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Report

**to the Croatian Government
on the visit to Croatia
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 19 to 27 September 2012

The Croatian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2014) 10.

Strasbourg, 18 March 2014

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Copy of the letter transmitting the CPT's report

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Strasbourg, 26 March 2013

Dear Sir,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Croatia drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Croatia from 18 to 27 September 2012. The report was adopted by the CPT at its 80th meeting, held from 4 to 8 March 2013.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Croatian authorities to provide within **six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the authorities of Croatia to provide, in that response, reactions to the comments formulated in this report as well as replies to the requests for information made.

As regards the recommendation in paragraph 51, the CPT would like to receive **within three months** a detailed plan indicating the steps taken to ensure that all persons sentenced to a security measure involving psychiatric treatment receive the necessary care in an appropriate institution, as required by the law.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours faithfully,

Lətif Hüseyinov
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Croatia from 18 to 27 September 2012. The visit formed part of the CPT’s programme of periodic visits for 2012 and was the Committee’s fourth visit to Croatia¹.

2. The visit was carried out by the following members of the CPT:

- Wolfgang HEINZ (Head of the delegation)
- Maïté DE RUE
- Dan DERMENGIU
- Jan PFEIFFER
- Branka ZOBEC HRASTAR.

They were supported by Christian LODA and Isabelle SERVOZ GALLUCCI of the CPT's Secretariat, and assisted by:

- Clive MEUX, forensic psychiatrist, Oxford, United Kingdom, (expert)
- Kristina KRUHAK (interpreter)
- Irena MARKOVIĆ (interpreter)
- Neven PAJDAŠ (interpreter)
- Ivanka RAHJ (interpreter)
- Tanja ŽAKULA (interpreter).

¹ The CPT carried out three periodic visits to Croatia (in September 1998, in December 2003, and in May 2007). All CPT reports as well as the response of the authorities have been made public (at the request of the Croatian authorities).

B. Establishments visited

3. The delegation visited the following places of detention:

Establishments under the authority of the Ministry of the Interior

- Petrinja Police Station
- Rab Police Station
- Zagreb Police Station I Centar
- Zabreb Police Station II Črnomerec
- Zagreb Police Station IV Maksimir
- Zagreb Police Station VII Trešnjevka
- Zagreb Police Station VIII Trnje

- Zagreb Detention and Observation Unit Oranice

Establishments under the authority of the Ministry of Justice

- Zagreb County Prison
- Glina State Prison
- Sisak County Prison
- Zagreb Hospital for Persons deprived of Liberty ("Prison Hospital")

Psychiatric establishments

- Rab Psychiatric Hospital

Establishments under the authority of the Ministry of Social Policy and Youth

- "Stančić" Centre for Rehabilitation, Dugo Selo
- Zagreb Home for Mentally Ill Persons, Mirkovec Branch

C. Consultations held by the delegation

4. In the course of the visit, the CPT's delegation held talks with the Minister of Interior, Ranko OSTOJIĆ, Assistant Minister of Justice, Sandra ARTUKOVIĆ KUNŠT, Assistant Minister of Health, Marijan CESARIK, Assistant Minister of Social Policy and Youth, Darko LEDINSKI, the Deputy State Attorney, Višnja LONČAR, and the Deputy Croatian Ombudsman, Željko THŪR.

The delegation also had meetings with non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities and non-governmental organisations with which the delegation held consultations is set out in Appendix II.

D. Co-operation between the CPT and the authorities of Croatia

5. The co-operation received both from national authorities and from staff at establishments visited was very good. The delegation enjoyed rapid access to all places it wished to visit, was able to meet in private with those persons with whom it wanted to speak and was provided with access to the information it required.

The CPT wishes to express its appreciation for the assistance provided to its delegation by the liaison officer designated by the national authorities, Damir BRNETIĆ.

6. The CPT wishes to stress once again that the principle of co-operation between State parties and the Committee, as set out in the Convention, is not to be understood as being limited to steps taken to facilitate the task of a visiting delegation. It also requires that national authorities make consistent and coherent efforts to improve the situation in the light of the Committee's recommendations. In this respect, the CPT is pleased to acknowledge that concrete measures have been taken by the Croatian authorities since the 2007 visit to reinforce, from a legal point of view, the system of safeguards against the ill-treatment of persons deprived of their liberty by law enforcement agencies. However, the findings of the visiting delegation also indicate that not enough attention has been paid by the Croatian authorities to those recommendations outlined in its report on the 2007 visit pertaining to the necessity of developing a programme of purposeful activities for all inmates held at prison establishments. Further, the CPT is concerned to note that most of the recommendations regarding the safeguards surrounding the involuntary hospitalisation of civil and forensic psychiatric patients, as well as the placement, review and discharge procedures vis-à-vis residents of social care homes, have not been acted upon. The CPT urges the Croatian authorities to take the necessary steps to improve the situation in the light of the Committee's recommendations, in accordance with the principle of co-operation enshrined in the Convention.

E. Immediate observations under Article 8, paragraph 5, of the Convention

7. At the end of the visit, the CPT's delegation made an immediate observation, in pursuance of Article 8, paragraph 5, of the Convention regarding the Stančić Centre for Rehabilitation. The Croatian authorities were requested to carry out an urgent review of resort to restraint and isolation at this establishment, and to institute a multifaceted strategy so as to formalise, monitor and then substantially reduce or eradicate the use of these measures in the Centre. The delegation asked to receive the review report and the resultant detailed strategy by 11 January 2013.

The immediate observation was subsequently confirmed by letter of 11 October 2012 from the Executive Secretary of the CPT.

By letter of 7 December 2012, the Croatian authorities informed the Committee of the steps taken to date in response to the immediate observation. Those steps will be assessed later in the report.

F. National Preventive Mechanism

8. Croatia ratified the Optional Protocol to the United Nations Convention Against Torture (OPCAT) in April 2005. The Law on the National Preventive Mechanism (NPM), adopted in February 2011, mandated the Croatian Ombudsman to set up the NPM within the framework of his office and to appoint two academic and two civil society representatives to the NPM who would carry out visits to places of deprivation of liberty. However, in practice, the NPM only started to function in July 2012 once the necessary funds to finance the activities of the four members of the NPM were secured.

In the last eight months, the NPM has carried out visits to a number of prison establishments (including Zagreb County Prison and the Zagreb Prison Hospital) and psychiatric and social welfare institutions, as well as police establishments including the Police Detention and Escort Unit of Oranice in Zagreb. In July 2013, the Croatian Ombudsman will present the Croatian Parliament with the first annual report on the activities of the NPM.

9. At the outset of the visit to Croatia, the CPT's delegation held an exchange of views with the Deputy Ombudsman and the two staff members in the Ombudsman's Office who were designated to work for the NPM. The current staffing levels of the NPM, including the four above mentioned academic and civil society representatives, appear insufficient if the NPM is to fulfill its mandate effectively. Further, there was no guarantee that the recent increase in funding to the NPM would be sustained in the future.

The CPT notes that the assignment of additional tasks as NPM to the Ombudsman's Office has not given rise to any organisational changes within the Office. Instead, the two staff members concerned continued to be engaged in both the traditional Ombudsman-related tasks and NPM work. The CPT is not convinced that this is the best way to ensure an optimal functioning of the NPM in accordance with the letter and the spirit of the OPCAT. In this connection, reference might be made to paragraph 32 of the Guidelines on national preventive mechanisms adopted by the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in November 2010, according to which: "Where the body designated as the NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget".

The CPT invites the Croatian authorities to maintain, and possibly increase, the current level of funding devoted to the NPM within the budget of the Ombudsman's Office. Further, the Committee suggests that consideration be given to setting up such a separate Unit or Department within the Ombudsman's Office, to be responsible for the NPM functions.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Establishments under the authority of the Ministry of the Interior

1. Preliminary remarks

10. The legal framework governing deprivation of liberty has changed since the 2007 visit, following the entry into force of the new Code of Criminal Procedure (CCP) in July 2009. According to the new CCP², a criminal suspect apprehended by the police must be transferred to a detention and escort unit (*pritvorska jedinica*) under the authority of a custody officer (*pritvorski narednik*) within 24 hours and the overall period of detention by the police should not last longer than 48 hours³. Prior to being handed over to a custody officer, a criminal suspect may be detained for up to 24 hours in a temporary detention cell (*smještaj za zadržavanje*) in a police station. The State Prosecutor must interview the criminal suspect within ten hours of his or her transfer to the detention and escort unit.

11. At the outset of the visit, the delegation was informed by the Ministry of the Interior that the police retains the power of summons (*poziv*) directing persons to present themselves on police premises for questioning for a maximum period of six hours⁴. An official record has to be kept of this procedure, including the time of entry to and departure from the premises. Ministry officials stressed that a summons was mainly used for identification purposes and that citizens who had been summoned were entitled to access to a lawyer.

12. In July 2012, the Constitutional Court ordered the amendment⁵ of certain parts of the CCP on issues such as wiretapping of conversations between criminal suspects and their respective lawyers, or accepting, in exceptional circumstances, evidence obtained in violation of human dignity. **The CPT would like to receive in due course details of the proposed amendments to the CCP designed to conform with the Constitutional Court decision.**

13. The 2011 Law on Foreigners⁶ stipulates that foreign nationals staying irregularly in Croatia can be apprehended and held by a law enforcement agency for a maximum period of 48 hours before being transferred to an administrative detention centre.

² See Articles 109 and 110 of the CCP.

³ This period can be extended for a further 48 hours by decision of the Investigative Judge following a motion by the State Attorney, in order to collect evidence in relation to criminal offences punishable by imprisonment for twelve years or longer. However, the Constitutional court has recently declared this additional prolongation to be as unconstitutional and ordered the amendment of the legislation.

⁴ In accordance with Article 40 of the Law on Police Affairs and Duties and Article 208 paragraph 3 of the CCP.

⁵ See Constitutional Court decision of 19 July 2012.

⁶ See Article 123, paragraph 2 of the Law on Foreigners.

2. Ill-treatment

14. The vast majority of detained persons interviewed by the delegation in the course of the 2012 visit who were, or had recently been, detained by the police, indicated that they had been correctly treated. However, the delegation did receive a few allegations of physical ill-treatment by law enforcement officials; this consisted mainly of slaps to the head at the time of apprehension after having been brought under control or during questioning at police stations. Some persons met by the delegation, including juveniles, also complained that, during the process of gathering information following a summons to police premises, they had been verbally abused and had received threats of violence from law enforcement officials.

The Committee recommends that the Croatian authorities reiterate the message that all forms of ill-treatment (be they at the time of apprehension or transportation or during subsequent questioning) are absolutely prohibited, and that the perpetrators of ill-treatment and those encouraging or condoning such acts will be punished accordingly.

15. The CPT's delegation found an unlabelled item (a baseball bat) in an interview room of Zagreb IV Police Station. There is no legitimate reason for such objects to be kept in rooms used for interviewing suspects. The duty police officers acknowledged that items of property seized during criminal investigations should be entered in a separate register, properly labelled and stored in a dedicated property store. Apart from inviting speculation about improper conduct on the part of police officers, objects of this kind are a potential source of danger to staff and criminal suspects alike. **The CPT recommends that any non standard-issue items capable of being used for inflicting ill-treatment be removed from police premises where persons might be questioned.**

3. Safeguards against the ill-treatment of persons deprived of liberty

16. The CPT recalls that the fundamental safeguards against ill-treatment, namely the rights of detained persons to notify a close relative or another trusted person of their detention and to have access to a lawyer and a doctor (including of one's choice) should apply from the very outset of their deprivation of liberty (i.e. from the moment when the persons concerned are obliged to remain with a law enforcement agency). These rights should be enjoyed not only by criminal suspects, but also by all other categories of persons who are obliged to remain with law enforcement agencies for other reasons (e.g. persons summoned to attend a police station). Further, all detained persons should be informed of these rights.

The legal provisions pertaining to the above-mentioned rights have undergone some changes following the entry into force of the new CCP in 2009 and the related Rulebook on Treatment of Arrested and Detained Persons, which was adopted by the Ministry of the Interior pursuant to Article 113 of the CCP.

17. As regards notification of custody, Article 7, paragraph 2, of the CCP⁷ grants a detained person the right to have his/her family or another person of choice informed promptly of the arrest. This provision is to be welcomed and, in practice, most of the persons met by the delegation confirmed that they had been able to notify their families of their arrest. However, a few persons alleged that police officers at Sisak Police Station had stated that notification of custody to a person of their choice was conditional upon their collaboration with the police. Further, some persons stated that police officers had offered them the choice of either notifying a lawyer or a designated person. Indeed, a number of police officers told the delegation that detained persons had to make such a choice; this is certainly not a correct interpretation of the current legal provisions.

The CPT recommends that police officers be reminded that all detained persons have the right both to notify a family member (or another designated person) of their arrest and to contact a lawyer, and this as from the outset of their deprivation of liberty.

18. As already indicated, the right of access to a lawyer should be applicable as from the very outset of the deprivation of liberty. Most persons interviewed confirmed that such a right had been granted to them immediately or shortly after their arrest. However, a number of detained persons alleged that in the context of talks at a police station (following a summons issued by the police), they were not offered the possibility of contacting a lawyer before they were officially considered as suspects. The registers consulted by the delegation in different police stations did not indicate whether persons attending or brought to police premises following a summons were offered the possibility of contacting a lawyer.

The CPT recommends that the Croatian authorities take steps to ensure that all persons summoned to a police station under Article 40 of the Law on Police Affairs and Duties or Article 208 of the CCP are given the possibility of contacting a lawyer (either ex officio or of their own choice) from the moment they are required to remain in the police station.

19. The CPT's delegation also received some allegations that detained persons had not been able to have access to a lawyer named by them, as the police officers considered that their only duty was to contact ex officio lawyers from the standard list rather than to contact a specific lawyer directly.

The CPT recommends that police officers be reminded that persons deprived of their liberty by the police have the right of access to a lawyer of their own choice; if a detained person requests access to a specific lawyer, then that contact should be facilitated; the ex officio lawyer from the standard list should be contacted only if the first-mentioned lawyer cannot be reached or does not appear.

⁷ Article 7, paragraph 2, of the CCP (2) reads:

“A person arrested under suspicion of having committed a criminal offence shall be promptly informed of:

1) the reasons for his arrest in a way that he can understand,

2) that he is under no obligation to testify,

3) that he is entitled to legal assistance of a defence counsel of his own choice,

4) that the competent authority shall upon his request inform his family or another person designated by the defendant that he is under arrest.”

20. Access to a doctor for persons taken into police custody is now regulated by Article 20 of the Rulebook on Treatment of Arrested and Detained Persons. The custody officer is required to offer a medical examination to detained persons and if necessary to organise their transfer to a hospital for emergency medical assistance. The custody officer has the obligation to record in the relevant arrest protocol any step taken in relation to the medical examination of - and assistance provided to - detained persons. The delegation found that this was the case both from interviews with detained persons as well as the relevant custody registers.

The delegation also ascertained that medical assistance was arranged in practice by police officers before the transfer of the arrested person to the relevant detention unit. However, there are still no provisions explicitly addressing access to a doctor during the period of up to 24 hours prior to placement in a detention unit; **the CPT recommends that this lacuna be remedied.**

Police officers continued to be present during medical examinations taking place either at a law enforcement establishment or in a hospital. **The CPT calls upon the Croatian authorities to take immediate steps to ensure that all medical examinations of persons in police custody are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of law enforcement officials.**

21. In general, custody records, both in electronic and paper forms, were adequately kept in the police stations visited. This represented a positive development as compared to the situation observed by the CPT during previous visits.⁸ The delegation was able to verify, through the consultation of a variety of registers and forms, relevant information such as the time of admission/release/transfer of apprehended persons, as well as the application of safeguards.

22. The written form on the information on rights for apprehended criminal suspects (*pouka o pravima*) filled in at the police station does not refer to the right of a criminal suspect to inform his/her family or another person of choice of the arrest. **The CPT recommends that the form “pouka o pravima” be amended accordingly.** In contrast, the report on apprehension and transfer to a detention unit filled in by the custody officer after the transfer to a detention unit does refer to the right of the criminal suspect to notify his/her family or another person of choice as well as the confirmation of the notification (with the name of the notified person and the time of the telephone call).

⁸ See paragraph 22 of CPT/Inf (2008) 29.

4. Conditions of detention

23. With the entry into force of the CCP in 2009, the Detention and Escort Units are now the primary facilities for holding criminal suspects overnight and for stays of more than 24 hours. The detention and escort unit of Oranice served as the main law enforcement holding facility for the County of Zagreb and offered accommodation of a good standard. Each of the ten cells measured around 30 m² and was designed to accommodate up to six persons. For this purpose, they were equipped with two long plinths and mattresses/blankets. The cells had access to natural light, sufficient artificial lighting and ventilation and possessed a functioning call-bell. All cells were under CCTV supervision. Detained persons were provided with basic hygiene items and could access a shower room and toilets upon demand. However, there was no outdoor exercise facility, although it would be feasible to create one given that the detention unit is located within a large, secure police compound. **The CPT recommends that the Croatian authorities take the necessary steps to offer outdoor exercise to all persons held in police custody for longer than 24 hours.**

24. As already indicated above, persons deprived of their liberty by law enforcement officials are usually detained in police stations in temporary detention cells (*smještaj za zadržavanje*) before being transferred to the competent detention and escort unit or administrative detention centre. The temporary detention cells visited by the delegation displayed a number of shortcomings such as limited access to natural light and poor artificial lighting (at Zagreb VIII and Petrinja Police Stations respectively) and inadequate ventilation (at Zagreb VIII, VII, IV and Petrinja Police Stations). **Steps should be taken to remedy these deficiencies.**

Each of the cells was equipped with a small wooden bench and a plastic chair and could be considered as acceptable for stays of a few hours. However, some of the temporary detention cells were inadequate for use as overnight accommodation due to their limited size (e.g. a mere 4m² at Zagreb VIII and Petrinja Police Stations). Despite this, it was clear from custody registers that persons were on occasion held overnight in such cells.

The CPT recommends that the Croatian authorities take the necessary steps to ensure that temporary detention cells of less than 5m² are never used for overnight accommodation⁹ and that persons held overnight in larger temporary detention cells are provided with a mattress and blankets.

25. A number of persons met by the delegation who had recently been held in different police stations complained that they had received no food despite being held in these places for several hours. The CPT notes that in accordance with the relevant Rulebook, detained persons are offered three meals a day once they have been transferred to a detention and escort unit. Nevertheless, persons may be kept in police stations for up to 24 hours (or 48 hours in the case of foreign nationals staying irregularly), during which time they should be offered something to eat and drink at regular intervals. **The CPT recommends that the Croatian authorities take the necessary steps to ensure that persons detained in police stations for more than a few hours are provided with food.**

⁹ The Committee considers that it would be desirable for police cells used as overnight accommodation to measure 7 m².

B. Prison establishments

1. Preliminary remarks

26. The Croatian Penitentiary system has two categories of establishment: State Prisons (*kaznionica*) and County Prisons (*zatvori*). As a general rule, State Prisons should hold inmates serving a prison sentence or serving a security measure of mandatory medical treatment of an addict (pursuant to Article 76 of the CC) in addition to the prison sentence. County Prisons should accommodate remand prisoners and inmates serving criminal sentences of up to six months.

a. prison overcrowding

27. The overall prison population of Croatia has increased by 1,200 inmates to 5,400 (i.e. more than 25%) since the CPT's last visit in 2007, while the official capacity of the prison estate has risen by only some 400 places to 3,771. Overcrowding is thus becoming more acute within the prison system. The delegation observed the negative impact of prison overcrowding on many aspects of prison life in the establishments visited, notably in Zagreb and Sisak County Prisons. Originally conceived as prisons (*zatvori*) for remand prisoners and persons serving sentences of up to six months' duration¹⁰, 50 percent of the population now held in these establishments are convicted prisoners serving sentences of up to five years. At Zagreb County Prison, the resultant increase in the number of prisoners has meant, for example, that rooms previously assigned for common activities have been converted into cellular accommodation.

Recognising the ever worsening serious problem of overcrowding and the need to combat it, the Croatian Government adopted an Action Plan for the Improvement of the Prison System of the Republic of Croatia from 2009 to 2014 which envisages the construction of new prison establishments in Glina, Zagreb and Šibenik, with a combined total of 2,072 places. It also envisages a set of additional measures, such as recruiting more staff and enhancing the initial and in-service training provided to staff. The delegation visited the recently inaugurated building at Glina State Prison which can accommodate up to 420 inmates and was shown the building site of a new section of Zagreb County Prison which, once completed in 2016, will raise the capacity of the prison by 382 places. Representatives of the Ministry of Justice informed the delegation that the extension had been funded with the assistance of a loan from the Council of Europe Development Bank (CEB) and that another loan application with the CEB had been completed for the construction of the new State Prison in Šibenik with a proposed capacity of 1,270 places.

¹⁰ According to Article 49 paragraphs 1 and 2 of the Law on Execution of Criminal Sanctions.

28. These steps demonstrate a commitment by the Croatian authorities to tackle overcrowding. However, as already stressed by the CPT in its previous reports to the Croatian authorities, providing additional accommodation cannot offer a lasting solution to the problem of prison overcrowding, at least not without adopting, in parallel, policies designed to limit or modulate the number of persons sent to prison. In this respect, the Committee takes note of the efforts invested by the Ministry of Justice since 2007 in elaborating a legal framework and putting into place a probation system at the national level, which includes the possibility for State Prosecutors, Courts and Probation Offices to enlarge the scope and number of persons subject to alternative measures such as community work and protected supervision. At least 15 percent of the current convicted prison population (i.e. those inmates serving sentences of up to one year) could potentially benefit from non-custodial measures once the new Law on Probation is adopted¹¹.

The CPT recommends that the Croatian authorities pursue their efforts to combat prison overcrowding taking into account the recommendations adopted by the Committee of Ministers of the Council of Europe, in particular Recommendation Rec(99)22 concerning prison overcrowding and prison population inflation, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody and Recommendation Rec2010(01) on the Council of Europe probation rules. The Committee would like to receive updated information on the impact of the measures being taken to tackle prison overcrowding.

b. prisons visited¹²

29. The delegation visited for the first time Glina State and Sisak County Prisons, and carried out follow-up visits to Zagreb County Prison, where it focussed in particular on the application of security measures for the maintenance of order.

30. Glina State Prison, located about 70 kilometres south-west of Zagreb, is a former juvenile correctional institution which became an establishment for adult male sentenced prisoners after 1995. At the time of the visit, it was accommodating 564 male convicted prisoners, with an official capacity of 716 places¹³. The establishment includes two main accommodation blocks (one of which only entered into service in 2011), and a separate closed building for inmates with drug addictions.

Sisak County Prison, located in the centre of the city adjacent to the County Court in a three-storey building, has an official capacity of 48 prisoners but was accommodating 76 inmates; 48 convicted, 15 on remand (including one female inmate) and 13 misdemeanour offenders.

Zagreb County Prison, located in the south of the city, has an official capacity of 400. At the time of the visit, it was accommodating 910 prisoners, of whom 339 were on remand, 537 sentenced and 34 had committed misdemeanours; the inmate population included 20 adult women and three male juveniles. The prison is composed of nine cellular modules and also hosts the National Diagnostic Centre, which receives sentenced inmates from the entire country at the outset of their terms and decides on their subsequent allocation.

¹¹ The Law on Probation is currently pending in front of the Croatian Parliament for adoption and harmonisation with the new Criminal Code which entered into force on 1 January 2013.

¹² See also Section II.B.6 on the Hospital for Persons deprived of their Liberty.

¹³ As a matter of fact the operational capacity of the establishment was lower since one of the main buildings (the so called *internat*), was no longer in use with the exception of the ground floor.

2. Ill-treatment

31. The great majority of inmates met by the CPT's delegation in the prison establishments visited indicated that they had been treated in a correct and professional manner by custodial staff.

However, in each establishment, some allegations of physical ill-treatment of inmates by prison officers were received. These allegations consisted primarily of slaps and punches to various parts of the body and often related to the time when inmates were being placed in padded cells, known also as "rubber rooms" (*gumenjare*), as a temporary security measure. This practice appeared to be more prevalent at Zagreb County Prison than in other prison establishments. However, at Glina State Prison several allegations of this type were received from prisoners who had committed acts of self-injury or refused to undergo urine drug tests.

32. At Zagreb County Prison, for example, a juvenile claimed that on 7 September 2012 he was taken from his cell to the head guard's office, where the officer escorting him pushed him to the floor and delivered several blows with his hands to the juvenile's back. After complaining, the juvenile was taken first to a local civil hospital and subsequently to the Zagreb Prison Hospital, where medical staff noted the following injuries: "a contusion of the left hemi-thorax and left scapula" combined with "a visible bruise of the size of a coin on the left scapula", which according to the juvenile were caused by "the physical assault of a known person". The incident in question was recorded in the register of self-inflicted injuries at Zagreb County Prison and the supervisory judge of the Zagreb County Court had already held interviews with the juvenile in question and two other cellmates in order to clarify what had happened.

Another inmate at Zagreb County Prison alleged that, following a verbal altercation with a prison officer on 1 August 2012, concerning the apparent delay in the distribution of prescribed medication relating to his PTSD, he had been taken from his cell by a group of six prison officers and escorted to the "rubber room" of module 3. In this cell, he had allegedly been verbally insulted and had received punches and slaps to his face from the officer with whom he had had a verbal dispute. Subsequently, handcuffs were placed on his wrists and ankles and the cuffs were secured with a metal chain that was attached to a leather belt placed around his waist. The relevant register confirmed that he spent the following 46 hours restrained in this way, apart from short meal breaks three times a day. He claimed that at the end of his placement in the "rubber room", he was also forced to write a formal apology addressed to the officer with whom he had had the verbal altercation. The inmate had filed a written complaint with the Zagreb Municipal Prosecutor but had not yet received any response.

The CPT recommends that the Minister of Justice and Director General of Prisons deliver a firm message to all prison staff reminding them that both physical ill-treatment and verbal abuse of prisoners are not acceptable and will be punished accordingly.

The Committee would also like to be informed of the outcome of the investigations into the two cases described above.

As regards more generally the security measure of placement in a "rubber room", this is dealt with in a later section (see paragraphs 53 to 59).

33. In the course of the 2012 periodic visit, the CPT's delegation heard some allegations of inter-prisoner violence and/or intimidation at Glina State and Zagreb County Prisons and, to a lesser extent, at Sisak County Prison. In general, inmates stated that prison staff intervened in a timely and appropriate manner to prevent the escalation of incidents of inter-prisoner violence and to provide the necessary health care, if required; the relevant registers and documentation supported these assertions. However, inter-prisoner intimidation appeared to be particularly prevalent in module 4 of Glina State Prison, which was accommodating inmates on drug substitution therapy and where conflicts related to the alleged manipulation and trafficking of suboxone among inmates were apparently common.

The Committee recommends that increased attention be given to the problem of inter-prisoner intimidation in module 4 of Glina State Prison. The CPT trusts that the Croatian authorities will vigorously pursue their efforts to combat the phenomenon of inter-prisoner violence at Zagreb County Prison and other establishments visited.

3. Conditions of detention of the general prison population

a. material conditions

34. Material conditions of detention were, on the whole, good in the newly inaugurated accommodation block of *Glina State Prison*; cells were suitably equipped, appropriately ventilated and had sufficient artificial lighting and access to natural light. The conditions in the original accommodation block (the so-called "*internat*") were less favourable, with cells in a poor state of repair and lacking adequate access to natural light. Several inmates who had been held in the "*internat*" previously, referred to the frequent presence of rats in the cells. That said, at the time of the 2012 visit, only the ground floor of the original block was in service. Conditions in the building housing module 4, accommodating inmates on substitution therapy, were generally austere and had poor access to natural light; further, some showers were not functioning properly.

Zagreb County Prison, operating at more than double its official capacity, was marked by the deleterious effects of overcrowding. That said, cells were in a decent state of repair, well-ventilated and had adequate artificial lighting. However, those cells of modules 1, 4 and 7 overlooking the courtyards had metal shutters placed in front of the windows which restricted to a great extent access to natural light. Further, the sanitary annexes in most cells were only semi-partitioned and inmates complained about the lack of privacy and conditions of hygiene. Indeed, the delegation found that the situation remained identical to that described in the Constitutional Court decision U-III-4182/2008 (see paragraph 36 below).

At *Sisak County Prison*, efforts were being made to maintain the establishment in an adequate state of repair and hygiene notwithstanding the level of overcrowding (see paragraph 35), although the delegation noted the presence of cockroaches in at least two cells. Cells were generally equipped with bunk-beds, chairs, a table and a fully partitioned sanitary annexe, and ventilation was adequate. However, not all windows provided adequate access to natural light; four cells in particular, located on the northern side of the prison, had extremely limited access to natural light as the wall of the police headquarters abutted the prison. Further, inmates in these four cells told the delegation that the temperature on hot summer days was increased by the air emanating from the air conditioning unit situated on the police headquarters building directly outside their windows.

The CPT recommends that steps be taken to improve the material conditions in the light of the above remarks. In particular,

- at Glina State Prison, the conditions should be improved in those cells which remain in use in the so called “*internat*”;
- at Zagreb County Prison, the sanitary annexes should be fully partitioned to the ceiling and the metal shutters on windows in modules 1, 4 and 7 overlooking the courtyards should be replaced by alternative security devices of an appropriate design which permit adequate access to natural light;
- at Sisak County Prison, access to natural light and ventilation should be improved in the cells, in particular those located on the northern side of the prison.

35. As already indicated above, overcrowding at Zagreb County Prison was particularly acute, with standard cells of some 21 m² accommodating six or seven prisoners (and occasionally eight). There were also two smaller cells in each module measuring 7 m², originally conceived for single use, which were accommodating two inmates at the time of the visit. Further, at Sisak County Prison, cells measuring 10 m² were generally accommodating four inmates, while the three larger cells measuring 27 m² were holding up to eight prisoners at the time of the visit. Such occupancy levels not only fall below the standards recommended by the CPT but also fail to respect the legal requirements laid down in Article 74, paragraph 3, of the Croatian Law on the Execution of Criminal Sanctions.

The situation was more favourable, but still failed to meet the standards laid down in Croatian law, in the new block at Glina State Prison, as well as in Module 4, where cells measuring 21m² were accommodating up to six prisoners.

36. The CPT has taken note that the Constitutional Court found on 17 March 2009 that detention conditions at Zagreb County Prison “*in their totality constitute demeaning treatment and violated the applicant’s constitutional rights guaranteed in Articles 23 and 25 paragraph 1 of the Constitution, and also Article 3 of the European Convention*”. In the same decision it also instructed the Croatian Government to increase within five years the capacity of Zagreb County Prison in accordance with the standards set by the Council of Europe¹⁴.

The CPT recommends that the Croatian authorities take steps to reduce cell occupancy levels in all the prisons visited (as well as in other prisons in Croatia), so as to provide for at least 4 m² of living space per prisoner in multi-occupancy cells; for this purpose, the area taken up by any in-cell sanitary facilities should not be counted. Further, the smaller cells at Zagreb County Prison should not accommodate more than one person.

¹⁴ It was this decision which prompted the recent agreement between the Government of Croatia and the Council of Europe Development Bank for a 36 million EUR loan for the expansion of the same establishment.

b. activities

37. In all the establishments visited, sentenced and remand prisoners were offered two hours of outdoor exercise per day as provided for by Article 14 of the Law on Execution of Criminal Sanctions.

However, at Sisak County Prison, the workers engaged in the kitchen and food distribution complained to the delegation that as their allotted exercise period coincided with their working hours, they were not offered any outdoor exercise. **The CPT recommends that steps be taken to ensure that these prisoners do enjoy outdoor exercise.**

Further, the fenced courtyard (measuring some 100 m²) at Sisak was too small to provide up to 15 inmates with the possibility for meaningful outdoor exercise. Alternative arrangements should be considered in order to reduce the number of inmates in the exercise yard at any given time.

38. Sentenced prisoners in all the three establishments visited were provided with an individual sentence plan and were periodically graded by a multidisciplinary board, which theoretically permitted them to access work and vocational activities depending on their grade. However, in reality many of them did not benefit from such activities.

At *Glina State Prison*, 142 sentenced inmates (i.e. some 25 percent of the inmate population) were engaged in remunerated work at the time of the visit (metalwork, printing and graphic design, gardening, kitchen and laundry), and 35 were attending educational courses (literacy and primary school). Another 77 prisoners were involved in vocational training with a focus on re-socialisation, such as computer literacy, kitchen assistance and locksmithing activities. Various sports activities including football, basketball and volleyball tournaments were also on offer, as were music and arts workshops. Nevertheless, the information gathered revealed that half of all sentenced prisoners were not involved in any regular meaningful activity.

The regime of the 62 inmates accommodated in module 4 consisted of two hours of outdoor exercise per day in a small fenced courtyard and occasional access to the main sports facility of the prison. They complained that they could not access any of the vocational or recreational activities on offer, nor were they allowed to work. The CPT must stress that the mere fact that they were on a programme of suboxone therapy (see paragraph 62) should not exclude them from being offered meaningful activities.

At *Sisak County Prison*, 16 sentenced inmates (i.e. one third of the convicted population) had a remunerated work activity of some sort at the time of the visit (kitchen, library, shop, cleaning and maintenance work). Otherwise, no activities were provided.¹⁵

At *Zagreb County Prison*, only 146 sentenced prisoners (i.e. around one fourth of the convicted inmate population) were engaged in remunerated activities (kitchen, laundry, canteen, maintenance work). Approximately 25 sentenced inmates participated in the drama and music section and both sentenced and remand prisoners (although not female inmates) were offered access for one hour a week to the indoor basketball court. However, the adjacent gym was used only by prison staff.

¹⁵ A small common room equipped with an old computer was in theory available once a week for wood-carving and a computer literacy course, but was in practice used by only one inmate.

39. Remand prisoners at Zagreb and Sisak County Prisons spent 22 hours per day locked up in their cells and were not provided with any kind of organised activity, save the one hour per week of access to the indoor basketball court for remand prisoners at Zagreb County Prison.

40. In sum, for nearly all the remand prisoners and the majority of the sentenced prisoners in the establishments visited, regular out-of-cell activities were limited to two hours of outdoor exercise per day.

The CPT wishes to emphasise that a satisfactory programme of activities (such as work, vocational training, education, sport or recreation/association) is of crucial importance to the well-being of prisoners. This is the case for both sentenced prisoners and inmates awaiting trial. The objective should be to ensure that remand prisoners are able to spend a reasonable part of the day outside their cells, engaged in purposeful activities of a varied nature. Regimes for sentenced prisoners should be even more favourable with a view to preparing them for reintegration into the community.

The CPT calls upon the Croatian authorities to improve the programme of activities, including work and vocational training opportunities, for prisoners at Glina State Prison, Zagreb and Sisak County Prisons and, where appropriate, at other prisons in Croatia. As regards more particularly inmates undergoing substitution therapy at Glina State Prison, they should be provided with access to a set of vocational and remunerated activities adapted to their specific health and behavioural profile.

Further, the CPT invites the Croatian authorities to consider extending the period of outdoor exercise, until such a time as a programme of meaningful activities is put in place.

41. The three juvenile offenders held at Zagreb County Prison at the time of the visit were being accommodated temporarily in the establishment for the purposes of court proceedings. They were sharing a cell located in one of the modules for remand prisoners. They were offered no meaningful activities and spent 22 hours per day locked in their cell. This is unacceptable.

While a lack of purposeful activity is detrimental for any prisoner, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation. For this reason, regardless of their period of detention in a given establishment, juvenile offenders should be offered a full programme of education, sport, vocational training, recreation and other purposeful activities. Physical education should constitute an important part of that programme.

The CPT recommends that the Croatian authorities take immediate steps to provide all juveniles temporarily accommodated at Zagreb County Prison with a full programme of purposeful activities.

42. Female prisoners, both sentenced and on remand, who were accommodated in module 10 of Zagreb County Prison, were confined to their cells for 22 hours a day with no meaningful activities to occupy their time. Unlike male inmates, they could not even enjoy weekly access to the indoor basketball court; further, they had to take their outdoor exercise in the parking lot for transport vehicles.

The Committee recommends that the Croatian authorities take immediate measures in order to allow female prisoners access to a properly dedicated exercise yard as well as the basketball court. Further, the recommendation made in paragraph 40 concerning the programme of activities applies equally to female prisoners.

c. National Diagnostic Centre in Zagreb County Prison

43. The National Diagnostic Centre (NDC), located within Zagreb County Prison but under the direct authority of the Prison Administration, was accommodating 143 inmates at the time of the visit (for a capacity of 132 places). The Centre is entrusted with the evaluation of all sentenced prisoners at the national level and their allocation to a prison establishment. The material conditions in the Centre were the same as those described above (see paragraph 34) in relation to the rest of Zagreb County Prison.

44. The assessment of a sentenced prisoner by a team of psychologists, lawyers and social pedagogues lasted on average between four to six weeks, and focussed on designing an individual rehabilitation programme as well as on the formulation of recommendations as to the inmates' regime. However, the staff of the NDC told the delegation that due to prison overcrowding at the national level, the evaluation by the centre has a limited impact on the placement decision of an inmate or on his/her individual programme.

The CPT would like to receive the observations of the Croatian authorities on ways of enhancing the impact in practice of the assessment made by the National Diagnostic Centre, in the light of the above remarks.

4. Health-care services

a. access to health care

45. Inmates with health-care related problems were generally treated at the infirmary of the respective establishment and, in case of need of specialised treatment or urgent intervention, they would be transferred to the Prison Hospital or a local civil hospital. At Zagreb County Prison, the health-care service consisted of two full-time general practitioners, two full-time dentists, one full-time psychiatrist, nine nurses and one pharmaceutical technician. Such staff resources would be satisfactory if the establishment was operating within its official capacity of 400 inmates. However, for an inmate population of more than 900 (including a large remand population with a large turnover), both the hours of attendance of the general practitioner and the number of nurses were insufficient. On a more positive note, specialist doctors from the Prison Hospital regularly visited the establishment for consultations as required. There was also good co-operation with several civilian hospitals in Zagreb.

The health-care staffing complement at Glina State Prison consisted of a part-time doctor from Sisak hospital visiting the prison twice a week for a couple of hours each time. While acknowledging that the present arrangement is supposed to be a temporary measure, the CPT must stress that the presence of a doctor for four hours per week is totally insufficient to meet the health-care needs of an inmate population of some 560 persons. Likewise, the nursing complement of seven nurses is inadequate. An external psychiatrist visited the establishment twice a month; this was also not sufficient to meet the demand for psychiatric care among the inmate population (see also paragraph 51).

At Sisak County Prison, one nurse was present on weekdays from 7 a.m. to 3 p.m. and a doctor from the Zagreb Prison Hospital visited the establishment twice a week. Further, inmates requiring psychiatric treatment (including three under a security measure of compulsory psychiatric treatment) were transferred once a week to Zagreb Prison Hospital for consultations. These arrangements can be considered sufficient given the size of the inmate population.

The CPT recommends that the Croatian authorities take the necessary steps to strengthen the health-care services:

- **at Zagreb County Prison, by recruiting a third general practitioner as well as additional nurses, including at least one mental health nurse;**
- **at Glina State Prison, by immediately recruiting the equivalent of at least one full-time general practitioner, recruiting additional nurses and increasing the hours of presence of a psychiatrist.**

46. In terms of material equipment, the infirmary at Zagreb County Prison (composed of a consultation room, a pharmacy and a dentist's examination room) was in an adequate state of repair, except for the dentist's chair which needed to be replaced urgently. At Glina State Prison, the health-care facilities had been renovated recently and were satisfactory. However, at Sisak County Prison, the infirmary consisted of a room measuring 2.5 m², which is totally inadequate to meet all the needs involved (consultation, treatment, pharmacy, archives).

The CPT recommends that a new dentist's chair be purchased at Zagreb County Prison and that suitable premises be found for the infirmary at Sisak County Prison.

- b. medical screening, recording of injuries and confidentiality

47. As regards medical screening upon admission, new inmates were generally seen by a nurse/doctor within two days of arrival at Zagreb and Sisak County Prisons and four days at Glina State Prison. This is not adequate. It is a matter of vital importance that all prisoners are medically screened as soon as possible after their admission to prison; save for exceptional circumstances, the interview/examination should be carried out on the day of admission, especially insofar as remand establishments are concerned. Such screening should be performed by a doctor or a fully qualified nurse reporting to a doctor.

The CPT recommends that the arrangements for medical screening upon admission be revised accordingly at Glina State, Sisak and Zagreb County Prisons, and if necessary in other establishments.

48. Further, in contrast to the situation found during the 2007 visit, the recording of injuries was not being carried out properly. In 2012 the delegation observed that when injuries were recorded in a prisoner's medical file, there was no accompanying account of statements made by the prisoner concerned nor was there any conclusion by the doctor. And, in none of the prisons visited was there a register on traumatic injuries. It should also be noted that medical staff at Zagreb County Prison stated that there was no formal obligation for them to take the initiative to inform the prison director or the judicial authorities of any injuries observed on detained persons upon admission which were indicative of ill-treatment.

49. As the CPT has stated previously, health-care services in remand establishments can make a significant contribution to the prevention of ill-treatment by the police, through the systematic recording of injuries and, if appropriate, the provision of information to the relevant authorities. Any signs of violence observed when a prisoner is being medically screened on his/her admission to such an establishment should be fully recorded, together with any relevant statements by the prisoner and the doctor's conclusions. The same approach should be followed whenever a prisoner is medically examined following a violent episode within the prison.

The CPT recommends that the Croatian authorities ensure that the record drawn up after the medical examination of a prisoner, whether newly-arrived or not, contains:

- (i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);**
- (ii) a full account of objective medical findings based on a thorough examination;**
- (iii) the doctor's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.**

The record should also contain the results of additional examinations performed, detailed conclusions of any specialised consultations and an account of treatment applied for injuries and of any further procedures conducted.

Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with "body charts" for marking traumatic injuries that will be kept in the medical file of the prisoner. If any photographs are made, they should be filed in the medical record of the person concerned. In addition, documents should be compiled systematically in a special trauma register where all types of injuries observed should be recorded.

Further, the CPT recommends that existing procedures be reviewed in order to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the relevant public prosecutor, regardless of the wishes of the prisoner. The results of the examination should also be made available to the prisoner concerned and his or her lawyer.

50. The CPT was pleased to note that its previous recommendations in relation to medical confidentiality have been implemented, notably that prison officers were no longer present during medical examinations of prisoners. However, the distribution of medicines to inmates (including of substitution therapy) at Sisak County Prison was performed exclusively by prison officers. The CPT wishes to underline that the distribution of medicines by untrained individuals may be harmful and, in any event, it is in principle incompatible with the requirements of medical confidentiality.

The CPT recommends that the necessary steps be taken at Sisak County Prison in order to ensure that the distribution of medicines (including substitution therapy) is performed solely by health-care staff.

c. psychiatric care and drug-related issues

51. The CPT's delegation found that a certain number of prisoners subjected to a security measure of compulsory psychiatric treatment under Article 75 of the Criminal Code were not accommodated in the Prison Hospital, as they ought to have been¹⁶. Instead, they were held in prison establishments, in which the mental health care was minimal, with no full-time psychiatrist and no team of mental health nurses. For example, three inmates at Sisak County Prison had to be transferred twice a month to the Prison Hospital in Zagreb for psychiatric consultations and treatment. Further, some of the 16 inmates at Glina State Prison subjected to a security measure complained that they could not arrange regular consultations with the visiting psychiatrist due to the long waiting list of other prisoners for a consultation. The CPT is aware of the difficulties currently faced at the Zagreb Prison Hospital (see paragraph 76); however, it remains the case that it is the duty of the State to provide the necessary care and treatment to inmates who are the subject of a security measure under Article 75 of the Criminal Code.

The CPT recommends that the Croatian authorities take urgent steps to ensure that all persons sentenced to a security measure involving psychiatric treatment receive the necessary care in an appropriate institution, as required by the law. The Committee would like to receive within three months a detailed plan indicating the steps taken in relation to the above mentioned recommendation.

¹⁶ See Article 20 paragraph 4 of the Law on Execution of Criminal Sanctions.

52. The 2008 amendments to Article 140 of the Law on Execution of Criminal Sanctions eliminated the possibility of hand- and ankle-cuffing of inmates refusing to be tested for illicit or psychoactive substances, alcohol and transmissible diseases, as recommended by the CPT in its report on the 2003 visit. However, at Glina State Prison, the delegation found that in two instances in March and June 2012, two inmates had been placed by prison officers in a “rubber room” for periods ranging from one to two hours due to their refusal to undergo urine testing for illicit substances. In one case, the relevant register examined by the delegation confirmed that the inmate had been placed in the “rubber room” *“for the time required to take a urine test”*. Article 140, as amended, of the Law on Execution of Criminal Sanctions would appear to forbid the application of any security measure on an inmate refusing to undergo a urine test, including placement in a “rubber room”. **The CPT would appreciate the observations of the Croatian authorities on this matter.**

5. Other issues

- a. placement in a room without dangerous objects and the security measure of immobilisation with handcuffs

53. Security measures¹⁷ were applied in all the prison establishments visited. In principle, their purpose was to contain over-agitated and violent inmates and to prevent the escalation of any incidents, as well as to prevent acts of self-harm. The measures included placement in a room devoid of dangerous objects (i.e. a padded cell, known also as “rubber room” or *gumenjara*) and immobilising a prisoner with handcuffs.

At Zagreb County Prison, there were three such “rubber rooms”, each of which measured 10m², was covered with padded walls and floors and had an air conditioning system. They lacked access to natural light and none of them possessed a call-bell. There was a small aperture in the cell door through which staff periodically monitored the inmate’s situation.

The three “rubber rooms” at Glina State Prison, in the special security and isolation department on the ground floor of the new building, were of the same size and design as those at Zagreb County Prison. At Sisak County Prison, the single “rubber room” measured 9m² and enjoyed direct access to natural light through a ceiling window.

The CPT recommends that the cells used at Glina State, Sisak and Zagreb County Prisons for the measure of placement in a room devoid of dangerous objects be refurbished to ensure that they all have access to natural light and are equipped with a call-bell.

¹⁷ Article 135 of the Croatian Law on the Execution of Criminal Sanctions provides for the following security measures: 1) increased supervision; 2) seizure of objects allowed under normal circumstances; 3) separation from other inmates for a maximum period of 30 days; 4) placement in a room without dangerous objects; 5) placement in an increased supervision department; 6) immobilisation with handcuffs; 7) solitary confinement for a maximum period of three months authorised by the supervisory judge.

54. At Zagreb County Prison, in the course of 2012, the measure of placement of an inmate in a “rubber room” had been applied 68 times, 49 of which had been for a period in excess of 40 hours (including two consecutive nights). Among the reasons for placement of inmates in “rubber rooms”, the notes in the official registers referred to “refusal to obey orders” and “violation of house rules”; these are clearly disciplinary offences.

Further, according to the registers, placement in a “rubber room” was always combined with two additional security measures (i.e. “increased supervision” and ankle- and wrist-cuffs). All inmates met by the delegation who had been subjected to placement in a “rubber room” confirmed that they had been ankle- and wrist-cuffed during the whole placement period (ankle- and wrist-cuffs were attached together by a metal chain passing through a leather belt around the waist of the inmate). Such a state of affairs contravenes Article 138, paragraph 2, of the Croatian Law on the Execution of Criminal Sanctions, which allows for handcuffing of an inmate as a security measure *for a period not exceeding 12 hours per day*.

Several inmates also claimed that they had been placed in the “rubber room” in their underwear and that staff had turned the air-conditioning to cold. Such a situation, if confirmed, would amount to degrading treatment.

55. At Glina State Prison, the measure of placement of an inmate in a “rubber room” had been applied ten times in the first nine months of 2012, three of which had lasted more than 48 hours, according to the registers. Unlike at Zagreb, the measure was not always combined with additional security measures, such as immobilisation with handcuffs. Prison staff at Glina State Prison had resorted twice to such placement over the preceding two months with the aim of persuading recalcitrant inmates to provide urine for drug tests (see also paragraph 52).

56. Placement of inmates in a “rubber room” was generally ordered by prison officers and later communicated to the director. A doctor had to confirm within six hours whether the inmate was fit to undergo such a placement (as provided for by law). Further, medical checks took place every 24 hours, and prison officers were obliged to monitor the situation of the inmates every two hours. Registers consulted by the delegation confirmed that this was done.

All the prisoners who had been subjected to the additional measure of cuffing while in the “rubber room” stated that they had been uncuffed in order to eat their meals on a table in the corridor before being once again ankle- and wrist-cuffed in the “rubber-room”¹⁸. This in itself demonstrates that the security measure of cuffing was continued even after the inmate had calmed down.

57. The findings of the delegation clearly indicate that placement in a “rubber-room” was at times resorted to by staff for punitive reasons. Further, the act of trussing up an inmate with ankle and wrist cuffs linked together via a metal chain attached to a belt around the waist, combined with the fact that such a measure was applied for prolonged periods and long after a prisoner had calmed down, could well be considered as inhuman treatment.

¹⁸ They were also uncuffed when they needed to go to the toilet.

58. Placement of a prisoner in a “rubber room” should last only until the person concerned has calmed down. Persons placed in a “rubber room” should be regularly monitored (the frequency determined by the nature of the case) and the observation by prison officers clearly recorded in the register. As regards more specifically the placement inside a room of a prisoner likely to commit an act of self-harm, this should only be made upon the authorisation of the medical doctor, when all other measures have failed; and the removal of clothes and provision of rip-proof clothing should follow an individual risk assessment, and be authorised by the doctor.

The Committee recommends that the Croatian authorities fundamentally review the practice of placing inmates in “rubber rooms” in all establishments, particularly at Zagreb County Prison, in the light of the above remarks.

59. As regards the security measure of immobilisation with handcuffs, the CPT acknowledges that it may exceptionally be necessary to resort to mechanical means of restraint in a prison setting. However, in the Committee’s opinion, the approach to immobilisation in prisons should take into consideration the following principles and minimum standards:

- Regarding its appropriate use, immobilisation should 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 would fail satisfactorily to contain those risks; it should never be used as a punishment or to compensate for shortages of trained staff; it should not be used in a non-medical setting when hospitalisation would be a more appropriate intervention.
- Any resort to immobilisation should be immediately brought to the attention of a medical doctor in order to assess whether the mental state of the prisoner concerned requires his hospitalisation or whether any other measure is required in the light of the prisoner's medical condition.
- The equipment used should be properly designed to limit harmful effects, discomfort and pain during restraint, and staff must be trained in the use of the equipment.
- The duration of fixation should be for the shortest possible time (usually minutes rather than hours). The exceptional prolongation of restraint should warrant a further review by a doctor. Restraint for periods of days at a time cannot have any justification and would amount to ill-treatment.
- Persons subject to immobilisation should receive full information on the reasons for the intervention.
- The management of any establishment which might use immobilisation should issue formal written guidelines, taking account of the above criteria, to all staff who may be involved.¹⁹
- Further, the person concerned should be given the opportunity to discuss his/her experience, during and, in any event, as soon as possible after the end of a period of restraint. This discussion should always involve a senior member of the health-care staff or another senior member of staff with appropriate training.

¹⁹ In particular, an individual subject to immobilisation should have his/her mental and physical state continuously and directly monitored by an identified and suitably trained member of staff who has not been involved in the circumstances which gave rise to the application of immobilisation. The staff member concerned should offer immediate human contact to the immobilised person, communicate with the individual and rapidly respond to the individual’s personal needs. Such individualised staff supervision should be performed from within the room or very near the door (within hearing and so that personal contact can be established immediately).

The Committee recommends that the Croatian authorities take the necessary steps to ensure that all the principles and minimum safeguards set out above are applied in all prison establishments resorting to the security measure of immobilisation with handcuffs.

b. discipline and segregation

60. The Committee is pleased to note that as of 2009²⁰, a period of eight days must elapse between the enforcement of two consecutive disciplinary sanctions of solitary confinement²¹. However, the maximum period of solitary confinement on disciplinary grounds remained 21 days which, as the Committee had already commented in previous reports, is very high. Solitary confinement can have an extremely damaging effect upon the mental, somatic and social health of those concerned. Consequently, the CPT considers that the maximum possible period of solitary confinement as a punishment should not exceed 14 days for a given offence and preferably be lower²².

The CPT recommends that the relevant provision of the Law on Execution of Criminal Sanctions be revised accordingly.

61. At Zagreb and Sisak County Prisons there was no resort to solitary confinement for disciplinary purposes, as these establishments did not possess punishment cells (every available space having been converted into normal cellular accommodation). However, at Zagreb County Prison the delegation found that placement in a “rubber room” (as described in paragraphs 53 to 59) was used as informal disciplinary measure.

At Glina State Prison, a special security and disciplinary department, located on the ground floor of the recently inaugurated building, was accommodating 11 inmates at the time of the visit. Three inmates were serving a disciplinary sanction of solitary confinement, four inmates a disciplinary sanction of restriction of benefits, three a security measure of separation (“*odvajanje*”) lasting up to 30 days²³ and one a separation measure for security reasons. Cells measured 11m² (including a small sanitary annexe), and were equipped with a bed, table and chair. The four persons serving a disciplinary measure of restriction of benefits were being held two to a cell and the other seven inmates were accommodated alone. Artificial lighting was regulated by prison officers at the request of inmates during the day and access to natural light was adequate. However, the small window placed behind a metal grille was permanently locked and as a result the cells were poorly ventilated. Inmates had access to a dedicated courtyard for one hour once a day (if they were serving a disciplinary sanction of solitary confinement) or twice a day (for the rest of the inmates).

The CPT recommends that steps be taken at Glina State Prison to improve the ventilation in the cells of the special security and disciplinary department.

²⁰ See Article 146 paragraph 2 (3) of the Law on Execution of Criminal Sanctions.

²¹ The sanctions can still be implemented consecutively if the inmate signs a written declaration to this end.

²² See in this respect paragraph 56 b of the 21st General Report on the CPT’s activities, CPT/Inf (2011)28.

²³ See Article 136 paragraph 6 of the Law on Execution of Criminal Sanctions.

62. The delegation noted that most of the inmates placed in the special department on disciplinary grounds at Glina State Prison had been sanctioned for refusing or failing a urine drug test. Inmates met by the delegation explained that they would rather be placed in solitary confinement than have to go to module 4 where there was no access to activities, inter-prisoner intimidation was rife and they were prescribed suboxone substitution therapy (see also paragraphs 33 and 38).

The delegation met one inmate who, after refusing placement in module 4 after a positive drug test for suboxone, had spent the following three and half months in the special department alternating between a disciplinary sanction of solitary confinement and one of restriction of benefits. The alternation of these measures was clearly designed to avoid the inmate serving two consecutive sanctions of solitary confinement, which would be illegal²⁴. However, in practice apart from an extra hour of access to outdoor exercise, the two measures were basically the same. Further, at least three other inmates were placed on a “voluntary basis” in the special department for an indefinite period following their refusal to be placed in module 4 after failing a urine drug test. The long-term placement of these prisoners in conditions akin to solitary confinement for refusing – or after failing – a drug test is not a solution.

The CPT recommends that the Croatian authorities look into alternative means of managing these prisoners.

63. At Glina State Prison, the visiting doctor was required to certify that an inmate could be placed in solitary confinement as a disciplinary sanction. Further, inmates were requested to sign a statement indicating that they did not require any health care during their stay in a solitary confinement cell. Both of these practices are unacceptable.

The CPT has stressed in the past that the practice of prison doctors certifying that a prisoner is fit to undergo solitary confinement as a punishment is not conducive to promoting a positive and constructive patient-doctor relationship. The Committee considers that medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement in a prison environment. On the other hand, health-care staff should be very attentive to the situation of prisoners placed under solitary confinement and should visit prisoners on a regular basis, at least once a day, and provide them with prompt medical assistance and treatment as required.

The CPT recommends that the Croatian authorities issue clear guidelines about the role of prison doctors in relation to disciplinary matters, in the light of the above remarks. In so doing, regard should be had to the revised European Prison Rules and the comments made on this subject by the CPT in its 21st General Report²⁵.

²⁴ See Article 146 paragraph 2 (3) of the Law on Criminal Sanctions.

²⁵ See CPT/Inf (2011) 28, paragraphs 62 and 63.

64. In terms of safeguards during disciplinary proceedings, the prisoners concerned were informed in writing of the charges against them and were heard by the person taking the decision. However, the CPT's delegation found that inmates at Glina State Prison were not automatically provided with a written decision giving the reasons for the disciplinary sanction but had to make a special request to obtain a copy. Further, inmates were also only verbally informed of their right to appeal, which may well explain the fact that only four appeals out of the 377 disciplinary proceedings initiated had been filed in the first nine months of 2012.

At Zagreb County Prison, an examination of the relevant paperwork revealed that prisoner statements made in the course of disciplinary proceedings were rarely recorded.

The CPT recommends that steps be taken to remedy the above-mentioned shortcomings in the disciplinary procedure; in particular, all prisoners should be systematically provided with a copy of the disciplinary decision, which should contain both the reasons for the decision and the modalities for lodging an appeal.

65. Acts of self-harm are still defined as a disciplinary offence in Croatian law²⁶ and the delegation observed that such acts continued to be punished in practice. The Committee would like to stress that acts of this kind frequently reflect problems and conditions of a psychological or psychiatric nature, and that they should be approached from a therapeutic rather than a punitive standpoint.

The CPT reiterates its recommendation that the relevant legal provisions be amended, in the light of the above remarks.

66. At Glina State Prison, the delegation came across eight prisoners who had been placed in a cell (measuring 21m²) in the "internat" block as they were scheduled to leave the establishment on conditional release. The prison director stated that the placement was intended as a protection measure from possible acts of intimidation by other prisoners who would exploit their imminent release. However, the prisoners in question, some of whom had already spent several weeks in the cell, claimed that they had not been informed of the reason for their transfer to the cell. Further, considering that they were confined to the cell for 22 hours a day in cramped conditions, they perceived the placement as a punishment.

The CPT considers that any measure to place a prisoner on protection should be based upon an individual assessment as opposed to a blanket policy, and should be for the shortest time possible. Further, prisoners placed on protection should be duly informed, insofar as reasons of security permit, about the placement and should be offered meaningful activities over and above outdoor exercise.

The CPT recommends that the placement of prisoners awaiting conditional release be reviewed at Glina State Prison, in the light of the above remarks.

²⁶ See Article 145 of the Croatian Law on the Execution of Criminal Sanctions.

c. staff

67. As was the case in 2007, the staffing levels in the establishments visited in 2012 were generally inadequate, with the number of prison staff actually working much lower than the number of posts allocated to each establishment. For example, at Glina State Prison, of the 244 available prison officer posts, only 169 were filled at the time of the visit, of whom 90 were still trainees who had taken up their functions after the inauguration of the new building in 2011. At Zagreb County Prison, only 257 out of 369 prison officer posts were filled (i.e. 30 percent of posts were vacant), while the inmate population had increased significantly and exceeded 1,000 from time to time.

The CPT wishes to stress once again that ensuring positive staff-inmate relations will depend greatly on having an adequate number of staff present at any given time in detention areas. An overall low staff complement and/or specific staff attendance and deployment systems which diminish the possibilities of direct contact with prisoners will certainly impede the development of positive relations; more generally, it will generate an insecure environment for both staff and prisoners. Further, an inadequate number of staff in detention areas can easily result in high levels of stress among the staff who are present, a situation which is likely to exacerbate the tension inherent in any prison environment.

The CPT recommends that the Croatian authorities take the necessary steps to ensure that every prison is sufficiently staffed to both guarantee security and operate a meaningful regime.

68. The Committee was informed during the visit by officials of the Ministry of Justice that a wide range of induction and thematic training courses (including on communication skills, conflict prevention and treatment of drug-addicted and dangerous prisoners) had been offered to prison staff in the course of 2011. **The Committee would like to receive information on the induction and in-service training courses, as well as on the numbers of prison staff participating in such courses.**

69. As was the case during the 2007 visit, the delegation observed that the majority of prison officers at all the establishments visited continued to carry batons in the full view of inmates. **The CPT reiterates its recommendation that steps be taken to end the practice of staff openly carrying batons in detention areas.**

d. access to information

70. At all the establishments visited, prisoners claimed that they had not received any information upon admission concerning the regime, prisoners' rights and duties or the complaints procedures. Nor did the delegation find copies of the "prisoner guide" (*priručnik za zatvorenike*) or house rules in the accommodation areas of the prison visited. In this respect, the delegation found that information on daily activities was publicly displayed in all prison establishments visited but it did not include the internal house rules nor information on prisoners' rights.

The CPT recommends that all prisoners be provided with written information on prison life upon admission to prison, including on disciplinary proceedings and complaint mechanisms; for example, the individual "prisoner guide" (*priručnik za zatvorenike*) could be updated and distributed to all prisoners.

e. contact with the outside world

71. The CPT attaches considerable importance to the maintenance of good contact with the outside world for all persons deprived of their liberty. The guiding principle should be to promote contact with the outside world as often as possible; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature²⁷.

The legal framework concerning visits has remained unchanged and it entitles sentenced inmates to two monthly visits of one hour each and remand prisoners to six visits a month, each lasting between 15 and 60 minutes. Monthly conjugal visits from two to four hours depending on an inmate's grade were also permitted. In the CPT's view, all prisoners should be entitled to a minimum of the equivalent of one hour of visiting time every week; preferably, prisoners should be able to receive a visit every week. **The CPT recommends that prisoners' entitlement to visits be revised accordingly.**

72. At Sisak and Zagreb County Prisons, the delegation noted that remand prisoners were only granted screened visits without the possibility of any physical contact with their families. Further, sentenced prisoners in the establishments visited were usually only permitted screened or separated²⁸ visits unless they had children, in which case they could have open visits twice a month (and in some cases every week). By contrast, at Glina State Prison, sentenced prisoners were offered open visits and met their visitors in a suitably furnished room with tables and chairs in an environment conducive to maintaining meaningful contact with their visitors.

The Committee considers that all prisoners should be able to receive visits from their family members under open conditions; the use of screened visits should be the exception, not the rule, and based exclusively on a security concern of an appreciable nature.

The CPT recommends that the Croatian authorities review the visiting arrangements at Zagreb and Sisak County Prisons and as necessary in other establishments, in the light of these remarks.

²⁷ See also European Prison Rule 24.2.

²⁸ At the outset of the visit, the screen was lifted, sufficiently to enable sentenced prisoners to shake hands with their visitors.

Remand prisoners at Zagreb and Sisak County Prisons were allowed on average to make six phone calls per month of a maximum duration of 15 minutes each. Prisoners interviewed by the delegation confirmed that no limitations were imposed on their list of permitted contacts once the relevant judge had approved it.

f. complaints and inspection procedures

73. Sections 15 and 17 of the Law on the Execution of Criminal Sanctions provide inmates the right to file complaints to the prison director, the supervisory judge (including for their legal protection against a decision of the prison director) and the prison administration. In these last two instances, the law guarantees for the confidentiality of the complaints (see also paragraph 86). Inmates met by the CPT's delegation appeared aware of the avenues of complaint available to them, and that complaints to the central prison authorities, supervisory judges and the Ombudsman's office could be submitted in a sealed envelope. However, at Glina State and Sisak County Prisons, the delegation received several allegations that prison officers were reading certain confidential complaints, with prisoners claiming that officers were quoting back the content of their correspondence in a threatening tone. At Sisak County Prison, the delegation also found a register of "at risk prisoners" in which one inmate had been categorised as dangerous for "filing complaints to external institutions".

The CPT recommends that the Croatian authorities take measures at Glina State and Sisak County Prisons to guarantee the confidentiality of complaints addressed to outside bodies. Further, prisoners should suffer no adverse consequences from filing complaints to outside bodies.

74. As regards inspections, supervisory judges regularly visited the sentenced and remand inmate population at Zagreb County Prison and engaged in private interviews with prisoners. At Sisak County Prison, the delegation also verified that the supervisory judge had visited the establishment six times in the course of 2011 but not in the first eight months of 2012. However, at Glina State Prison, visits by a supervisory judge were apparently a rare occurrence.

The CPT trusts that all supervisory judges will effectively perform the task assigned to them by Article 47 of the Law on Execution of Criminal Sanctions²⁹.

75. The most significant development in this context is the recent setting up of the National Preventive Mechanism (see paragraph 8), which visited Zagreb County Prison on 13 September 2012 shortly before the CPT's visit.

The CPT would like to receive an account of the visits to prisons carried out by the NPM since the beginning of its operations, as well as a copy of the report on its visit to Zagreb County Prison.

²⁹ Article 47 tasks supervisory judges with visiting prison establishments under their authority at least once a year, and holding interviews with prisoners on their rights and conditions of detention.

6. Follow-up visit to the Hospital for Persons deprived of their Liberty

76. The CPT's delegation visited – for the second time³⁰ – the Hospital for Persons deprived of their Liberty, in Zagreb. The hospital has a nationwide remit, providing somatic and psychiatric in- and out-patient care for sentenced and remand prisoners from all prisons in Croatia³¹.

With an official capacity of 107, the three-storey building was holding 122 patients at the time of the visit³². The hospital's forensic psychiatric ward was accommodating 42 male patients (who were serving their prison sentence in the hospital), the general psychiatry ward 32 patients, the respiratory diseases and infectious wards nine patients, and the internal medicine and surgery wards 34 patients. There were also five female patients (four in the general psychiatry ward, and one in the forensic ward), who were accommodated separately from the men.³³

77. In general, patients met by the delegation spoke positively of the clinical staff.

However, a number of allegations were received of physical ill-treatment by custodial staff ("judicial police officers"), which was said to consist of verbal abuse of patients and, occasionally, pushes, slaps, and kicks. **The CPT recommends that custodial staff at the Hospital for Persons deprived of their Liberty be reminded that all forms of ill-treatment (including verbal abuse) are not acceptable and will be punished accordingly.**

Inter-patient violence did not appear to be a problem at the hospital.

78. Regarding living conditions, the delegation noted that the rooms were maintained in an acceptable state of repair and cleanliness. Further, patients were allowed to keep some personal belongings in their rooms, and most had access to cupboard space; they were allowed to have TV and radio sets, and could borrow books from a reasonably well-stocked library.

Having said that, the rooms were crowded (two patients in some 7.5 m², up to six patients in some 21 m²). Moreover, the vast majority of rooms were still not equipped with toilets, and staff apparently often did not respond to the patients' calls at night in a timely manner³⁴, with the result that they sometimes had to resort to bottles or use rubbish bins to comply with the needs of nature. This is not acceptable; all patients should have access to a proper toilet facility at all times.

On a positive note, the delegation noted that the common sanitary facilities (toilets, showers, baths) had been refurbished and, from the information gathered, access to these facilities during the day did not pose any particular problems.

The CPT recommends that all patients at the Hospital for Persons deprived of their Liberty be guaranteed ready access to proper toilet facilities at any time, including at night. Further, in multi-occupancy rooms, patients should each be offered a minimum of 4 m² of living space, and rooms of 7.5 m² should as a rule not accommodate more than one patient.

³⁰ The first visit took place in 1998 (see paragraphs 144 to 162 of CPT/Inf (2001) 4).

³¹ The delegation was informed that, annually, there were around 1,000 hospitalisations and some 5,000 out-patient consultations.

³² Ten other patients were accommodated in an outpost of the hospital located in Zagreb County Prison.

³³ There were no juveniles at the time of the visit.

³⁴ Patients' rooms are locked from 10.00 p.m. to 6. 00 a.m.

79. Patients were offered from one to two hours of outdoor exercise per day. The yard remained of an inadequate size (some 90 m²) for the numbers involved, had no shelter to protect patients against rain and sun, and was difficult to access for physically disabled patients. **The CPT recommends that steps be taken to ensure that all patients whose medical condition so allows are offered the possibility to take outdoor exercise for two hours every day, in accordance with the relevant legislation. Further, the outdoor exercise yard should be enlarged, equipped with a shelter to protect patients against rain and sun, and rendered accessible for physically disabled patients.**

80. The delegation observed that the vast majority of patients wore pyjamas/nightgowns throughout the day, including during outdoor exercise. In the CPT's view, this practice is not conducive to strengthening a sense of personal identity and self-esteem of the patients; such clothing is also totally inadequate for outdoor exercise. **The CPT recommends that patients be permitted to wear normal everyday clothes and that appropriate clothing be provided for outdoor exercise.**

81. The staff comprised 18 full-time doctors including five psychiatrists, seven general practitioners, a surgeon, an internist, a pulmonologist, a radiologist, an anaesthetist and a physical rehabilitation therapist. The delegation was informed that there were eight further vacant posts, for which six doctors (three psychiatrists, an internist, a neurologist, and a pulmonologist) were undergoing specialisation³⁵. There were 27 nurses working at the Prison hospital, with a further 10 posts vacant.

In addition, there were 10 "therapy" staff (with one further vacant post) consisting of psychologists, occupational therapists and social workers.

Every day, there were two psychiatrists and five nurses in the psychiatric wards (two for the forensic patients, and three for the general psychiatry ward). After 3.30 p.m., there were only three nurses on duty for the entire hospital, and from 7.30 p.m. to 7.30 a.m., only one doctor and two nurses were on duty.

The number of psychiatrists working at the hospital was inadequate to properly treat the 80 or so psychiatric in-patients³⁶, given the large number of out-patients sent from other prisons for psychiatric assessment and treatment. The number of nurses, particularly in the afternoon and at night, was also insufficient. In this respect, it should be noted that a 2010 inspection report from the Ministry of Health had already identified a number of deficiencies including a shortage of psychiatrists and nurses (as well as inadequate accommodation conditions for patients, the impossibility to provide adapted programmes to patients due to the lack of staff and space, and a lack of equipment for occupational therapy and leisure activities).

The CPT recommends that the vacant posts of psychiatrists (three) and nurses (ten) be filled as a matter of priority. Further, the number of nurses present on the afternoon and night shifts should be substantially reinforced.

³⁵ The two other vacant posts were for an anaesthetist and a virologist.

³⁶ According to the hospital's management, half of the forensic patients were classified as "borderline personality disorder, impulsive type", the rest being there for addictions; as regards the general psychiatry ward, the majority of patients were diagnosed with schizophrenia and delusional disorder.

82. The delegation was concerned that custodial staff (judicial police officers)³⁷ were closely involved in the running of the clinical areas of the hospital. It appeared that they could move around freely in those areas at all times on their own authority, and always participated in the restraint procedures of patients (see below paragraph 84). The universal presence of custodial staff appeared to be related to the lack of ward-based clinical staff and the conception of the regime in itself. Further, they continued to carry truncheons in a visible manner including in patients' living areas.

In the CPT's view, there should be a fundamental review of the approach taken in the running of the clinical areas of the hospital (reference is also made to the recommendation in paragraph 81 regarding staffing). **Further, the Committee recommends that judicial police officers be instructed not to enter the patients' living areas unless explicitly requested to do so by health-care staff in individual cases of emergency. In addition, judicial police officers should not carry truncheons in a visible manner whenever present within the clinical areas.**

On a positive note, the delegation noted that there was always a female custodial staff member on duty at the hospital, representing an improvement in comparison with the situation observed in 1998.

83. From discussions with doctors and patients, the delegation gained the impression that the somatic care provided to patients was generally adequate.

Regarding the treatment of psychiatric patients, multi-disciplinary clinical input was offered and individual treatment plans, albeit basic, had been put in place. There was no shortage of medication and the delegation did not find evidence of the overuse of medication. Further, some 40 patients were involved in psycho-social rehabilitative activities (group psychotherapy, art therapy, computer classroom) and attended the gym.

However, the direct therapeutic input of medical and nursing staff was limited due to the inadequate numbers of staff, as mentioned above.

The CPT recommends that further efforts be made to develop the range of rehabilitative psycho-social activities and to ensure that all psychiatric patients may access them; achieving this goal will require recruiting additional qualified staff. Further, a more detailed individual treatment plan should be drawn up for each psychiatric patient, which should include the goals of the treatment, the therapeutic means to be used and the staff members responsible. In addition, patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress.

84. As regards resort to means of restraint³⁸, the current practice needs to be reviewed. Patients could be restrained in their dormitories in full view of other patients, and without continuous supervision by clinical staff. Fixation consisted of magnetic belts on the arms, legs, and chest, which could be applied by custodial staff, reportedly in the presence of medical staff. The examination of the fixation register revealed that in the 23 days prior to the visit, there were nine episodes of overnight fixation for periods of up to 48 hours, in relation to six patients. The times and reasons for the restraint were not always recorded.

³⁷ At the time of the visit, the complement of custodial staff was 48, with a further 18 posts vacant.

³⁸ The delegation was informed that isolation was not used at the hospital.

An examination of further entries confirmed that periods of restraint for 12 hours to one-two days, repeat restraints on the same patients and entry omissions, were far from exceptional.

It also appeared that patients were put in diapers when fixated as they were usually not released to go to the toilets. This is unacceptable and could amount to degrading treatment. **The CPT recommends that steps be taken to ensure that patients subject to means of restraint are able to access toilet facilities when necessary.**

Further, the local guidelines regulating the use of means of restraint introduced in 2005 were not only lacking detailed procedures but also authorised custodial staff, in case of emergency and in the absence of a doctor, to apply such means³⁹. The CPT wishes to stress that the use of means of restraint vis-à-vis psychiatric patients should only be authorised and performed by properly trained health-care staff.

The CPT recommends that the Croatian authorities remedy the above-mentioned deficiencies and ensure that all the principles and minimum safeguards as regards means of restraint, as set out in paragraph 120 of the Committee's 2007 visit to Croatia (CPT/Inf (2008) 29), and reproduced in Appendix III of the present report, are applied in the Hospital for Persons deprived of their Liberty. Further, in the CPT's view, restraint for periods of days at a time cannot have any justification and could amount to ill-treatment.

85. Patients could receive visits (up to two a week each lasting one-and-a-half hours) in an open setting and make phone calls from a pay-phone available in each corridor.

86. Patients in the prison hospital were, in principle, allowed to send complaints to outside bodies, as well as to the establishment's director. However, there appeared to be no formal complaint system in place at the hospital. In addition, many patients interviewed by the delegation expressed a general lack of trust in the complaints system, especially concerning the confidentiality of complaints addressed to outside bodies. Some allegations were received that complaints sent to outside bodies were read by prison officers, and/or never dispatched. Others stated that they had received no response.

The CPT recommends that the Croatian authorities take steps to ensure that the complaint system is fully effective by making sure that prisoners receive, within a reasonable time, a written acknowledgement of every complaint they make as well as reasoned answers in writing to written complaints (i.e. feedback on the outcome of their complaints) in a timely manner, and that a proper record is maintained of every complaint. Further, particular attention should be given to ensuring that patients are effectively able to send confidential complaints to outside bodies. Reference is also made to recommendation in paragraph 73 above.

87. From the information gathered during the visit, it transpired that the Ombudsman carried out regular monitoring visits to the hospital in 2012, and the NPM visited it once in 2012. In addition, investigative judges regularly visited remand prisoners.

³⁹ It should be noted in this respect that the fixation register was kept by the custodial staff, in their office.

88. The Hospital for Persons deprived of their Liberty is under the authority of the Ministry of Justice and all staff are employees of the prison service. The director of the hospital, a medical doctor, indicated that the facility was under the joint supervision of the Ministry of Health and the Ministry of Justice. However, in the light of the findings made during the 2012 visit, closer involvement from the Ministry of Health is required. In this respect, the CPT supports the recent policy trend in Europe towards prison health-care services being placed either entirely or to a greater extent under the Ministry of Health's responsibility.

The CPT recommends that the Ministry of Health be more actively involved in supervising the standard of care in the hospital (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection).

C. Establishments under the authority of the Ministry of Health

1. Preliminary remarks

89. The delegation visited for the first time Rab Psychiatric Hospital, located in the village of Kampo on the Adriatic Island of Rab. The hospital, established in 1955, has a catchment area of six counties covering a population of 600,000. It consists of a number of single and double-storey buildings set within 13 hectares of ground. With an official capacity of 480 beds, it was holding, at the time of the visit, 411 patients, of whom 130 were women. The hospital does not admit juveniles.

Patients were accommodated in nine wards⁴⁰: a functional refractory closed ward, an acute cases closed ward, a forensic closed ward, a neuro-cognitive rehabilitation (old age) semi-closed ward, an alcohol/drug dependency open ward, a psycho-trauma/PTSD open ward, a prolonged rehabilitation open ward, a social psychiatry and rehabilitation open ward and an affective disorders open ward.

Apart from 53 forensic patients and three involuntary civil patients, all the other patients were considered as voluntary (see also paragraph 105 below).

90. It should be emphasised at the outset that the delegation did not receive any allegations of physical ill-treatment of patients by staff nor gain the impression that there was any abuse of patients by staff. Indeed, many patients spoke positively of the staff and there was a generally relaxed and positive atmosphere in the hospital. Inter-patient violence did not appear to be a significant problem either.

91. The delegation was informed by officials from the Ministry of Health that Rab Psychiatric Hospital would be allocated more funds in 2013 with a view to compensating for some financial shortfalls in comparison with other similar institutions. **The CPT would like to receive confirmation that Rab Psychiatric Hospital is now receiving all of the State funding it is due.**

92. The Croatian authorities also informed the delegation of their intention to draw up a master plan covering all psychiatric hospitals with a view to promoting de-institutionalisation; the plan aims to reduce in-patient capacities while increasing the possibilities for community care. The CPT welcomes the efforts to develop de-institutionalisation by substantially reinforcing care in the community; if properly organised, this should improve the quality of life of service users. **The Committee would like to receive in due time a copy of the above-mentioned master plan.**

⁴⁰ The establishment also housed a day hospital.

2. Patients' living conditions

93. Rab Psychiatric Hospital had undergone a series of renovation works over the years and was well maintained. Most of the wards had been refurbished and all offered an acceptable level of cleanliness and hygiene. Sanitary facilities on all the wards were well maintained and patients could shower every day. Further, the food was satisfactory in terms of quantity and quality; meat, fish, vegetables, fruit and dairy products were found on the daily menus.

94. The dormitories were bright and well ventilated, and bedding was changed several times a week. On some wards, the dormitories were nicely decorated and patients had lockers for their personal items. All the wards had one or two common rooms, which also served as dining and TV rooms.

However, in the functional refractory ward, the acute cases ward and the forensic ward, the dormitories were austere, furnished only with beds and bed-side tables, and lacked privacy. Further, in all wards the dormitories were somewhat cramped (10 patients in some 33 m², seven patients in some 22 m², four patients in some 14 m²) with beds sometimes touching. As regards the neuro-cognitive rehabilitation ward, there was no call system for bedridden patients.

The CPT recommends that efforts be made to reduce the occupancy levels in the patients' dormitories so as to provide at least 4 m² of living space per patient and to offer a more congenial and personalised environment to patients, in particular by providing all of them with personal lockable space. In addition, a call system should be provided for bedridden patients.

95. Almost all the wards were of mixed-sex⁴¹, but men and women were accommodated in separate dormitories. The delegation was told that men and women also had access to separate sanitary facilities; however, this was not the case in the functional refractory ward, the neuro-cognitive rehabilitation ward, the acute cases ward and the forensic ward. The CPT acknowledges the potential benefit of mixed-sex wards, but this should not be to the detriment of the privacy, dignity and security of patients. Precautions are required to ensure that patients are not subjected to inappropriate interaction with other patients which may threaten their privacy and dignity.

The CPT recommends that the Croatian authorities take steps to ensure that no patients accommodated in Rab Psychiatric Hospital are subjected to inappropriate interaction with patients of the opposite sex. In particular, patients of both sexes should have their own distinct, and protected, sanitary areas.

96. The delegation noted that patients from the functional refractory ward were always dressed in pyjamas. As mentioned in paragraph 80 above, this is not conducive to strengthening a sense of personal identity and self-esteem of the patients, and is also totally inadequate for going outside in the fresh air; individualisation of clothing should form part of the therapeutic process. **The CPT recommends that patients be permitted to wear normal everyday clothes and that appropriate clothing be provided for outdoor exercise.**

⁴¹ The prolonged rehabilitation ward was a male ward, and the social psychiatry and rehabilitation ward was a female ward.

97. Patients had access to fresh air during the day, either in closed courtyards adjacent to certain wards, or in the hospital's large grounds with trees, planned gardens and benches. Having said that, shelters for protection from sun and rain were very limited in the hospital grounds and there were none in the wards' courtyards. **Efforts should be made to remedy this shortcoming.**

3. Treatment and staff

98. The psycho-social treatment offered to patients was on the whole adequate. There was no shortage of medication and from interviews with staff and patients, the delegation found no evidence of its overuse. A wide range of psycho-social rehabilitative and leisure activities⁴² were available in which the vast majority of patients were regularly involved⁴³. That said, there was scope to involve more patients, especially from the neuro-cognitive and the functional refractory wards.

A multidisciplinary working approach was evident from patients' files and individual treatment plans had been introduced, but they lacked detail and were not always up-to-date.

Somatic care also appeared to be satisfactory. The hospital had appropriate medical equipment (including a dentist examination room⁴⁴).

99. As regards the staff complement, the hospital employed 29 doctors, including 11 psychiatrists, all working full time⁴⁵. There were 96 nurses (including 15 nurses with an advanced qualification), as well as 12 orderlies. From 8 a.m. to 4 p.m. every day a doctor and a head nurse (on weekdays), two nurses and one or two orderlies were on duty on each ward. After 4 p.m. - and on weekends - , one doctor⁴⁶ was on duty for the entire hospital and there were two nurses per ward until the next morning. Therefore, from 4 p.m. to 8 a.m., there were only two persons caring for up to 50 patients on some wards. As regards psycho-social rehabilitative activities, the hospital employed six psychologists, nine occupational therapists, four physiotherapists and three social workers.

The delegation was pleased to note that multidisciplinary clinical teams had been put in place. However, the number of nurses on duty from 4 p.m. until the following morning was insufficient considering the numbers and categories of patients cared for.

⁴² Group (independent home management, therapeutic talks, social skills development, and work skills development) and individual therapy were offered. There were activities such as handicrafts, painting, carpentry, sewing, knitting, choir, reading, yoga, board games, computers, excursions, etc. Sports activities were also offered (gym, table tennis, basketball).

⁴³ Some 60 to 70 patients attended the various activities offered every day.

⁴⁴ A dentist visits the hospital weekly.

⁴⁵ Apart from the psychiatrists, there were one neurologist, one internist, one medical biologist, four general practitioners, and 11 trainees.

⁴⁶ A second doctor was on call.

100. **The CPT recommends that the presence of nurses outside of the period from 8 a.m. to 4 p.m. be significantly increased at Rab Psychiatric Hospital, especially at night. If necessary, the number of nursing posts should be increased. The number of social workers should also be increased.**

The Committee also recommends that further efforts be made to involve more patients, especially those from the neuro-cognitive ward and the functional refractory ward, in psycho-social rehabilitative and leisure activities adapted to their needs.

Further, every patient should have an individual treatment plan indicating the goals of the treatment and the therapeutic means used, as well as the outcome of regular reviews of the patient's mental health condition and medication. Patients should be involved, as far as possible, in the drafting of their individual plans and the evaluation of their progress.

101. The delegation was informed that the State does not provide any specific training to staff. The hospital has arranged for initial and in-service training since the arrival of the director some ten years ago, an initiative which was commended by all staff. Nevertheless, **the Croatian authorities should ensure that sufficient means exist to provide all staff with both initial and on-going training.**

4. Means of restraint

102. Means of restraint were used at the hospital. They consisted of straps, magnetic belts and straightjackets. The delegation did not find evidence of their overuse. However, the recording of the use of means of restraint needs to be improved. Indeed, there was no register for this purpose and only resort to straightjackets was recorded on a specific form (which included the name of the doctor authorising the measure, the beginning and end of the measure, and any comments)⁴⁷; resort to other means was recorded to a greater or lesser degree but only in the patients' individual files.

Further, it appeared that patients could be restrained on their beds in full view of other patients and without continuous and direct monitoring by staff.

103. The CPT has already noted that the Law on the Protection of Persons with Mental Disorders (LPPMD) provides for a certain number of safeguards concerning the use of means of restraint⁴⁸. In this respect, some written guidelines on the use of means of restraint had been put in place at Rab Psychiatric Hospital, but they were incomplete.

The CPT has previously indicated what a policy on restraint should include; it recommends that the principles as regards resort to restraint set out in paragraph 120 of the report on the 2007 visit (CPT/Inf (2008) 29) and reproduced in Appendix III of the present report, be applied at Rab Psychiatric Hospital as well as in other psychiatric establishments in Croatia.

⁴⁷ Thirteen episodes in the functional refractory ward since April 2012, each lasting less than two hours and, as regards the forensic ward, three cases in 2011, and none in 2012 up until the time of the visit.

⁴⁸ See paragraph 143 of CPT/Inf (2007) 15.

The adoption of the above-mentioned policy should be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated.

As regards more specifically the situation observed at Rab Psychiatric Hospital:

- mechanical restraint should not be applied to a patient in the sight of other patients, unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient;
- qualified staff should be continuously present, within sight and hearing, whenever patients are subjected to restraint;
- every instance of restraint should be properly recorded in a specific register established for that purpose, in addition to the patient's individual file.

5. Safeguards

104. The legal framework as regards involuntary civil hospitalisation has remained unchanged since the CPT's 2007 visit (the procedure is described in paragraphs 147 to 151 of CPT/Inf (2007) 15). An examination of files of patients subjected to involuntary hospitalisation revealed that a lawyer was systematically present at the stage of the initial placement and that the judge usually met the patient in person.

However, in cases where hospitalisation was extended, it appeared that the judge did not always meet patients and that a copy of the court decision was not always given to patients. In addition, some patients complained that they had not benefited from the assistance of a lawyer at this stage, despite the provisions of section 30 (1) of the LPPMD according to which an ex officio lawyer may be assigned to the person concerned if he/she does not have a lawyer of his/her own when the court receives the compulsory detention notice.

The CPT recommends that steps be taken to ensure that, in practice, patients whose admission to a psychiatric hospital on an involuntary basis is sought are always heard in person by the competent judge before a decision on involuntary placement is adopted and that this safeguard also applies when the placement is reviewed. Further, efforts should be made to ensure that the patients concerned receive a copy of any court decision on involuntary placement and are informed in writing about the reasons for the decision and the avenues/deadlines for lodging an appeal. In addition, the Committee recommends that the Croatian authorities take steps to ensure that the legal provisions as regards the assistance of a lawyer during the involuntary hospitalisation procedure are fully implemented in practice.

105. Most of the patients' files examined by the delegation contained a consent to treatment form, including for the three patients formally under involuntary civil hospitalisation. However, it was obvious to the delegation that most patients from the acute cases ward, the functional refractory ward and the neuro-cognitive ward had been admitted without being able to give free and informed consent. It appeared from interviews with staff that this was usually solved after a few days when the patients finally agreed to hospitalisation and treatment.

As stressed in paragraph 123 of the CPT's report on the 2007 visit to Croatia, psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis — be it in the context of civil or criminal proceedings — should not preclude seeking informed consent to treatment. Every competent patient, whether voluntary or involuntary, should be fully informed about the treatment which it is intended to prescribe and given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

The CPT reiterates its recommendations that all patients (and, if they are incompetent, their legal representatives) be provided systematically with information about their condition and the treatment prescribed for them, and that doctors be instructed that they should always seek the patient's consent to treatment prior to its commencement. Relevant information should also be provided to patients (and their legal representatives) during and after treatment.

106. As regards forensic psychiatric patients, an examination of files revealed that lawyers had been systematically present at all stages of the procedure. However, the judge did not systematically hear the patient in person at the time of the renewal of the detention order. **The CPT calls upon the Croatian authorities to ensure that forensic patients are heard in person by the relevant judge/court in the context of the renewal of their detention order.**

107. At the time of the visit, 74 patients were under full or partial guardianship. None of the guardians were from the staff of the hospital, thus representing a positive development from the situation observed in other establishments during previous CPT visits to Croatia.

However, it became apparent during the visit that guardians from the Social Care Centres (SCC) very rarely visited their patients, seemingly due to the fact that the guardians belonged to the SCC of the initial place of residence of the patient, which could be far away. According to the provisions concerning guardianship contained in the Family Code, the SCC has a duty to monitor the living conditions of patients under their guardianship, and to visit them at least twice a year. **The CPT invites the Croatian authorities to ensure that these provisions are implemented in practice.**

108. As regards information to patients, the delegation noted that on each ward, there were notice boards containing the legal provisions of the law related to patients' rights, and involuntary placement procedure. However, there was no written brochure providing patients with information concerning their stay at the hospital. The CPT considers that an introductory brochure setting out the establishment's routine, patients' rights and possibilities to lodge formal complaints, on a confidential basis, with clearly designated outside bodies, should be issued to each patient upon admission, as well as to their families/legal representatives/guardians. It should also contain extracts of the law concerning patients' legal status. **The CPT recommends that such a brochure be drawn up and given to all patients on admission, as well as to their families. Patients unable to understand the brochure should receive appropriate assistance.**

109. Patients could receive visits every day and make and receive phone calls from pay phones on the hospital grounds or using their mobile phones. They also had the possibility to go on periods of leave, including forensic patients.

110. As regards monitoring visits, the delegation noted that the establishment was visited on a regular basis by the Ombudsman as well as NGOs.

D. Establishments under the authority of the Ministry of Social Protection and Youth

1. Preliminary remarks

111. The delegation visited for the first time the Stančić Centre for Rehabilitation and the Zagreb Home for Mentally Ill Persons, Mirkovec Branch.

The Stančić Centre for Rehabilitation, founded in 1955, is situated in 22 hectares of wooded land, some 25 kilometres from Zagreb. It consists of numerous buildings including four main accommodation blocks and a group home. Some buildings dated back to the 19th century and were not purposely built. The Centre accommodates children and adults with severe learning disabilities, and physical and/or mental illness. The delegation was informed that it could house up to 350 residents and, at the time of the visit, there were 308 residents in the Centre, and a further 42 residents living in the community; 211 residents were male and 97 were female, and 20 residents were under the age of 21 (the youngest being 12 years old). Residents were accommodated in five wards, each divided into two sub-wards⁴⁹.

Mirkovec Branch of the Zagreb Home for Mentally Ill Persons was founded in 1978 and is located in a 17th century two-storey listed manor house in grounds on a hillside near the village of Mirkovec, some 35 km from Zagreb. It accommodates adults, the majority of whom being mentally ill, and some suffering from learning disabilities. With an official capacity of 76 beds, it was holding 79 residents (47 men and 32 women) aged between 32 to 94 years at the time of the visit.

It should be noted that the catchment area of the two establishments was country-wide.

112. The delegation did not receive any allegations of physical ill-treatment of residents by staff, nor gather any other evidence of such acts. More generally, staff-resident relations appeared positive at both establishments.

Further, the general atmosphere among residents was relaxed at both establishments, and no major instances of inter-resident violence came to light.

113. A new Law on Social Care had entered into force in 2012, and a Law on Foster Care in 2011. During the meeting at the Ministry of Social Policy and Youth, the delegation was informed that further legal changes were to be introduced to the 2012 Law on Social Care, as well as to the Family Code with a view to ensuring better implementation in practice of individuals' rights including as regards incapacity and guardianship. In particular, the provision allowing for a staff member of an institution to be a guardian of a resident placed in the same institution should be rescinded. **The CPT would like to receive in due course the text of these legislative amendments.**

⁴⁹ One large building accommodated wards 1 and 2 - 136 residents, each sub-ward having from 29 to 37 residents: 1A was for persons with reduced mobility, and 1B for intensive care (mixed-sex wards); 2A and B were old-age male wards. The second largest building, known as the "psychiatric block", accommodated the more disturbed residents in two female wards (3A and 3B), and two male wards (4A and 4B) - some 115 residents, each ward having from 27 to 31 residents. Ward 5A was a large house accommodating 25 female residents half of whom were not mobile or only semi-mobile). Ward 5B was another large house for 20 young males and juveniles (from 12 to 30 years old). There was also a group home for some 12 more autonomous residents.

Further, a Plan for De-institutionalisation and Transformation of Social Care Homes and Other Legal Entities performing Social Care Services in Croatia for the period 2011-2018 had been adopted, aiming at moving 30 % of persons with intellectual disabilities and 20 % of persons with mental disabilities out of institutions.⁵⁰ At the same time, it was planned that community-based support for these persons, such as organised housing, would be developed. The authorities indicated that a lack of financial resources was hampering the whole process, which was still in its early days.

The delegation was informed by the management of the two establishments visited about recent efforts made to reduce progressively the number of residents. For example, at Mirkovec Branch of the Zagreb Home, an individual plan for de-institutionalising residents had been initiated in 2011; 24 residents had been identified to live in the community but only six had agreed and were soon to leave the establishment.

As regards the Stančić Centre for Rehabilitation, 12 residents had been de-institutionalised in 2011. Further, and as already mentioned in paragraph 111 above, 42 persons registered at the Centre were living in the community. In addition, by letter of 7 December 2012, the Croatian authorities indicated that the Ministry of Social Policy and Youth had decided in September 2012 to set up a working group tasked to prepare a plan by 31 December 2012 for de-institutionalisation of the Centre.

114. As already stressed in paragraph 92 above, the CPT welcomes these efforts to develop de-institutionalisation. **The Committee would like to receive up-dated information about the implementation of the above-mentioned Plan for social care homes in Croatia, in particular as regards the Zagreb Home for Mentally Ill Persons including the Mirkovec Branch.**

As regards the Stančić Centre for Rehabilitation, the CPT would like to receive a copy of the above-mentioned plan for de-institutionalisation of the Centre. Further, in the CPT's view, the admission of juveniles to the Centre should be avoided in the future.

2. Living conditions

115. All the accommodation areas at the *Stančić Centre for Rehabilitation* had undergone some refurbishment over the years, and were generally clean, well ventilated and sufficiently lit. The state of the beds and bedding was also adequate. Further, it should be noted that most residents benefited from an open-door regime during the day.

However, conditions were cramped in some dormitories (with beds sometimes touching each other) on all wards; for example, six residents in rooms measuring from 18 to 21 m². Further, the dormitories were austere and impersonal, especially on wards 2A and 2B. In addition, there was a lack of privacy and most residents did not have access to any lockable space. The notable exception was on wards 5A and 5B, where some efforts had been made to paint the dormitory walls and hang pictures and paintings, and provide residents with some cupboard space. Attempts had been made to create a cheerful environment in the day rooms in every ward; walls were painted in a variety of different bright colours and decorated with murals, paintings and pictures, and the rooms were equipped with sofas, toys, TV and music players.

⁵⁰ It should be noted that Croatia ratified the UN Convention on the Rights of Persons with Disabilities on 15 August 2007.

The sanitary facilities were generally clean and in an adequate state of repair and access did not pose any problem. The centre provided a range of hygiene items, including diapers.

116. As regards *Mirkovec Branch of the Zagreb Home for Mentally Ill Persons*, male and female residents were accommodated in separate areas on the two floors of the establishment, and benefited from an open-door regime during the day. Despite some refurbishment and the building being in a relatively good state of repair, the possibilities for the old manor to fully meet the environmental needs of the current resident population were limited.

The accommodation areas were generally clean and well ventilated. However, some dormitories were large (up to 10 residents) and impersonal. Further, they lacked privacy as very few possessed lockable space in which residents could keep personal belongings, and access to many dormitories entailed passing through another dormitory.

The recently refurbished sanitary facilities offered adequate conditions and access was not a problem.

The day rooms were equipped with TVs, tables, sofas and chairs, and were pleasantly decorated and painted in bright colours.

117. The CPT recommends that steps be taken to reduce the occupancy levels in the dormitories at the Stančić Centre for Rehabilitation with a view to offering at least 4 m² of living space per resident. The Committee also recommends that efforts be made, at both the Stančić Centre for Rehabilitation and Mirkovec Branch of the Zagreb Home for Mentally Ill Persons, to provide residents with personal lockable space for their belongings, as well as more visual stimulation and personalisation in their dormitories.

118. At both establishments, the food appeared to be of sufficient quality and quantity. The examination of the menus revealed that meat, fish, dairy products, fruit and vegetables were served on a daily basis.

119. The CPT wishes to acknowledge the efforts being made at both establishments to provide a decent living environment to residents. However, it will be well-nigh impossible to offer satisfactory conditions in facilities which have not been purpose-built or adequately renovated to modern standards. Further, large-capacity dormitories, such as those found at Mirkovec Branch of the Zagreb Home, are far from ideal for mentally ill (or mentally disabled) persons. Provision of accommodation structures based on small groups is a crucial factor in preserving/restoring residents' dignity, and also a key element of any policy for their psychological and social rehabilitation. Structures of this type also facilitate the classification of residents to relevant categories for therapeutic purposes. **The CPT recommends that the above-mentioned considerations be borne in mind when reforming learning disability services; in the meantime, large dormitories should be replaced by smaller units.**

3. Treatment of residents and staff complement

120. With regard to treatment of residents the levels of medication appeared to be appropriate and there was an adequate supply of drugs in both establishments. There was no evidence of the overuse of psychotropic medication.

A range of therapeutic, rehabilitative and recreational activities was also offered and the majority of residents were involved in some activities. At Stančić Centre for Rehabilitation, activities included physiotherapy, speech therapy, gardening, painting, drawing, music therapy, horse-riding and excursions, and a similar range of activities was on offer at the Mirkovec Home, where residents also went to the cinema and theatre once a month.

However, there was virtually no individual care plans in the residents' files at either establishment. The files essentially contained information on medication and lacked details of their involvement in psycho-social rehabilitative activities. **The CPT recommends that an individual care plan be drawn up for each resident, including the goals of the treatment, the therapeutic means used and the staff members responsible. Residents should be involved in the drafting of their individual plans and be informed of their progress.**

121. The provision of somatic care appeared to be generally satisfactory at both establishments, and transfers to an outside hospital were reportedly not a problem. Further, residents had access to dental care (a visiting dentist visited each establishment on a weekly basis).

122. At *Stančić Centre for Rehabilitation*, the staffing complement included 25 nurses, a psychologist, a speech therapist, seven physiotherapists, 33 rehabilitation therapists, four occupational therapists, 26 occupational therapists/instructors, three social workers, two educators, and 85 orderlies. However, the number of ward-based staff appeared far too low during the afternoon shifts (two occupational therapists and one orderly per ward and one nurse for two wards from 2 p.m. to 8 p.m.), and at night (one orderly per ward and one nurse for the entire establishment from 7.30 p.m. to 7.30 a.m.). Despite the dedication of ward-based staff observed by the delegation during the visit, such a limited staff presence is totally inadequate for 308 learning disabled residents who have significant 24-hour mental and physical health-care needs.

By letter of 7 December 2012, the Croatian authorities indicated that they considered the current ratio staff/resident⁵¹ to be sufficient, and that the above-identified problem resulted from a poor organisation of the working schedule. The authorities indicated that a subsequent re-organisation was being developed.

There was only provision for the equivalent of a half-time general practitioner. However, with support from a charity, the Centre had managed to secure funds for an additional half-time position. This was positive as the establishment certainly required a full-time GP. Nevertheless, it is the duty of the State to ensure sufficient staffing levels in the Centre.

⁵¹ One nurse/orderly per 2.8 residents according to the Croatian authorities.

Arrangements for the part-time presence of a psychiatrist (two hours a week), were totally inadequate, considering that some 80 residents suffered not only from severe learning disabilities but also from mental illness; indeed, the Croatian authorities, in their letter of 7 December 2012 estimate that "almost 60 % of the residents [...] suffer from mental health disorders that manifest themselves as severe behavioural disorders, aggression and self-aggression".

Care staff at *Mirkovec Branch of the Zagreb Home for Mentally Ill Persons* consisted of five nurses, nine orderlies, an occupational therapist, a physiotherapist and a social worker⁵². There were also 14 ancillary staff. In the afternoon shift (2 p.m. to 10 p.m.), there were two nurses (including a head nurse) and between three and six orderlies to care for the residents. During the night shift (10 p.m. to 6 a.m.) there was only one nurse on duty, which is too low a staff presence to safely meet the potential needs of the residents.

123. Taking into consideration the above, **the CPT recommends that:**

- **the psychiatric input be significantly increased as a matter of priority at the Stančić Centre for Rehabilitation; consideration should be given to recruiting the equivalent of one full-time psychiatrist preferably with training in caring for learning disabled persons;**
- **the full-time post of general practitioner at the Stančić Centre for Rehabilitation be secured by proper State funding;**
- **the number of nurses be increased during the night shift at Mirkovec Branch of the Zagreb Home for Mentally Ill Persons;**
- **the number of ward-based staff caring for residents be significantly increased during the night shift at the Stančić Centre for Rehabilitation.**

The CPT trusts that the number of nurses present during the afternoon and night shifts at the Stančić Centre for Rehabilitation has been significantly increased. In this connection, **the Committee would like to receive full details of the re-organisation of the working schedule, including the number and category of staff assigned to each ward in the afternoon and night shifts.**

124. There was no formal on-going training organised by the State for orderlies working at Stančić Centre for Rehabilitation and such training was organised on the spot by the staff working in the institution. Given the challenging nature of their job, it is essential that ward-based support staff receive appropriate initial and on-going training. While carrying out their duties, such staff should also be closely supervised by qualified health-care staff. **The CPT recommends that appropriate steps be taken at the Stančić Centre for Rehabilitation in the light of the above remarks.**

⁵² The director also worked as a social worker in the establishment on a half-time basis.

4. Means of restraint

125. At the outset, it should be noted that the Croatian authorities had informed the delegation that there was no legal provision allowing for isolating or applying any other means of restraint to residents in social care homes. The delegation was told that, in case of need, the resident concerned should be transferred to a psychiatric facility.

Indeed, the delegation found that means of restraint were not used at the *Mirkovec Home*. By contrast, at the *Stančić Centre for Rehabilitation*, resort was had to both seclusion and mechanical means of restraint.

126. Four isolation rooms were found on three wards in the "psychiatric block" of the Stančić Centre, none of which were suitably designed or furnished. The rooms, measuring between 3 and 5.5 m², were far too small for accommodating residents and yet they were each equipped with a bed, and three of them were holding a resident at the time of the visit. The level of hygiene was very poor (smell of urine, damp mattresses) and there was no supervision in place. The CPT wishes to stress that rooms measuring less than 6 m² do not constitute a suitable accommodation and should be taken out of service. **The CPT recommends that appropriate steps be taken in the light of the above remarks.**

In addition, a range of mechanical restraint techniques were employed, both standard (straightjackets, magnetic belts, straps) and improvised (adapted reversed shirts, soft ties for wrists or body). Mechanical restraint and isolation techniques were sometimes combined (this was the case for two residents being held in the isolation rooms⁵³) and one to five point fixation could be used.

The delegation observed that some residents were restrained on almost all the wards. There was clearly an overuse of mechanical restraint in the establishment during the day and night, with approximately 40 residents, including children, being restrained in a 24-hour period; this included being fixed to beds and furniture and routinely restrained in full view of other residents without continuous monitoring.

127. There was no restraint policy and no proper recording and monitoring system of resort to isolation and mechanical restraint. Medical authorisation appeared cursory or was non-existent for some forms of restraint. The delegation was informed that the formal means of mechanical restraint were straightjackets and belts (limbs and chest) which were reportedly authorised by the psychiatrist (on-call in his absence), whereas soft ties used to fix residents to a bed or furniture, or the placing of a modified shirt on backwards, was an intervention decided upon by nurses. It was also indicated to the delegation that means of restraint would be recorded in the duty logbook only if it was used "unusually and with exception".

⁵³ One female resident was wearing a straightjacket and a modified shirt.

128. The very low levels of ward-based staff did not allow for those residents placed in isolation or mechanically restrained to be continuously or directly observed by staff. It seemed that restraint was often not fully clinically indicated, but used more to compensate for inadequate staff numbers and lack of alternate approaches; staff stated that if there were sufficient numbers of trained nurses and orderlies to monitor and attend to residents, the use of restraint could be substantially reduced.

Taking into consideration the above findings, the delegation invoked Article 8, paragraph 5, of the Convention and made an immediate observation in respect of the Stančić Centre for Rehabilitation, requesting that an urgent review of resort to isolation and other means of restraint at this establishment be undertaken and a multifaceted strategy instituted so as to formalise, monitor and thereafter substantially reduce or eradicate the use of such measures in the Centre. It added that, to this end, clear targets should be set. The delegation requested to receive within three months a copy of the review report and the resultant detailed strategy.

By letter of 7 December 2012, the Croatian authorities indicated that the consulting psychiatrist had approved the use of restraint for 30 residents, but that this did not justify restraining residents on a daily basis or fixating them to beds. In this respect, the Ministry of Social Policy and Youth had conducted an analysis of the situation in the Centre and drafted a protocol on the use of means of restraint for residents placed there. It had also set up a commission to identify the specialised medical equipment required at the Stančić Centre for Rehabilitation (e.g. humane belts, beds and mattresses).

The CPT has taken note of the comments of the Croatian authorities in the above-mentioned letter indicating redeployment of staff, purchasing of equipment, and the development of a long-term plan for de-institutionalisation. However, **the Committee would still like to receive a detailed multifaceted strategy aiming at substantially reducing or eradicating the use of isolation and other means of restraint in the Centre, as well as clear targets in this respect.**

129. The CPT understands that, on occasion, there may be a need to isolate residents in order to protect themselves or others and, exceptionally, to resort to instruments of mechanical restraint. However, it is essential that the restraint of residents be the subject of a clearly-defined policy.

In this respect, the CPT welcomes the introduction of a protocol on the use of restraint on residents at Stančić Centre for Rehabilitation, which reflects some of the principles set out in paragraph 120 of the report on the 2007 visit (CPT/Inf (2008) 29) and reproduced in Appendix III of the present report. However, some provisions remain of concern for the CPT: the protocol provides for resort to means of restraint following a "pre-determined procedure" allowing for a blanket authorisation for restraint to be reviewed by the psychiatrist on a monthly basis; further, the protocol is unclear about the type of supervision provided to the resident during the measure under the pre-determined procedure; in addition, no mention is made of the fact that a resident subject to mechanical restraint should not be exposed to other residents. The protocol is also silent as regards specific training on the use of restraint.

The CPT recommends that all the principles as regards resort to restraint set out in paragraph 120 of the report on the 2007 visit (CPT/Inf (2008) 29) and reproduced in Appendix III of the present report, be included in the protocol on the use of isolation and other means of restraint for residents recently introduced at Stančić Centre for Rehabilitation. Further, in the CPT's view, restraint for periods of days at a time cannot have any justification and could amount to ill-treatment.

The adoption of the above-described policy should be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated.

On a positive note, the CPT noted from the letter of 7 December 2012 that the Croatian authorities have introduced a system for recording all instances of the application of means of restraint at Stančić Centre for Rehabilitation. The introduction of an effective recording system will allow for proper monitoring of isolation and mechanical restraint procedures in the establishment and ensure the emergence of a complete picture of resort to such measures. **The CPT would like to receive an account of all instances of resort to means of restraint at Stančić Centre for Rehabilitation during the first six months of 2013, as registered through the above-mentioned recording system.**

5. Safeguards

130. In essence, the legal framework surrounding placement, review of placement and discharge procedures from a social care home has not changed since the visit carried out by the CPT in 2007.⁵⁴ In particular, admission to (and discharge from) social care homes was still decided by the local Social Care Centres. The findings of the delegation during the 2012 visit highlighted that most of the concerns expressed in the previous visit report in this respect remain valid.

131. At Mirkovec Branch of the Zagreb Home for Mentally Ill Persons, 58 residents had been fully deprived of their legal capacity and 18 were partially incapacitated⁵⁵. At Stančić Centre for Rehabilitation, only one person out of the 308 residents was fully competent, the remainder being under full guardianship. In cases of deprivation of capacity, the admission procedure had been initiated by the residents' legal guardian/next of kin or the relevant SCC.

However, an examination of residents' personal files at both establishments revealed that the placement decision was not always present. Further, the court decision on deprivation of legal capacity was rarely found, nor were the documents on review⁵⁶ of legal capacity – which should take place every three years. **The CPT recommends that the Croatian authorities ensure that legal provisions pertaining to deprivation of legal capacity, as well as review of placements, are complied with in practice. Further, steps should be taken to ensure that residents' personal files contain all of the related documents.**

132. As already stressed in the past,⁵⁷ to prevent arbitrary placement, it is essential that persons placed in homes for persons with psychiatric disorders and/or mental disabilities following an application by their guardians should have the right to bring proceedings by which the lawfulness of their placement could be speedily decided by a court. The delegation's findings during the 2012 visit indicate that such a right still does not exist in current practice. It is also essential that placement in a social care home should cease as soon as it is no longer required by the resident's mental state.

⁵⁴ See paragraphs 128 and 129 of CPT/Inf (2008) 29.

⁵⁵ Legal capacity can be withdrawn (partially or fully) only by a court decision.

⁵⁶ Pursuant to Section 165 of the Family Code, "a doctor is bound every three years at the request of the Social Care Centre to deliver an opinion concerning the state of health of the ward considering the reason for the declaration of legal incompetence."

⁵⁷ See paragraph 129 of CPT/Inf (2008) 29.

The CPT reiterates its recommendation that steps be taken to ensure that persons deprived of their legal capacity, who are placed in homes for persons with psychiatric disorders and/or mental disabilities, have the effective right to bring proceedings to have the lawfulness of their placement decided speedily by a court. Further, in addition to annual review of placement by the relevant Social Care Centre, residents themselves should be able to request at reasonable intervals that the necessity for continued placement be considered by a judicial authority.⁵⁸

133. On a positive note, only one resident at Stančić Centre for Rehabilitation had a member of staff as guardian, and none at Mirkovec Branch of the Zagreb Home for Mentally Ill Persons. The CPT welcomes this progress, which constitutes a significant improvement compared to that found during previous visits.

134. Neither the Stančić Centre for Rehabilitation nor Mirkovec Branch of the Zagreb Home for Mentally Ill Persons had made arrangements for providing the residents with information as regards the establishments' routine, the rules for admission and discharge, residents' rights and their possibilities to lodge complaints on a confidential basis with clearly designated outside bodies. **The CPT reiterates its recommendation that a brochure taking into consideration the above-mentioned remarks be issued and systematically distributed to residents, their families and guardians upon arrival. Residents unable to understand the brochure should receive appropriate assistance.**

135. At both establishments, residents could receive visits on a daily basis. A pay phone was installed at the Mirkovec Home and the Stančić Centre for Rehabilitation, and residents were able to keep their mobile phones.

136. As regards monitoring visits, a team from the Ombudsman's office was present at Mirkovec Branch of the Zagreb Home for Mentally Ill Persons during the CPT's visit. NGOs also came to the establishment from time to time. Further, the delegation was informed that the establishment was visited every second year by the Ministry of Social Policy and Youth, and that regular sanitary/hygiene inspections were carried out.

As regards Stančić Centre for Rehabilitation, the management indicated that NGOs regularly visited the establishment. There were also public health inspections. Having said that, the previous formal inspection of the establishment by the Ministry of Social Policy and Youth dated back to 2008.

The CPT recommends that the Stančić Centre for Rehabilitation (as well as all other social care homes in Croatia) be visited on a regular basis by one or more independent outside monitoring bodies (such as the recently established NPM, the Ombudsman for persons with disabilities, etc.).

⁵⁸ Consideration should be given in this respect to Recommendation Rec(99)4 of the Committee of Ministers of the Council of Europe on principles concerning the legation protection of incapable adults.

Further, the Croatian authorities indicated in their letter of 7 December 2012 that the Ministry of Social Policy and Youth planned to carry out an inspection of the Centre from 10 to 13 December 2012. **The CPT would like to receive copy of the report on this inspection and invites the Ministry of Social Policy and Youth to carry out an inspection of residents' care at the Stančić Centre for Rehabilitation at least once a year.**

APPENDIX I

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

National Preventive Mechanism

comments

- the CPT invites the Croatian authorities to maintain, and possibly increase, the current level of funding devoted to the National Preventive Mechanism (NPM) within the budget of the Ombudsman's Office and to consider the setting up of a separate Unit or Department within the Ombudsman's Office, to be responsible for the NPM functions (paragraph 9).

Establishments under the authority of the Ministry of Interior

Preliminary remarks

requests for information

- details of the proposed amendments to the Code of Criminal Procedure (CCP) designed to conform with the Constitutional Court decision of 19 July 2012 (paragraph 12).

Ill-treatment

recommendations

- the Croatian authorities to reiterate the message that all forms of ill-treatment (be they at the time of apprehension or transportation or during subsequent questioning) are absolutely prohibited, and that the perpetrators of ill-treatment and those encouraging or condoning such acts will be punished accordingly (paragraph 14);
- any non standard-issue items capable of being used for inflicting ill-treatment to be removed from police premises where persons might be questioned (paragraph 15).

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

recommendations

- police officers to be reminded that all detained persons have the right both to notify a family member (or another designated person) of their arrest and to contact a lawyer, and this as from the outset of their deprivation of liberty (paragraph 17);

- the Croatian authorities to take steps to ensure that all persons summoned to a police station under Article 40 of the Law on Police Affairs and Duties or Article 208 of the CCP are given the possibility of contacting a lawyer (either ex officio or of their own choice) from the moment they are required to remain in the police station (paragraph 18);
- police officers to be reminded that persons deprived of their liberty by the police have the right of access to a lawyer of their own choice; if a detained person requests access to a specific lawyer, then that contact should be facilitated; the ex officio lawyer from the standard list should be contacted only if the first-mentioned lawyer cannot be reached or does not appear (paragraph 19);
- the Croatian authorities to adopt legal provisions on the right of detained persons to have access to a doctor during the period of up to 24 hours prior to placement in a detention unit (paragraph 20);
- the Croatian authorities to take immediate steps to ensure that all medical examinations of persons in police custody are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of law enforcement officials (paragraph 20);
- the written form on the information on rights for apprehended criminal suspects (*pouka o pravima*) to be amended in order to include a reference to the right of a criminal suspect to inform his/her family or another person of choice of the arrest (paragraph 22).

Conditions of detention

recommendations

- the Croatian authorities to take the necessary steps to offer outdoor exercise to all persons held in police custody for longer than 24 hours (paragraph 23);
- steps to be taken to remedy the deficiencies observed in police temporary detention cells visited by the delegation (paragraph 24);
- the Croatian authorities to take the necessary steps to ensure that temporary detention cells of less than 5m² are never used for overnight accommodation of detainees and that persons held overnight in larger temporary detention cells are provided with a mattress and blankets (paragraph 24);
- the Croatian authorities to take the necessary steps to ensure that persons detained in police stations for more than a few hours are provided with food (paragraph 25).

Prisons

Preliminary remarks

recommendations

- the Croatian authorities to pursue their efforts to combat prison overcrowding taking into account the recommendations adopted by the Committee of Ministers of the Council of Europe, in particular Recommendation Rec(99)22 concerning prison overcrowding and prison population inflation, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody and Recommendation Rec(2010)01 on the Council of Europe probation rules (paragraph 28).

requests for information

- updated information on the impact of the measures being taken by the Croatian authorities to tackle prison overcrowding (paragraph 28).

Ill-treatment

recommendations

- the Minister of Justice and Director General of Prisons to deliver a firm message to all prison staff reminding them that both physical ill-treatment and verbal abuse of prisoners are not acceptable and will be punished accordingly (paragraph 32);
- increased attention to be given to the problem of inter-prisoner intimidation in module 4 of Glina State Prison (paragraph 33).

comments

- the CPT trusts that the Croatian authorities will vigorously pursue their efforts to combat the phenomenon of inter-prisoner violence at Zagreb County Prison and other establishments visited (paragraph 33).

requests for information

- the outcome of the investigations into the two cases of alleged ill-treatment at Zagreb County Prison referred to in paragraph 32 (paragraph 32).

Conditions of detention of the general prison population

recommendations

- steps to be taken to improve the material conditions in the prisons visited, in the light of the remarks in paragraph 34. In particular:
 - at Glina State Prison, the conditions should be improved in those cells which remain in use in the so called “*internat*”;
 - at Zagreb County Prison, the sanitary annexes should be fully partitioned to the ceiling and the metal shutters on windows in modules 1, 4 and 7 overlooking the courtyards should be replaced by alternative security devices of an appropriate design which permit adequate access to natural light;
 - at Sisak County Prison, access to natural light and ventilation should be improved in the cells, in particular those located on the northern side of the prison (paragraph 34);
- the Croatian authorities to take steps to reduce cell occupancy levels in all the prisons visited (as well as in other prisons in Croatia), so as to provide for at least 4 m² of living space per prisoner in multi-occupancy cells; for this purpose, the area taken up by any in-cell sanitary facilities should not be counted (paragraph 36);
- the smaller cells (measuring 7m²) at Zagreb County Prison to accommodate not more than one person (paragraph 36);
- steps to be taken to ensure that all prisoners engaged in the kitchen and food distribution related activities at Sisak County Prison enjoy outdoor exercise (paragraph 37);
- the Croatian authorities to improve the programme of activities, including work and vocational training opportunities, for prisoners at Glina State Prison, Zagreb and Sisak County Prisons and, where appropriate, at other prisons in Croatia (paragraph 40);
- inmates undergoing substitution therapy at Glina State Prison to be provided with access to a set of vocational and remunerated activities adapted to their specific health and behavioural profile (paragraph 40);
- the Croatian authorities to take immediate steps to provide all juveniles temporarily accommodated at Zagreb County Prison with a full programme of purposeful activities (paragraph 41);
- the Croatian authorities to take immediate measures to allow female prisoners at Zagreb County Prison access to a properly dedicated exercise yard as well as the basketball court (paragraph 42);
- the recommendation in paragraph 40 concerning the improvement of programmes of activities in prisons applies equally to female prisoners (paragraph 42).

comments

- the fenced courtyard (measuring some 100 m²) at Sisak County Prison was too small to provide up to 15 inmates with the possibility for meaningful outdoor exercise. Alternative arrangements should be considered in order to reduce the number of inmates in the exercise yard at any given time (paragraph 37);
- the CPT invites the Croatian authorities to consider extending the period of outdoor exercise in the prisons visited and, where appropriate, at other establishments in Croatia, until such a time as a programme of meaningful activities is put in place (paragraph 40).

requests for information

- observations on ways of enhancing the impact in practice of the assessment made by the National Diagnostic Centre on the placement decision of an inmate or on his/her individual programme (paragraph 44).

Health-care services

recommendations

- the Croatian authorities to take the necessary steps to strengthen the health-care services:
 - at Zagreb County Prison, by recruiting a third general practitioner as well as additional nurses, including at least one mental health nurse;
 - at Glina State Prison, by immediately recruiting the equivalent of at least one full-time general practitioner, recruiting additional nurses and increasing the hours of presence of a psychiatrist (paragraph 45);
- a new dentist's chair to be purchased at Zagreb County Prison and suitable premises to be found for the infirmary at Sisak County Prison (paragraph 46);
- the arrangements for medical screening upon admission to be revised at Glina State, Sisak and Zagreb County Prisons, and if necessary in other establishments, in the light of the remarks in paragraph 47 (paragraph 47);
- the Croatian authorities to ensure that the record drawn up after the medical examination of a prisoner, whether newly-arrived or not, contains:
 - (iv) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);
 - (v) a full account of objective medical findings based on a thorough examination;
 - (vi) the doctor's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.

The record should also contain the results of additional examinations performed, detailed conclusions of any specialised consultations and an account of treatment applied for injuries and of any further procedures conducted.

Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with "body charts" for marking traumatic injuries that will be kept in the medical file of the prisoner. If any photographs are made, they should be filed in the medical record of the person concerned. In addition, documents should be compiled systematically in a special trauma register where all types of injuries observed should be recorded (paragraph 49);

- existing procedures to be reviewed in order to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the report is immediately and systematically brought to the attention of the relevant public prosecutor, regardless of the wishes of the prisoner. The results of the examination should also be made available to the prisoner concerned and his or her lawyer (paragraph 49);
- the necessary steps to be taken at Sisak County Prison in order to ensure that the distribution of medicines (including substitution therapy) is performed solely by health-care staff (paragraph 50);
- the Croatian authorities to take urgent steps to ensure that all persons sentenced to a security measure involving psychiatric treatment receive the necessary care in an appropriate institution, as required by the law (paragraph 51).

requests for information

- within three months, a detailed plan indicating the steps taken to implement the recommendation made in paragraph 51 (paragraph 51);
- the observations of the Croatian authorities on the placement in the so-called "rubber rooms" at Glina State Prison of inmates refusing to pass a urine test (paragraph 52).

Other issues

recommendations

- the cells used at Glina State, Sisak and Zagreb County Prisons for the measure of placement in a room devoid of dangerous objects to be refurbished in order to ensure that they all have access to natural light and are equipped with a call bell (paragraph 53);
- the Croatian authorities to fundamentally review the practice of placing inmates in "rubber rooms" in all establishments, particularly at Zagreb County Prison, in the light of the remarks made in paragraph 58 (paragraph 58);
- the Croatian authorities to take the necessary steps to ensure that all the principles and minimum safeguards set out in paragraph 59 are applied in all prison establishments resorting to the security measure of immobilisation with handcuffs (paragraph 59);

- the relevant provision of the Law on the Execution of Criminal Sanctions regulating the maximum period of solitary confinement on disciplinary grounds to be revised; the maximum possible period of solitary confinement as a punishment should not exceed 14 days for a given offence and preferably be lower (paragraph 60);
- steps to be taken at Glina State Prison to improve the ventilation in the cells of the special security and disciplinary department (paragraph 61);
- the Croatian authorities to look into alternative means of managing prisoners refusing placement in module 4 at Glina State Prison (paragraph 62);
- the Croatian authorities to issue clear guidelines on the role of prison doctors in relation to disciplinary matters, in the light of the remarks made in paragraph 63 (paragraph 63);
- steps to be taken to remedy the shortcomings in the disciplinary procedure referred to in paragraph 64; in particular, all prisoners should be systematically provided with a copy of the disciplinary decision, which should contain both the reasons for the decision and the modalities for lodging an appeal (paragraph 64);
- the relevant legal provisions to be amended in order to ensure that acts of self-harm by prisoners are not treated as disciplinary offences (paragraph 65);
- the placement of prisoners awaiting conditional release at Glina State Prison to be reviewed, in the light of the remarks made in paragraph 66 (paragraph 66);
- the Croatian authorities to take the necessary steps to ensure that every prison is sufficiently staffed to both guarantee security and operate a meaningful regime (paragraph 67);
- steps to be taken to end the practice of prison staff openly carrying batons in detention areas (paragraph 69);
- all prisoners to be provided with written information on prison life upon admission to prison, including on disciplinary proceedings and complaint mechanisms (paragraph 70);
- prisoners' entitlement to visits to be revised to allow them to have a minimum of the equivalent of one hour of visiting time every week and, preferably, to receive a visit very week (paragraph 71);
- the Croatian authorities to review the visiting arrangements at Zagreb and Sisak County Prisons and as necessary in other establishments, in order to allow prisoners to receive visits from family members under open conditions; the use of screened visits should be the exception, not the rule, and based exclusively on a security concern of an appreciable nature (paragraph 72);
- the Croatian authorities to take measures at Glina State and Sisak County Prisons to guarantee the confidentiality of complaints addressed to outside bodies and to make sure that prisoners do not suffer any adverse consequences from filing complaints to outside bodies (paragraph 73).

comments

- the CPT trusts that all supervisory judges will effectively perform the task assigned to them by Article 47 of the Law on Execution of Criminal Sanctions (paragraph 74).

requests for information

- on the induction and in-service training courses for prison staff, as well as on the numbers of prison staff participating in such courses (paragraph 68);
- an account of the visits to prisons carried out by the NPM since the beginning of its operations, as well as a copy of the report on its September 2012 visit to Zagreb County Prison (paragraph 75).

Follow-up visit to the Hospital for Persons deprived of their Liberty

- custodial staff at the Hospital for Persons deprived of their Liberty to be reminded that all forms of ill-treatment (including verbal abuse) are not acceptable and will be punished accordingly (paragraph 77);
- all patients at the Hospital for Persons deprived of their Liberty to be provided with ready access to proper toilet facilities at any time, including at night (paragraph 78);
- patients in multi-occupancy rooms each to be offered a minimum of 4 m² of living space, and rooms of 7.5 m² as a rule not to accommodate more than one patient (paragraph 78);
- steps to be taken to ensure that all patients whose medical condition so allows are offered the possibility to take outdoor exercise for two hours every day, in accordance with the relevant legislation (paragraph 79);
- the outdoor exercise yard to be enlarged, equipped with a shelter to protect patients against rain and sun, and rendered accessible for physically disabled patients (paragraph 79);
- patients to be permitted to wear normal everyday clothes and be provided with appropriate clothing for outdoor exercise (paragraph 80);
- the vacant posts of psychiatrists (three) and nurses (ten) to be filled as a matter of priority and the number of nurses present on the afternoon and night shifts to be substantially reinforced (paragraph 81);
- judicial police officers to be instructed not to enter the patients' living areas unless explicitly requested to do so by health-care staff in individual cases of emergency. In addition, judicial police officers should not carry truncheons in a visible manner whenever present within the clinical areas of the hospital (paragraph 82);
- further efforts to be made to develop the range of rehabilitative psycho-social activities and to ensure that all psychiatric patients may access them through the recruitment of additional qualified staff. Further, a more detailed individual treatment plan should be drawn up for each psychiatric patient, which should include the goals of the treatment, the therapeutic means to be used and the staff members responsible, and patients should be involved in the drafting of their individual treatment plans and the evaluation of their progress (paragraph 83);

- steps to be taken to ensure that patients subject to means of restraint are able to access toilet facilities when necessary (paragraph 84);
- the Croatian authorities to remedy the deficiencies referred to in paragraph 84 in relation to the resort to means of restraint and ensure that all the principles and minimum safeguards as regards means of restraint, as set out in paragraph 120 of the Committee's 2007 visit to Croatia (CPT/Inf (2008) 29), and reproduced in Appendix III of the present report, are applied in the Hospital for Persons deprived of their Liberty (paragraph 84);
- the Croatian authorities to take steps to ensure that the complaint system at the Hospital for Persons deprived of their Liberty is fully effective by making sure that prisoners receive, within a reasonable time, a written acknowledgement of every complaint they make as well as reasoned answers in writing to written complaints (i.e. feedback on the outcome of their complaints) in a timely manner, and that a proper record is maintained of every complaint. Further, particular attention should be given to ensuring that patients are effectively able to send confidential complaints to outside bodies (paragraph 86);
- the Ministry of Health to be more actively involved in supervising the standard of care in the Hospital for Persons deprived of their Liberty (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection) (paragraph 88).

comments

- there should be a fundamental review of the approach taken in the running of the clinical areas of the Hospital (paragraph 82);
- restraint for periods of days at a time cannot have any justification and could amount to ill-treatment (paragraph 84).

Psychiatric establishments

Preliminary remarks

requests for information

- confirmation that Rab Psychiatric Hospital is now receiving all of the State funding it is due (paragraph 91);
- in due time, a copy of the master plan covering all psychiatric hospitals with a view to promoting de-institutionalisation (paragraph 92).

Patients' living conditions

recommendations

- efforts to be made to reduce, at Rab Psychiatric Hospital, the occupancy levels in the patients' dormitories so as to provide at least 4 m² of living space per patient and to offer a more congenial and personalised environment to patients, in particular by providing all of them with personal lockable space. In addition, a call system should be provided for bedridden patients (paragraph 94);
- the Croatian authorities to ensure that no patients accommodated in the Rab Psychiatric Hospital are subjected to inappropriate interaction with patients of the opposite sex. In particular, patients of both sexes should have their own distinct, and protected, sanitary areas (paragraph 95);
- patients to be permitted to wear normal everyday clothes and appropriate clothing to be provided for outdoor exercise of patients (paragraph 96).

comments

- efforts should be made to increase the number of shelters for protection from sun and rain in the hospital grounds and to install such shelters in the wards' courtyards (paragraph 97).

Treatment and staff

recommendations

- the presence of nurses outside of the period from 8 a.m. to 4 p.m. to be significantly increased at Rab Psychiatric Hospital, especially at night. If necessary, the number of nursing posts should be increased. The number of social workers should also be increased (paragraph 100);
- further efforts to be made to involve more patients, especially those from the neuro-cognitive ward and the functional refractory ward, in psycho-social rehabilitative and leisure activities adapted to their needs (paragraph 100);
- every patient to have an individual treatment plan indicating the goals of the treatment and the therapeutic means used, as well as the outcome of regular reviews of the patient's mental health condition and medication. Patients should be involved, as far as possible, in the drafting of their individual plans and the evaluation of their progress (paragraph 100).

comments

- the Croatian authorities should ensure that sufficient means exist to provide all staff with both initial and on-going training (paragraph 101).

Means of restraint

recommendations

- the principles as regards resort to restraint set out in paragraph 120 of the report on the 2007 visit (CPT/Inf (2008) 29) and reproduced in Appendix III of the present report to be applied at Rab Psychiatric Hospital as well as in other psychiatric hospitals in Croatia (paragraph 103);
- the policy on restraint to be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated.

As regards more specifically the situation observed at Rab Psychiatric Hospital:

- mechanical restraint should not be applied to a patient in the sight of other patients, unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient;
- qualified staff should be continuously present, within sight and hearing, whenever patients are subjected to restraint;
- every instance of restraint should be properly recorded in a specific register established for that purpose, in addition to the patient's individual file (paragraph 103).

Safeguards

recommendations

- steps to be taken to ensure that, in practice, patients whose admission to a psychiatric hospital on an involuntary basis is sought are always heard in person by the competent judge before a decision on involuntary placement is adopted and that this safeguard also applies when the placement is reviewed (paragraph 104);
- efforts to be made to ensure that the patients concerned receive a copy of any court decision on involuntary placement and are informed in writing about the reasons for the decision and the avenues/deadlines for lodging an appeal (paragraph 104);
- the Croatian authorities to take steps to ensure that the legal provisions as regards the assistance of a lawyer during the involuntary hospitalisation procedure are fully implemented in practice (paragraph 104);
- all patients (and, if they are incompetent, their legal representatives) to be provided systematically with information about their condition and the treatment prescribed for them, and doctors to be instructed that they should always seek the patient's consent to treatment prior to its commencement. Relevant information should also be provided to patients (and their legal representatives) during and after treatment (paragraph 105);

- the Croatian authorities to ensure that forensic patients are heard in person by the relevant judge/court in the context of the renewal of their detention order (paragraph 106);
- an introductory brochure to be drawn up setting out the establishment's routine, patients' rights and possibilities to lodge formal complaints, on a confidential basis, and to be given to all patients on admission, as well as to their families. Patients unable to understand the brochure should receive appropriate assistance (paragraph 108).

comments

- the CPT invites the Croatian authorities to ensure that the provisions stipulating that the guardians from the Social Care Centres have a duty to monitor the living conditions of the patients under their guardianship, and to visit them at least twice a year, are implemented in practice (paragraph 107).

Social Care Homes

Preliminary remarks

comments

- the admission of juveniles to the Stančić Centre for Rehabilitation should be avoided in the future (paragraph 114).

requests for information

- the text of the legislative amendments to the Law on Social Care and the Family Code as regards incapacity and guardianship (paragraph 113);
- the implementation of the Plan for De-institutionalisation and Transformation of Social Care Homes and Other Legal Entities performing Social Care Services in Croatia for the period 2011-2018, in particular as regards the Zagreb Home for Mentally Ill Persons including the Mirkovec Branch (paragraph 114);
- the plan for de-institutionalisation of the Stančić Centre for Rehabilitation (paragraph 114).

Living conditions

recommendations

- the occupancy levels to be reduced in the dormitories at the Stančić Centre for Rehabilitation with a view to offering at least 4 m² of living space per resident (paragraph 117);
- efforts to be made, at both the Stančić Centre for Rehabilitation and Mirkovec Branch of the Zagreb Home for Mentally Ill Persons, to provide residents with personal lockable space for their belongings, as well as more visual stimulation and personalisation in their dormitories (paragraph 117);

- the considerations referred to in paragraph 119 to be borne in mind when reforming learning disability services; in the meantime, the large dormitories should be replaced by smaller units (paragraph 119).

Treatment of residents and staff complement

recommendations

- an individual care plan to be drawn up for each resident, including the goals of the treatment, the therapeutic means used and the staff members responsible. Residents should be involved in the drafting of their individual plans and be informed of their progress (paragraph 120);
- as regards staffing levels:
 - the psychiatric input to be significantly increased as a matter of priority at the Stančić Centre for Rehabilitation; consideration should be given to recruiting the equivalent of one full-time psychiatrist preferably with training in caring for learning disabled persons;
 - the full-time post of general practitioner at the Stančić Centre for Rehabilitation to be secured by proper State funding;
 - the number of nurses to be increased during the night shift at Mirkovec Branch of the Zagreb Home for Mentally Ill Persons;
 - the number of ward-based staff caring for residents to be significantly increased during the night shift at the Stančić Centre for Rehabilitation.
(paragraph 123);
- appropriate steps to be taken to provide ward-based support staff at Stančić Centre for Rehabilitation with appropriate initial and on-going training and to ensure that they are closely supervised by qualified health-care staff while carrying out their duties (paragraph 124).

requests for information

- full details of the re-organisation of the working schedule at Stančić Centre for Rehabilitation, including the number and category of staff assigned to each ward in the afternoon and night shifts (paragraph 123).

Means of restraint

recommendations

- appropriate steps to be taken vis-à-vis the isolation rooms in the “psychiatric block” of the Stančić Centre for Rehabilitation, in the light of the remarks made in paragraph 126 (paragraph 126);

- all the principles as regards resort to restraint set out in paragraph 120 of the report on the 2007 visit (CPT/Inf (2008) 29), and reproduced in Appendix III of the present report, to be included in the protocol on the use of isolation and other means of restraint for residents recently introduced at Stančić Centre for Rehabilitation (paragraph 129);
- the protocol on the use of isolation and other means of restraint for residents to be accompanied by practical training on approved control and restraint techniques, which must involve all staff concerned (doctors, nurses, orderlies, etc.) and be regularly updated (paragraph 129).

comments

- restraint for periods of days at a time cannot have any justification and could amount to ill-treatment (paragraph 129).

requests of information

- a detailed multifaceted strategy aiming at substantially reducing or eradicating the use of isolation and other means of restraint in the Stančić Centre for Rehabilitation, as well as clear targets in this respect (paragraph 128);
- an account of all instances of resort to means of restraint at Stančić Centre for Rehabilitation during the first six months of 2013, as registered through the recording system mentioned in paragraph 129 (paragraph 129).

Safeguards

recommendations

- the Croatian authorities to ensure that legal provisions pertaining to deprivation of legal capacity, as well as review of placements, are complied with in practice and that residents' personal files contain all of the related documents (paragraph 131);
- steps to be taken to ensure that persons deprived of their legal capacity, who are placed in homes for persons with psychiatric disorders and/or mental disabilities, have the effective right to bring proceedings to have the lawfulness of their placement decided speedily by a court. Further, in addition to annual review of placement by the relevant Social Care Centre, residents themselves should be able to request at reasonable intervals that the necessity for continued placement be considered by a judicial authority (paragraph 132);
- a brochure to be issued and systematically distributed to residents, their families and guardians upon arrival at the Stančić Centre for Rehabilitation and Mirkovec Branch of the Zagreb Home for Mentally Ill Persons, on the establishments' routine, the rules for admission and discharge, residents' rights and their possibilities to lodge complaints on a confidential basis with clearly designated outside bodies. Residents unable to understand the brochure should receive appropriate assistance (paragraph 134);
- the Stančić Centre for Rehabilitation (as well as all other social care homes in Croatia) to be visited on a regular basis by one or more independent outside monitoring bodies (such as the recently established NPM, the Ombudsman for persons with disabilities, etc.) (paragraph 136).

comments

- the CPT invites the Ministry of Social Policy and Youth to carry out an inspection of residents' care at the Stančić Centre for Rehabilitation at least once a year (paragraph 136).

requests of information

- the report on the inspection by the Ministry of Social Policy and Youth conducted at the Stančić Centre for Rehabilitation from 10 to 13 December 2012 (paragraph 136).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

A. National authorities

Ministry of Interior

Ranko OSTOJIĆ	Minister
Vlado DOMINIĆ	Director of Police
Zvonimir VNUČEC	Deputy Director of Police
Petar SMOLČIĆ	Head of Department of Internal Control
Josip BILJAN	Head of Reception Centre for Foreigners in Ježevo
Nera PERICA	Shift Commander in Operation
Dalibor JURIĆ	Head of Department for International Relations
Hrvoje ĐURAN	Police Officer, Criminal Police Department
Damir BRNETIĆ	CPT's Liaison Officer

Ministry of Justice

Sandra ARTUKOVIC-KUNŠT	Assistant Minister
Melanija GRGIĆ	Minister's Advisor for Probation
Marija JOSIPOVIĆ	Head of the Department of Legal Affairs and Human Resources – State Administration Office for the Prison Sector
Zvijezdana ŠIMUNDIĆ	Head of the Department for Prisoners' Rights – State Administration Office for the Prison Sector

Ministry of Health

Marijan CESARIK	Vice Minister
Luka VONČINA	Assistant Minister
Danica KRAMARIĆ	Head of Department for Health-Care

Ministry of Social Policy and Youth

Darko LEDINSKI	Vice Minister
Iva PRPIĆ	Assistant Minister
Zvezdana BOGDANOVIĆ	Head of Department for Disabled Persons
Zvezdana JANIČAR	Head of Service for Persons with Physical, Intellectual and Sensory Impairments
Alma BERNAT	Head of Service for Persons with Mental Impairments

Office of the State Prosecutor

Višnja LONČAR	Deputy State Prosecutor
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Ombudsman Office

Željko THÜR	Deputy Ombudsman
Ira BEDRAČ	Advisor
Ksenija Bauer	Advisor

B. Non-governmental organisations

Croatian Helsinki Committee (HHO)

Udruga Sjaj (Association for the Social Affirmation of Persons with Mental Health Impairments)

APPENDIX III

PARAGRAPH 120 OF THE REPORT ON THE CPT'S PERIODIC VISIT TO CROATIA IN 2007 (CPT/Inf (2008) 29)

120. In the CPT's view, every psychiatric establishment should have a comprehensive, carefully developed, policy on restraint. The involvement and support of both staff and management in elaborating the policy is essential. Such a policy should make clear which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. Further, if resort is had to chemical restraint such as sedatives, antipsychotics, hypnotics and tranquillisers, they should be subjected to the same safeguards as mechanical restraints. In this context, guidelines on the use of restraint should include the following points:

- Regarding their appropriate use, means of restraint should 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 would fail to satisfactorily contain that risk; they should never be used as a punishment or to compensate for shortages of trained staff.
- Any resort to means of restraint should always be either expressly ordered by a doctor or immediately brought to the attention of a doctor.
- Staff must be trained in the use of restraint. Such training should not only focus on instructing staff as to how to apply means of restraint but, equally importantly, should ensure that they understand the impact the use of restraint may have on a patient and that they know how to care for a restrained patient.
- The duration of the application of means of restraint should be for the shortest possible time. The prolongation of mechanical restraint should be exceptional and warrant a further review by a doctor.
- A patient subject to mechanical restraint should not be exposed to other patients.
- As regards supervision, whenever a patient is subjected to means of mechanical restraint, a trained member of staff should be continuously present in order to maintain the therapeutic alliance and to provide assistance. Such assistance may include escorting the patient to a toilet facility or helping him/her to drink/consume food.
- Every instance of the use of means of restraint - whether physical or chemical - of a patient must be recorded in a specific register established for that purpose, in addition to the individual's file. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by the person or staff. This will greatly facilitate both the management of such incidents and oversight into the extent of their occurrence.
- Once means of restraint have been removed, a debriefing of the patient should take place. This will provide an opportunity to explain the rationale behind the measure, thus reducing the psychological trauma of the experience as well as restoring the doctor-patient relationship. It also gives the patient an occasion to explain his/her emotions prior to the restraint, which may improve both the patient's own and the staff's understanding of his/her behaviour.