



CPT/Inf (2013) 17

Response

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

from 31 January to 6 February 2012

The Slovenian Government has requested the publication of this response. The report of the CPT on its January/February 2012 visit to Slovenia is set out in document CPT/Inf (2013) 16.

Strasbourg, 19 July 2013

**RESPONSE OF THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA
TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF
TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
ON ITS VISIT TO THE REPUBLIC OF SLOVENIA
FROM 31 JANUARY TO 6 FEBRUARY 2012**

Explanations provided by the Ministry of the Interior and Public Administration

Ad item 8:

The Tasks and Powers of the Police Act was published in Uradni list RS (Official Gazette of the Republic of Slovenia) no. 15/2013 on 8 February 2013, entered into force on 5 March 2013, and started to apply on 4 May 2013.

Ad item 9:

We wish to draw attention to the fact that the findings of the CPT regarding ill-treatment by police officers are based on the unilateral allegations of detainees and do not contain facts and circumstances that would make it possible to verify the truthfulness of the allegations made by detainees and to adopt appropriate measures.

There are regulations in force that specify in detail the cases in which police officers may use instruments of restraint; they give due regard for the principles of legality, humanity, proportionality and professionalism enshrined in the relevant international legal instruments.

The Ministry of the Interior and Public Administration and the management of the Slovenian Police make every effort to prevent all forms of unlawful or unprofessional conduct of police officers towards persons in police procedures. If such conduct occurs, consistent actions are taken against the police officers concerned.

We emphasise that in exercising their powers police officers use restraints only in emergency situations, and this fact is corroborated by statistics. In 2011, for example, police officers intervened in 54 564 cases of violations of public order in private and public places,¹ dealt with 18 922 alleged offenders, detained 9 946 persons and brought 5 749 persons before courts and other authorities. Instruments of restraint were only used in 4 461 cases and against 4 769 persons. In 9 792 instances, various instruments of restraint were applied; the most commonly used were instruments of constraint and mechanical restraint (in 4 433 instances) and physical force (in 4 929 instances); other types of instruments of restraint were less frequently used. Unarmed techniques were the most commonly used form of physical force, accounting for 3 823 instances. In 84.3% of all cases, police officers used the most lenient instruments of restraint, i.e. instruments of constraint and mechanical restraints and physical force, i.e. unarmed techniques, which indicate that the principle of proportionality has been observed. This is also demonstrated by the low number of inflicted bodily injuries in connection with the use of restraints and resistance to their use by offenders.² In 2011, there were 95 offenders and 124 police officers who suffered minor injuries caused by the use of instruments of restraint and attacks on police officers; two offenders and two police officers suffered serious injuries. The police succeeded in maintaining the proportion of persons who suffered injuries caused by the use of instruments of restraint at a low level (app. 1%) even though the number of attacks on police officers increased significantly; for example, in 2009 a 40.8% increase in the number of attacks on police officers over the previous year was recorded.

The CPT's recommendation that senior police management should continue to deliver a firm message (at regular intervals) that the ill-treatment of detained persons (whether of a physical or verbal nature) is not acceptable and would be punished accordingly has been continuously implemented through the

¹ This only includes the cases in which a violation was established and a repressive measure was taken (issued penalty notice, decision in expedited proceedings, accusatory instrument, etc.).

² In 2011, the offenders who attacked police officers and offered resistance used various forms of physical force such as pushing, seizing, strangling (in 1 554 instances), blows with hands and/or legs (in 348 instances); they also used various dangerous objects and weapons (poles and other dangerous objects in 47 instances, knife or other bladed weapon in 25 instances, vehicle in 17 instances, axe, hammer or other dangerous objects and tools in 15 instances, gun in three instances, incendiary object in three instances, etc.); in three cases, the offenders used objects filled with explosive substances.

regular education and training courses on the exercise of police powers, practical procedures and self-defence provided to police officers. Furthermore, police management at all three levels of the police organisation regularly reminds police officers that the ill-treatment of persons is unlawful and subject to severe sanctions. In supervising the work of the police units, particular attention is paid to the respect and protection of human rights and freedoms in police procedures.

The respect for human rights in police procedures (including the prohibition of ill-treatment) is integrated as a permanent topic in a variety of professional training programmes provided to police officers.

In addition, the guidelines and instructions for drafting the annual police work plan issued every year by the Ministry of the Interior and Public Administration pay particular attention to the respect of human rights in police procedures and place particular emphasis on the prohibition of torture.

The work of the police is supervised through the internal control; it is also supervised by numerous other institutions and bodies that ensure the impartial, thorough and efficient investigation of alleged violations of human rights and fundamental freedoms occurring in police procedures, including all forms of torture. In this context, the establishment of the Specialised Section (at present, the Department for the Investigation and Prosecution of Officials with Special Authorisations or Specialised Department) within the Group of State Prosecutors for the Prosecution of Organised Crime (at present the Specialised Office of the State Prosecutor) at the Office of the State Prosecutor General (started to carry out its tasks on 1 November 2007) was the most significant; the Department has exclusive territorial and subject-matter jurisdiction to prosecute all criminal offences committed by officials employed by the police (or other officials employed in the area of internal affairs who are vested with police powers in pre-trial proceedings, the military police who are vested with police powers in pre-trial proceedings, officials who are vested with police powers in pre-trial proceedings seconded to missions abroad, and officials of the Intelligence and Security Service of the Ministry of Defence and the Slovene Intelligence and Security Agency). This has ensured a more independent and impartial investigation of such conduct, given that it was the police that used to detect and investigate these criminal offences.

We further note that, on 20 May 2008, the National Assembly of the Republic of Slovenia adopted a new Criminal Code (KZ-1) that started to apply on 1 November 2008; its Article 265 includes 'torture' as a new criminal offence; thus, the absolute prohibition of torture enshrined in the Constitution of the Republic of Slovenia has been implemented.

Ad item 10:

Members of the Special Unit and members of the Specialised Police Unit wear identification numbers on their uniforms (police officers from the Specialised Police Unit also on their hoods), which ensure the necessary protection to the citizens claiming the rights concerning alleged violations of human rights in police procedures; every police officer has a specific number enabling his/her identification. Notwithstanding the above and when asked, a police officer must give his or her identity information in a way enabling a person to memorise or write it down. An additional safeguard ensuring the protection of the human rights is provided by the fact that the operational work of the police officers of the Special Unit and the Specialised Police Unit is directly led or monitored (controlled) by the police heads.

The exercising of complex police powers (mainly used against a large number of persons) is also documented on video tape.

Given the specific nature of tasks performed by police officers, it is possible that unwarranted or excessive interference in human rights and fundamental freedoms may occur in individual instances of the exercise of police powers. Procedures involving the use of restraints are particularly sensitive because, in order to safeguard the human rights of third parties, police officers often have to make

decisions on the spur of the moment, without the option of delaying and weighing up every single aspect of the situation. Members of the police force are aware of this and endeavour, through a raft of measures, to avoid violations of this kind as much as possible.

Ad items 13 and 14:

In Slovenia, deprivation of liberty is regulated by various acts (the Minor Offences Act, the Criminal Procedure Act, the Police Act – respectively to the new Tasks and Powers of the Police Act, the State Border Control Act) specifying that persons deprived of liberty must be immediately informed of their rights. A person actually confirms that he or she has been instructed about his or her rights by signing a decision or order on detention; a deadline for serving a decision or order on detention on a detainee, set by the aforementioned Acts, varies for different types of detention. Pursuant to Article 19 of the Constitution, anyone deprived of liberty must be informed in writing of why he or she has been deprived of liberty within the shortest possible time thereafter; to this effect, a new paragraph to Article 49 was included in the Rules amending the rules on police powers (Uradni list RS, no. 56/08); it provides that in cases where no decision or order is issued (detention terminates before a written document, i.e. a decision or order on detention, is issued to a detainee within the statutory time limit) a detainee is forthwith served on an official note on detention, which also specifies the rights of the detainee and the manner of their execution. Written information about the rights of a person deprived of liberty is handed to a person when admitted to detention premises; there is also a specially adapted information sheet for juveniles.

Police officers must ensure that the rights requested by a detainee are guaranteed whenever circumstances permit, most commonly on the premises of the police station. With regard to the above, it is understood that the time for notifying the legal counsel and the next of kin depends on the situation and does not necessarily correspond to the time the person was detained.

Pursuant to the Convention on the Rights of the Child, which provides that the leading principle in procedures involving children is the child's best interest, Article 33 of the Rules on police powers defines an exception in terms of notifying the next of kin in the event that the detainee is a child or a juvenile. If a police officer ascertains that such a notification could be contrary to the rights or interests of the child or juvenile, he only notifies a social welfare authority of the detention (for example, if the child is a victim of parental violence).

An official note drafted by a police officer pursuant to Article 49 of the Rules on police powers must clearly indicate the manner in which a person deprived of liberty can enforce his or her rights. This allows additional control of the observance and provision of detainees' rights in police procedures.

If a person deprived of liberty without a court's decision (detention) declares, after having been informed of the right to a legal counsel, that he or she would take legal counsel, the police must postpone the interrogation and other investigation activities until the arrival of the legal counsel, but for no longer than two hours from the time he or she was given the opportunity to inform the legal counsel. If a delay could be detrimental to the investigation activities, the exemption is invoked.

In light of the amendments to the Free Legal Aid Act and the note made by the CPT about it not being able to ascertain what criteria were used by the police to determine whether the appointment of an ex officio lawyer was in the interests of justice, we would like to comment as follows. The legal basis is given in Article 4(4) of the Criminal Procedure Act, providing a suspect who has been deprived of liberty is to be appointed, upon his or her request, a counsel at the expense of the state, subject to two conditions: (1) an apprehended suspect does not have the means to hire a legal counsel, and (2) this is in the interests of justice. The second condition follows Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, while the first condition is used as a criterion on the basis of which the police appoint a legal counsel to a suspect deprived of liberty, account is also taken

of the second criterion. The police appoint a legal counsel to a suspect deprived of liberty upon his or her request and subject to the aforementioned legal statutory conditions.

Ad item 15:

With regard to the provision of medical assistance, we would like to point out that it is actually guaranteed to all persons deprived of liberty from the moment of detention and regardless of their ability to pay; access to a doctor of one's own choice and at one's own cost is an additional safeguard. This right was provided under Article 44a of the Police Act and now it is provided under Article 68 of the Tasks and Powers of the Police Act and persons deprived of liberty are informed of this right in writing; this information is contained not only in the document on the deprivation of liberty prepared by a police officer and handed to a person deprived of liberty, but also in the notice received by a detainee upon his or her admission to detention premises (in the form of a copy of a brochure on the rights of persons deprived of liberty, which is translated to 22 languages); furthermore, it can also be found on a special poster displayed at the premises in which procedures with detained persons are carried out. We will verify the translation's adequacy and make appropriate changes.

Ad item 16:

Bearing in mind the fact that (in addition to verbal information) all persons deprived of their liberty are repeatedly provided with written information about the rights of persons deprived of liberty (a person confirms that he or she has been informed of these rights by signing the document on the deprivation of liberty that contains all relevant rights; by refusing to sign this document, a person can raise doubt about the correctness of the procedure or the provision of relevant information), we cannot comment on the allegations made by some persons about not being informed of their rights as these allegations are general in nature and cannot be verified. The manner in which information about the relevant rights is provided to persons deprived of liberty is described in the preceding paragraphs.

The allegation about the provision of the services of an interpreter lacks any clear reference. Pursuant to Article 62 of the General Administrative Procedure Act, persons in police proceedings have the right to use their language or the language they understand. Pursuant to Article 7 of the aforementioned Act, an authorised official must see to the use of language *ex officio*. If it is possible to communicate with a person in the proceedings in the language he or she understands, this fact must be appropriately indicated (for example, a penalty notice must contain a note 'Proceedings were conducted in English which the person concerned understood, and no interpreter was appointed'). If it is not possible to communicate with a person, the offence authority must appoint an interpreter. The interpreter is appointed by a decision and provides on-site simultaneous interpretation in minor offence proceedings. The use of a language is deemed one of the substantive violations of the rules of procedure and can be challenged by a request for judicial protection. The same applies to the pre-trial investigation.

Ad item 17:

With regard to the use of electronic recording equipment during police interrogation, we agree with the CPT observation about such equipment being a significant additional safeguard against ill-treatment during police interviews and also facilitating the investigation of any forms of alleged ill-treatment. We have prepared guidelines, and encouraged police officers to use electronic recording equipment during police interrogation to the greatest extent possible.

At the beginning of 2012, a new Manual for police interrogation was prepared; like in the Instructions on the implementation of police detention, particular attention is focused on the protection of the human rights in the procedures; the Manual specifies cases in which sound or image recording of an interview or interrogation of a suspect is recommended. Pursuant to the Criminal Procedure Act, a

lawyer must be present at any police interrogation, which provides an additional safeguard against ill-treatment of persons in police procedures.

Ad item 20:

Statistical data on complaints, disciplinary and criminal proceedings:

Complaints of violation of human dignity:

	2010	2011	2012 – 1 st half
Total	42	43	19
Justified	6	6	1
Unfounded	36	37	18
Share of justified complaints	14.3%	13.9%	5.3%

In 2010, two disciplinary proceedings were initiated for ill-treatment and for violence and violation of human dignity in police procedures. One case involved misfeasance in public office and overstepping of powers; the second case was about legal but unprofessional use of instruments of restraint. The two proceedings were discontinued on the grounds of limitation and lack of evidence. There were no disciplinary proceedings initiated for police ill-treatment in 2011 and 2012.

In the period from 1 January 2010 to 30 June 2012, the grounds for suspicion that an official employed by the police committed a criminal offence of violation of human dignity through misfeasance in public office or abuse of rights under Article 266 of the Criminal Code were found in 20 cases of alleged ill-treatment of citizens by police officers; in one case, the grounds for suspicion of a forced statement under Article 167 the aforementioned Act were established. In all cases, the police immediately informed the Department for the Investigation and Prosecution of Officials with Special Authorisations (Specialised Department) within the Specialised State Prosecutor's Office of the Republic of Slovenia of the grounds for suspicion and the Specialised Department conducted procedures in accordance with its competencies.

In 2011, three procedures of extraordinary termination of the employment contract were initiated on the grounds of ill-treatment by a police officer in police procedures and violations of human dignity. In all three cases, the decisions on extraordinary termination of the employment relationship were issued to the police officers, but were set aside as contrary to law by a second instance authority. There were no ordinary employment contract terminations on the grounds of ill-treatment by the police officers recorded in the period from 2010 to 2012; in the same period, one written warning given prior to ordinary employment contract termination was issued to a police officer for carrying out unjustified police procedure that involved a citizen who was detained, shouted at and hit in the procedure (in 2010).

Ad item 23:

In 2002, the Ministry of the Interior issued new Norms for construction, renovation and furnishing of rooms for detention, which take account of recommendations made by the CPT and the Ombudsman. No detention premises that fail to meet appropriate safety and health conditions are used by the police. Non-compliance with the equipment and natural lighting norms has been found in only some of the detention rooms and is being addressed through maintenance by the provision of appropriate artificial lighting. All deficiencies are gradually eliminated through building and technical adaptation works in individual premises.

Owing to the introduction of the external/Schengen EU border, a total of 31 facilities for detaining persons for up to 12 hours and 31 facilities for detaining persons for more than 12 hours were constructed or renovated at 19 police stations in the last five years (2007–2011).

In addition to the aforementioned new buildings and renovation works, premises in two police stations were renovated (five rooms for detention up to 12 hours); three rooms for detention up to 12 hours and one room for detention exceeding 12 hours were installed in one newly built police station in the same period (2007–2011).

Explanation of the Prison Administration of the Republic of Slovenia:

Ad item 26:

Celje Juvenile Prison and Dob Prison have considered the recommendation and re-examined their methods of work.

The CPT recommendation will be taken into account at all organisational and work levels; all prison staff will be informed accordingly.

Ad item 30:

In Dob Prison, the inmates held under the reinforced security regime participate in free-time activities, education and other programmes in accordance with their respective personal plans or according to the regime of the high-security section. The 'Regimes for inmates in Section I' is a tool prepared by the Prison; it shows that participation in education, free-time and other activities must be defined for each inmate and the respective regimes. The inmates are included in various programmes individually.

In Celje Prison and Juvenile Prison the inmates placed in a stricter regime have the opportunity to participate in education, counselling, free-time and other activities carried out by professional prison staff or external experts.

We accept the CPT's recommendation concerning further development of various activity programmes to be provided to the fullest extent to the inmates placed under stricter regime in Celje Prison and Juvenile Prison and Dob Prison. In this context, the existing activities and possibilities to improve the situation will be examined in terms of staff and spatial capacities.

Ad item 31:

We would like to explain that, pursuant to paragraph 1 and in connection with paragraph 3 of Article 8 of the Enforcement of Criminal Sanctions Act, matters relating to the placement of convicts under a reinforced security regime are decided upon in summary proceedings without hearing the parties. In these cases, urgent action is needed for security reasons and to maintain law and order in the prison.

The Enforcement of Criminal Sanctions Act does not stipulate a time limit for reviewing whether the need for separating a convict from other convicts still exists pursuant to Article 89 thereof. According to the Director-General's instruction, the need for placement under such a regime is assessed every six months, about which the prison governor must notify the Director-General. Article 6 of the Rules on the Implementation of Prison Sentences stipulates that the prison is obliged to review on a monthly basis whether the need for placement under a stricter regime still exists.

However, regardless of the legal basis for the placement of a convict under a stricter regime, prisons consider the convict on a weekly basis at a monitoring conference (Celje Juvenile Prison) or at meetings of section expert groups, and once a month at the prison monitoring conference (Dob Prison), where it is determined whether the need for placement under a stricter regime still exist.

Convicts in respect of whom a reinforced security measure has been imposed have the right to appeal this measure to the Director-General of the Prison Administration of the Republic of Slovenia (they are informed of this right in a written decision) and have the right to initiate an administrative dispute

against the decision of the Director-General before the competent administrative court (they are also informed of this right in the written decision of the Director-General).

A convict may also appeal this measure to the Human Rights Ombudsman, as well as to the ministry responsible for justice and to the president of the relevant court, which are responsible for exercising supervision of the legality of the treatment of convicts.

Ad item 34:

With regard to the CPT's recommendation that when juveniles are held in a prison for adults, they must always be accommodated separately from adults, in a distinct unit, since the risks inherent in juvenile offenders sharing accommodation with adult offenders are such that this should not occur, we would like to explain that such placement is allowed under the provisions of Article 473 of the Criminal Procedure Act if it is in the best interests of the juvenile, taking into account the juvenile's personality and other circumstances.

We would like to stress that when presenting the proposal to the court, prisons must consistently take account of the interest and benefits of the juvenile.

However, when there is only one juvenile held in Ljubljana Prison, separate placement would mean isolation and would not (always) be to the benefit of the juvenile. Since the average number of juveniles held in Ljubljana Prison is one (the maximum of three in 2012), it is extremely difficult, if not impossible, to organise special programmes for juveniles, taking into account the prison's capacity and the short duration of detention (one month as a rule). Should detention last longer, the juvenile is treated on a case-by-case basis.

Ad item 35:

Call bells are in all cells, except in a single occupancy cell, no. 66, which is located in the remand prison section where there is no connection between the call bell and the tetra terminal. Remand prisoners who perform caretaker's tasks in the remand prison section are accommodated in this cell. The prison will see to it that this connection is established.

Ad item 36:

The Prison Administration of the Republic of Slovenia has taken a number of measures to address the issue of overcrowding in Ljubljana Prison: transferring prisoners to other prisons; changing the intended use of other premises to rooms; daily monitoring of occupancy in rooms, with five being the maximum number of prisoners in a cell measuring 18 m²; relaxing regimes in the remand prison section by allowing cells to be unlocked longer so that prisoners can also have access to corridors; increasing the amount of time prisoners can spend outdoors; erecting a projecting roof to make it possible for prisoners to spend time outdoors even in less favourable weather conditions; increasing the possibilities for telephone contacts from two to six days a week; increasing the possibilities for participation in various organised activities.

Activities concerning the construction of the new facility to replace the existing premises of Ljubljana Prison continue. A substitute location has been acquired, and the project has been prepared; however, the project has not been implemented due to lack of financial resources. Over the past years, all the available resources had been used to complete the construction of two new blocks at Dob Prison, as a result of which we successfully resolved the overcrowding issue in this prison, which is the largest in Slovenia. Since there are no real prospects for securing the budget funds required for the construction of the replacement prison in Ljubljana in the near future, we are examining the possibility of implementing the project through a public-private partnership.

Ad item 37:

Ljubljana Prison will, within the limits of its capacity, strive to improve the existing programmes of activities and expand the possibilities for other activities for remand prisoners. The prison will continue to pay particular attention to juvenile remand prisoners. An important change in the second half of 2012 was a gradual relaxation of the regime. During the week, prisoners' cell doors are open from

7:30 to 11:30. During that time, remand prisoners have free access to the corridor, where they can spend time together. They are free to use the two telephones in each corridor and the bathroom for showering. This year, Ljubljana Prison has made it possible for more than half of remand prisoners to have their cell doors unlocked for 4 hours a day. The prison will continue to gradually relax the prison regime for other remand prisoners within the limits of its capacity.

Ad item 39:

We will re-examine the possibilities for installing call bells in cells, particularly as regards the provision of the necessary funds and in connection with the prison refurbishment plan. In the two new blocks, each cell is equipped with an intercom, which enables regular communication with the judicial police officer in the block or at other location.

With the two new blocks accommodating the maximum allowed number of prisoners, the occupancy rate of joint dormitories in the old blocks of Dob Prison has been reduced as much as possible. The average occupancy rate in dormitories was eight persons, with the number changing depending on the total number of prisoners.

The further implementation of the Dob Prison refurbishment project will depend on the financial resources available.

Ad item 41:

Dob Prison will continue to strive to further develop the programme of activities to ensure that all convicts have opportunities for work, training and education.

Ad item 43:

With regard to the CPT's recommendation that when juveniles are held in a prison for adults, they must always be accommodated separately from adults, in a distinct unit, since the risks inherent in juvenile offenders sharing accommodation with adult offenders are such that this should not occur, we would like to explain that such placement is allowed under the provisions of Article 473 of the Criminal Procedure Act if it is in the best interests of the juvenile, taking into account the juvenile's personality and other circumstances.

We would like to stress that when presenting the proposal to the court, prisons must consistently take account of the interest and benefits of the juvenile.

Ad item 45:

The recommendation will be taken into account within the limits of our capacity.

Ad item 46:

The management of Celje Prisons will continue in its efforts to involve more prisoners in programmes of purposeful activities; in so doing, it has all the support of superior bodies.

Ad item 47:

Female and male remand prisoners have access to outdoor exercise alternately in the larger and the smaller yard (since November 2011), which is used when it is not possible to provide access to outdoor exercise in the larger yard for all prisoners. Since the smaller yard is within the competence of the Institute for the Protection of Cultural Heritage of Slovenia, it cannot be refurbished for the time being. In case of bad weather, there is a small projecting roof at the entrance to the yard.

Ad item 52:

As of 1 January 2009, with the adoption of the Health Care and Health Insurance Act, prison clinics have been included in the public health care network, which has been the long-standing goal of the Prison Administration of the Republic of Slovenia. We can confirm that, consequently, prisoners have

been placed on an equal footing with the wider community in terms of the provision of medical treatment and that they have been guaranteed greater rights in this respect. Contracts on the provision of health care services are concluded between prisons and community health centres according to the relevant standards.

At Ljubljana Prison, a general practitioner is present 18 hours per week in accordance with the standard set by the Ministry of Health according to the number of prisoners in prisons, without taking account of the additional hours of attendance (overtime) of a general practitioner in the prison according to prisoners' actual needs or requests for a medical examination, and the urgent examinations of prisoners during weekends. In this regard, it should be emphasised that all prisoners are examined during the attendance of a general practitioner and that there are no waiting periods.

At Dob Prison, convicts have access to health care services on a daily basis, which is in accordance with the standard of the Trebnje Community Health Centre and according to the number of prisoners. When there are no general practitioners at the prison, the prison makes use of emergency medical assistance, which has proved to be a good and quick solution given the proximity of the community health centre.

We will also examine the possibilities of increasing the number of nursing staff.

We will also work towards increasing the presence of health care professionals, and would like to explain that when there are no health care professionals at prisons, first aid is performed by judicial police officers who have relevant additional knowledge and have passed an aptitude test.

The Prison Administration of the Republic of Slovenia will, in cooperation with the Ministry of Health, examine the possibilities of providing special rooms in hospitals to accommodate prisoners who are ill. This will facilitate the preservation of the confidentiality of medical examinations and treatment, and improve security conditions.

Ad item 53:

The treatment of prisoners with psychiatric disorders requiring hospital care significantly improved in the second half of 2012, when the Unit for Forensic Psychiatry of the Maribor University Medical Centre entered into service. The medical part of the treatment, including health care professionals, is provided by the unit, while security at the unit is provided by the Prison Administration of the Republic of Slovenia. Before the unit began operating, a meeting was called with all the psychiatrists from all prisons and the unit's management. The meeting focused on the psychiatric treatment of prisoners and remand prisoners during their sentence and on the adoption of several key agreements relating to the transfers of prisoners to the unit. The management of the unit, together with prison psychiatrists, has developed a communication protocol for this target group.

As of 4 June 2012, the unit has been operational and accepting patients/prisoners in respect of whom a measure of compulsory psychiatric treatment and care has been imposed, as well as sentenced prisoners and remand prisoners requiring hospital care. Judicial police officers assigned to the forensic psychiatry unit undergo additional training at the unit and are part of the expert team of the unit. At this stage, the unit has 30 beds; in the second year, the second part of the unit will open, with a total of 36 beds.

With the opening of this unit, the issue of the provision of psychiatric care to prisoners has been addressed, and we assess that, as a result, the situation of prisoners with psychiatric disorders has improved significantly. Since the unit began operating, no cases have been recorded of the unit rejecting or not admitting a prisoner with regard to whom a prison psychiatrist assessed that psychiatric care in a hospital setting was needed.

Ad item 54:

In all prisons, therapy is provided by nursing staff at a prison clinic. Nurses dispense the prescribed doses in special packages, each being marked with the name of the prisoner receiving the therapy. The duration of the therapy is specified on the package. Because of limited human resources, nursing staff is only partially present at the distribution of medicines, which is why judicial police officers are also involved in the distribution.

Ad item 56:

In the event of use of means of restraint, a convict is examined by an independent doctor, who includes his findings in the convict's medical record, which can be accessed only and exclusively by health care professionals. Independent supervisory bodies can then, in accordance with their supervisory powers, establish the actual situation and compare the findings and report of the prison with the findings of the independent doctor. If, on the basis of the convict's allegations, or an anonymous or one's own observation, there is a suspicion of ill-treatment (psychological or physical violence), the prison should inform the police, which will further investigate the case. Procedures for establishing the disciplinary responsibility of an employee are initiated independently of the police investigation.

Ad item 58:

In view of the current economic situation, the state has decided to reduce the number of public sector employees as part of the stabilisation of public finances. The Prison Administration of the Republic of Slovenia or the prison system will not be excluded from these measures. Accordingly, the number of employees has not increased, although the two new blocks have become operational. That is why internal reassignments have had to be made.

Ad item 59:

We will consider the recommendation in more detail and take it into account within the limits of our capacity.

Ad item 61:

Improving the conditions in visiting facilities at Ljubljana Prison is linked to the project of construction of the replacement prison in Ljubljana.

Ad item 62:

In amending the Enforcement of Criminal Sanctions Act, we will prepare the proposal for amending the provisions on disciplinary sanctions, which specify the duration of solitary confinement of juveniles.

Ad item 63:

In amending the Criminal Procedure Act, we will also examine the possibility of amending the provisions on the course of the disciplinary procedure for remand prisoners.

Ad Item 64:

With regard to all serious disciplinary offences, which result in prisoners being placed under a reinforced security regime, we will see to it that formal disciplinary procedures are consistently adhered to pursuant to the Enforcement of Criminal Sanctions Act.

Ad item 65:

We will examine the existing legal arrangements, and practice and bring them into line with the European Prison Rules.

Ad item 67:

We will re-examine the recommendation together with experts in self-defence and martial arts and propose that the regulations be amended so as to prohibit the use of the restraint technique with the technical means mentioned and to provide a more detailed elaboration of learning processes and the assessment of knowledge.

Ad item 68:

We believe that the placement of a prisoner in a special room is an extreme measure, which may be put in place for a specified time, and since the special room is not a resting room, we believe that mattresses do not belong in such rooms.

At Dob Prison, there has been only one case of a convict being held in a special room for more than 12 hours. For every period of isolation, a decision was issued to the convict. The convict lodged an appeal against all decisions on isolation with the Director-General of the Prison Administration of the Republic of Slovenia, which is the appellate authority for these matters. In the appeal procedure, it was established that there had been reasonable grounds for the (first) placement of the convict in a special room, but that Dob Prison had acted unlawfully by continuing to hold the convict in the special room without interruption even after the expiry of the 12-hour time limit after the (first) placement. As a result, decisions on placement in a special room that unjustifiably prolonged the placement have been set aside.

In this regard, it has been brought to the attention of Dob Prison that, under the provisions of Article 236 of the Enforcement of Criminal Sanctions Act, a convict may be kept in a special room for as long as grounds for such placement exist but for no longer than 12 hours, and that after the expiry of the maximum time limit for placement in a special room, other measures, including disciplinary measures, should be imposed with respect to the convict if grounds for such placement still exist.

Ad item 69:

The legislation does not provide that the health care staff must be notified of every placement of a convict in a special room. It provides, however, that the health care staff must be notified of the placement if a convict placed in a special room is ill or under the influence of psychoactive substances. Prisoners who are placed in a special room with the use of means of restraint are examined by a doctor, unless they refuse to be examined. We will re-examine the CPT's recommendation.

Ad item 70:

In accordance with the regulations in force, mechanical means of restraint in addition to placement in a special room may only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options fail to contain these risks satisfactorily.

In a special room, mechanical means of restraint should only be used until the purpose has been fulfilled. They should be never used as a punishment.

In the first eleven months of 2012, there were a total of 23 placements in the special room at Dob Prison, which is the largest prison in Slovenia, whereby means of restraint, i.e. handcuffing and tying, were used only in two cases.

Ad item 71:

We agree with the CPT's opinion that a practice in which prisoners would be placed in a special room without clothes while being hand- or ankle-cuffed is unacceptable and could be considered degrading treatment. That is why we have a detailed procedure in place, which all judicial police officers are familiar with: before being placed in a special room, the prisoner is examined by judicial police officers, who search for any items the prisoner might have and seize them. The prisoner who is placed in a special room is given a special suicide-proof clothing made of artificial fibres. Where the personal examination of the prisoner is not possible prior to his placement in a special room because the prisoner is emotionally extremely upset or displays aggressive behaviour, judicial police officers must carry out the examination to the extent possible in the given situation and maintain the continuous supervision of the prisoner via video surveillance or in person, and take immediate action, if necessary.

Ad item 72:

As of 2002, all prison establishments in Slovenia use vehicles that comply with the recommended standards to ensure the comfortable and safe transport of prisoners.

Ad item 73:

During transport with service vehicles, means of restraint, such as handcuffing and tying, are used only and exclusively for security reasons, mainly where there is a high risk of escape or an unpredictable attack on judicial police officers or others (victims, the judge, random persons etc.).

The prison considers each case of handcuffing individually. The restraint measure is entered in the prisoner's risk assessment, which is reviewed periodically and modified according to findings.

Ad item 75:

We accept the recommendation, and we will improve the provision of written and oral information on rights for all groups of prisoners.

Explanation by the Ministry of Health:**Ad items 77 and 78:**

The proposed Resolution on the national programme for mental health was first submitted for public debate lasting from 7 September to 15 November 2009; the second public debate on the proposed resolution was held from 6 April to 3 May 2011. Since there had been many comments from experts in psychiatry after the second debate, the Minister of Health appointed a new working group headed by the director of the largest Slovenian psychiatric hospital. Given that the text has been amended considerably, the third public debate on the proposed programme will be held in 2013. Despite the fact that the National Assembly has not yet officially approved the programme, some of the programme's important projects have begun to be implemented. Accordingly, as of June 2012, all psychiatric hospitals provide psychiatric treatment within the community, and in 2013 community psychiatric treatment will be provided by multidisciplinary teams of community health centres in four regions with poor access to mental health services compared to other regions (Krško, Prekmurje, Dolenjska, Koroška).

Ad item 79:

The Unit for Forensic Psychiatry of the Maribor University Medical Centre entered into service on 1 June 2012. It employs two psychiatrists with many years of practice and experience in the field of forensic psychiatry and a trainee in clinical psychology. It is planned that one of the psychiatrists and the clinical psychologist undergo supplementary education abroad, since education in this subspecialist field is not sufficiently developed in Slovenia. In November 2012, additional employment was provided at the unit for one occupational therapist and one social worker.

The unit also employs 24 nurses with secondary education or care technicians and 6 registered nurses. The supplementary education of nursing staff is provided by the Maribor University Medical Centre with the help of external experts.

Ad item 80:

At Maribor Psychiatric Department has been clearly and regularly drawn to the attention of nursing staff that no ill-treatment of any kind against patients could be tolerated. Training in the prevention and management of at-risk situations and in appropriate techniques for restraint of aggressive and/or agitated patients has been intensified for nursing staff. Two internal instructions were implemented: Special Protection Measures (ON 75 M5 002) and Verification procedure of Section 14 of the Rules of staffing, technical and spatial conditions of providers of psychiatric treatment and the verification procedure (ON 75 M5 001)

Ad item 84:

At psychogeriatric unit D1 patients are now dressed in pyjamas only at nights and in tracksuits during a daytime.

Ad item 87:

In Slovenia, the Expanded Professional Board of Psychiatry is the highest expert authority defining medical doctrine. For each medical field, expanded professional boards establish professional doctrine with respect to health enhancement, prevention, identification, treatment, the nursing and rehabilitation of people taken ill or injured and persons with mental and physical development disorders. An expanded professional board is the supreme and autonomous professional body within a certain field of expertise; in its decisions, it is committed to the achievements of science, professionally tested expert methods and the development of the field of expertise, while taking into account the medical interest. The opinion of the Board will be observed at amendments to the Mental Health Act (Uradni list RS, no. 77/08).

Ad item 89:

Forensic patients at the Unit for Forensic Psychiatry of the Maribor University Medical Centre are now offered daily access to outdoor activities.

Ad item 92:

The opening of the forensic psychiatric units has not had negative impact on the number of nurses in the special supervision units of the Psychiatric Department of Maribor Hospital Centre.

Ad item 98:

By way of decision no. 001-71/2011/2 of 23 July 2012, all psychiatric hospitals have been notified of the Ministry of Health's instruction regarding the use of special safeguards, which emphasises the principle of the limitation of rights to the minimum possible extent and the protection of dignity and integrity of the patient.

In Maribor Psychiatric Department intends to solve the problem of patients being exposed to other patients during the use of mechanical restraint with the reorganization and adaptation of rooms.

Ad item 99:

Mental Health Act (Uradni list RS, no. 77/08) regulates the special protection measures regardless of his/her legal status (voluntary/unvoluntary) as the ultima ratio.

Ad item 101:

In 2013, the Ministry of Health will prepare amendments to the Mental Health Act (Uradni list RS, no. 77/08) to eliminate certain shortcomings in procedures.