster parents take care of 18 children in families, providing substitute family care. The new Act does not explicitly mention these facilities, which will continue operating until 2008.

A new law on social services that is under preparation is expected to be submitted to the Government in March 2006.

E. Psychiatric establishments

Preliminary remarks

During its visit to Slovakia between 22 February and 3 March 2005, the CPT delegation visited the Psychiatric Hospital at Veľké Zálužie and the Psychiatric Healthcare Centre at Sokolovce.

requests for information

Paragraph 84: *The CPT would like to receive clarification from the Slovak authorities regarding the fact that the Health Insurance Agency refuses to pay for extended treatments.*

The limit to the length of hospitalisation covered by health insurance has been introduced as part of the reforms in the healthcare sector. If the length of hospitalisation exceeds the limit, health insurance companies will cover hospitalisation costs only in duly justified cases, based on an agreement between the provider and the relevant health insurance company, i.e. in case of court-ordered treatment, compelling health reasons, etc.

Ill-treatment

recommendations

Paragraph 88: *The CPT recommends that the Slovak authorities develop and implement a strategy aimed at preventing inter-patient violence.*

It needs to be stressed that patients are placed in a ward for acute cases, i.e. in a closed ward, only if their health condition requires this type of hospitalisation regime; after the patients' condition has stabilised, they are transferred to an open ward. Not even the best therapy provided at the psychiatric ward can completely rule out aggressive acts against other patients or against the staff.

Notwithstanding the above, the Ministry of Health will follow upon the CPT's recommendation and will give attention to this area in cooperation with the Slovak Psychiatric Association of the Slovak Medical Society; the results of their joint assessment of the situation will be reflected and introduced in practice.

requests for information

Paragraphs 86 and 87: *The CPT requests information regarding the current health status of the 65-year-old patient or about measures taken to prevent similar incidents occurring in the future (paragraph 87).*

The CPT qualifies the situation that occurred on the day preceding the CPT visit to the Veľké Zálužie Psychiatric Hospital (the 'PH' hereinafter), when two patients collided at the entrance to the dining room and one of them was pushed and fell, as an 'incident' between a weaker patient and a patient belonging among the 'most demanding patients'.

Upon its repeated enquiries into the case, the Ministry of Health did not find any indications suggesting that patient O. O. aggressively assaulted patient V. Š., nor was O. O. found to have had any intention to cause harm to his fellow patient. When the two patients collided in the narrow door entrance area, patient V. Š., who was less stable on his feet, was pushed and fell. Before his hospitalisation at Veľké Zálužie, patient V. Š. underwent a surgery for intracranial haemorrhage at the neuro-surgical department of the Faculty Hospital with Policlinic (the 'FHP' hereinafter) in Nitra. This fact is also relevant for the case. After he fell at around 4.00 p.m. on 23 February 2005, V. Š. did not report any problems, but at 7.30 p.m. he fell unconscious. The Medical Emergency Service that was summoned transferred the patient to the FHP in Nitra. The patient was hospitalised at the anaesthesiology and resuscitation department; on 3 March 2005 he was transferred to the neuro-surgical department, and died on 4 March 2005. Consultations with the neuro-surgical department suggest that due consideration should be given to the medical aspect of the case – the patient's medical history included repeated head injuries with subsequent surgeries for treating subdural haematomas.

In spite of the fact that patient O. O. who pushed patient V. Š. was legally incompetent, the management of Veľké Zálužie PH filed criminal information. The Veľké Zálužie PH has not yet been informed of the results of the investigation.

Living conditions of patients

recommendations

Paragraph 89: *The CPT recommends that the Slovak authorities redecorate the closed section of Ward 2 at Veľké Zálužie and that the occupancy rates of this section and of the two dormitories in the closed section of Ward 3 be decreased. Further, the visual supervision of patients in Ward 3 should be improved.*

The Ministry of Health has assessed the situation in the light of the above recommendation and concluded that the acute ward at the Psychiatric Hospital at Veľké Zálužie meets relevant hygienic standards and that the premises are subjected to regular hygienic upkeep, including the painting of the entire interior; the entire sanitary system in the ward has also been overhauled.

The Ministry of Health will inform the management of the Psychiatric Hospital at Veľké Zálužie in writing of the above CPT recommendation, and in this connection will emphasise the necessity to take the steps, within the limits of the establishment's possibilities, to improve the aesthetic appearance of individual wards. The Ministry of Health will monitor the results and the fulfilment of the recommendation.

requests for information

Paragraph 90: *The CPT would like to receive more detailed information about the future of the Sokolovce Psychiatric Centre.*

During the CPT delegation's visit, the staff and patients of the Sokolovce Psychiatric Healthcare Centre (the 'PHC' hereinafter) were rather uncertain about the prospects of future existence of the healthcare facility.

In the framework of the reform and transformation of the healthcare system, the state contributory organisation Psychiatric Healthcare Centre at Sokolovce was closed on 31 August 2005 by a decision of the Slovak Ministry of Health of 26 July 2005. On 1 September 2005, the Sokolovce Centre was incorporated into the Faculty Hospital in Trnava. In harmony with the above decision, all state-owned movable and immovable assets and funds administered by the Sokolovce PHC, reflected in its financial statements as of 31 August 2005 and in the asset transfer protocol, were transferred to the Faculty Hospital at Trnava. The Faculty Hospital at Trnava took over also all the receivables and liabilities, including unknown ones, of the Sokolovce Psychiatric Healthcare Centre, as well as the receivables and liabilities arising from employment contracts of the staff of the Centre. Further procedures will take place in conformity with the approved transformation project to be submitted by the Trnava Faculty Hospital.

Treatment and care

recommendations

Paragraph 92: *The CPT recommends that steps be taken to offer more purposeful activities at weekends and in the afternoon, and that particular attention be paid to developing activities for patients placed on the male closed ward. The CPT also recommends that steps be taken to ensure that patients on Sokolovce's closed Ward 2 are offered an appropriate range of therapeutic activities 2.*

In connection with the above recommendation, the Ministry of Health has found that:

- on weekends, the patients of the Psychiatric Hospital at Veľké Zálužie have fewer visits and less intensive programmes than on weekdays,
- weekend programmes consist mostly of walks, watching the TV, table games, and some less intensive activities.

requests for information

Paragraph 93: *The CPT would like to receive the comments of the Slovak authorities on the differentiation of patients.*

The CPT stated that the patients are assigned to treatment programmes based on the territorial criterion.

This conclusion must be challenged as, in fact, patients are assigned to treatment programmes and activities according to diagnostic criteria and the actual condition of the patient rather than the “territorial criterion”.

Staff issues

recommendations

Paragraph 96: *The CPT recommends that the relevant authorities fill as soon as possible five vacancies of psychiatrist posts at Velké Zálužie, increase the number of psychiatrists at Sokolovce by to additional psychiatrists, and increase the nursing staff levels at both establishments (paragraph 97).*

Paragraph 98: *The CPT recommends that the Slovak authorities take steps to recruit more personnel qualified to conduct social therapy activities.*

The Slovak Ministry of Health will take an initiative with a view to preparing and creating conditions to optimise the staffing situation (number of physicians and nurses) in the healthcare facilities providing psychiatric care.

requests for information

Paragraph 99: *The CPT would like to receive comments from the authorities on the training opportunities offered to staff at psychiatric establishments throughout Slovakia.*

The recruitment of adequate number of staff (doctors and nurses) for healthcare establishments providing psychiatric care will improve accessibility of in-service and systematic training to healthcare personnel and their career development. The training is provided by the Slovak Healthcare University, the Slovak Psychiatric Association of the Slovak Medical Society; various training events are organised also by pharmaceutical companies.

Means of restraint/seclusion

recommendations, comments

Paragraph 106: *The CPT recommends the Slovak authorities to commission comprehensive scientific research on the use currently made of net-beds in psychiatric establishments and on possible alternative methods of managing the patients concerned.*

For as long as net-beds remain in use, the CPT recommends that measures be taken to ensure that persons placed in such beds are not exposed to the view of other patients/residents and are subject to appropriate supervision by staff.

Under no circumstances should net-beds be used as a means of economising on staff resources.

The Slovak Ministry of Health takes note of and acknowledges the proposal to commission comprehensive scientific research, but notes that it will be necessary to re-assess this issue, taking account of the existing and realistic possibilities and modalities for carrying out such research.

It needs to be specified in connection with the use of net-beds that the Ministry has prepared a methodology guideline for all relevant healthcare facilities, setting out indication criteria for using net-beds and the obligation to keep relevant records. Because the CPT delegation found that the copies of the guideline were not available to the staff of visited establishments who were not properly informed of its content, the Ministry of Health will ensure that the methodology guideline be available to healthcare personnel and/or published in the Journal of the Ministry of Health or in other media. The guideline will also include the CPT's recommendation that persons placed in net-beds be not exposed to the view of other patients and be subject to appropriate supervision by staff.

Safeguards

recommendations

Paragraph 112: *The CPT recommends that a more reliable system for informing psychiatric patients of their rights be established, such as an introductory brochure setting out the establishment's routine and patients' rights. This brochure should be issued to each patient on admission to the hospital, as well as to their families. Any patient unable to understand the brochure should receive appropriate assistance.*

The patients of the above establishments have full access to information from any field at ward community meetings, and in the community in general. They can also obtain information from the social worker who is at the patients' disposal at the ward at any time during working hours, and whom the patients often consult. The Ministry of Health will inform relevant healthcare establishments about the CPT's recommendation, namely that a system of informing psychiatric patients of their rights etc. should be put in place in the form of a brochure describing the establishment's routine and patients' rights, issued to each patient on admission to the hospital as well as to their families. In its information letter, the Ministry of Health will endorse the implementation of this CPT's recommendation.

comments

Paragraph 110: *The CPT also wishes to underline that if it is considered that a given patient, who had been voluntarily admitted and who expresses a wish to leave a hospital, still requires in-patient care, then the involuntary civil placement procedure provided by the law should be fully applied.*

Patients admitted for voluntary treatment may discontinue their treatment at any time on their request. The situation where a voluntarily admitted patient expresses a wish to leave a hospital during the treatment, although he/she still needs hospitalisation and/or in-patient care, is dealt with in conformity with Act No. 576/2004 Coll. on Healthcare, Services Related to the Provision of Healthcare, amending and supplementing certain other laws.

Paragraph 113: *The CPT invites the Slovak authorities to consider a more active role for prosecutors in connection with the control of care for the patients.*

Patients under compulsory forensic treatment may talk to prosecutors from district and regional prosecution authorities during regular control visits by prosecutors to healthcare establishments.

requests for information

Paragraph 110: *the CPT wishes to receive confirmation that voluntary patients admitted to the Veľké Zálužie and Sokolovce establishments are free to leave the closed sections (and indeed the hospital) if they so wish, and/or to withdraw the consent to treatment they have previously given.*

The Ministry of Health has assessed the situation in the above establishments and confirms that voluntary patients who wish to be released before completing the treatment are free to leave. If a patient withdraws consent to treatment, although in the psychiatrist's opinion he/she still requires treatment because of his/her psychological condition, the psychiatrist notifies the court with territorial competence for Veľké Zálužie, i.e. the District Court in Nitra, of having subjected the patient to involuntary treatment within 24 hours of such treatment, in accordance with Section 9 of Act No. 576/2004 Coll. on Healthcare, Services Related to the Provision of Healthcare, amending and supplementing certain other laws. Cases of involuntary treatment notified to the District Court are subsequently examined by an official of the District Court who comes to the hospital to verify the need for the treatment. If the District Court grants consent with the treatment, patients of the closed sections are not allowed to leave the hospital because they could be dangerous for themselves or for their surroundings.

Paragraph 111: *The CPT would like to be informed whether a patient subject to protective treatment is himself able to request, at reasonable intervals, that the necessity for his placement be considered by a judicial authority.*

The patients placed under protective treatment have the right to request, at reasonable intervals, the judicial authority to re-assess the need for their placement in the establishment. One essential and important factor for the decision-making of the court is the psychiatrist's expert opinion. The motion to terminate the treatment is lodged by a physician – psychiatrist and/or head physician of the department.

Paragraph 113: *The CPT would like to receive further and better particulars on the National Council on Mental Health and its work.*

The Ministry of Health confirms that the National Mental Health Programme was launched as a policy concept in 2004; the Plan for Implementing the National Mental Health Programme adopted by Government's Resolution No. 947 of 6 October 2004 is to be submitted to the Government in 2005. In accordance with the Resolution, the Ministry of Health created the National Council on Mental Health, comprising the representatives of individual sectors, institutions and non-governmental organisations. The National Council on Mental Health has the task of monitoring and coordinating the fulfilment of the tasks of the National Programme, monitor the legislation from the aspect of the protection of rights of persons with mental and behavioural disorders, secure the elaboration and implementation of legislative proposals related to mental health, and update, as appropriate, the tasks resulting from the Programme.

The implementation plan of the National Programme of Mental Health spreads over the period of 2005 – 2015, and one of its priorities is the protection of the rights of patients with mental and behavioural disorders.

The CPT delegation's report contained also a number of positive findings such as that they did not receive any allegations of deliberate physical ill-treatment of patients by staff and that it was thus evident that the staff had a caring and affectionate attitude towards patients and the overall atmosphere appeared to be quite relaxed. The CPT delegation's report also stressed good overall state of cleanliness and repair in the establishments concerned. According to the CPT report, no indications of over-medication were found in connection with the treatment, and psychopharmacological medication corresponded to the state of health of patients.