



## **Response**

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

**from 19 to 27 September 2012**

The Croatian Government has requested the publication of this response. The report of the CPT on its September 2012 visit to Croatia is set out in document CPT/Inf (2014) 9.

Strasbourg, 18 March 2014

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**Response of the Ministry of Interior**

Broj: 511-01-42-380-2143/13-22  
Zagreb, 20. siječnja 2013. godine

**POLICIJSKA AKADEMIJA**  
**n/p gospodina Damira Brnetića**  
**CPT Liaison**

**PREDMET: Izvješće Vladi RH vezano uz posjet Europskog odbora za sprečavanje mučenja i nečovječnog ili ponižavajućeg postupanja**  
prijevod, dostavlja se.-

Poštovani,

u nastavku teksta dostavljamo prijevod na engleski jezik, našeg dijela Izvješća.

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

**1.Preliminary methods**

10. Any action or measure restricting freedom or rights are based on the Law on Criminal Procedure and proportionate to the nature of the need for restriction in each individual case . A police officer who conducted the arrest has a deadline in which arrested person must be delivered to detention supervisor or released. Deadline for bringing the person to the police detention unit has changed several times - first deadline was 12 hours, if the person was arrested on the area of Police Administration, 24 hours if the person was arrested outside the Police Administration ( Official Gazette 152 / 08 ) , subsequently modified paragraph 1 . , which stipulates certain period of twenty-four hours for all detainees ( OG 88 /11) , and finally in 2013th the deadline was reduced on 12 hours, for the offenses for which a punishment of imprisonment is up to one year ( OG 145/13 ). In accordance with this, the deadlines the Ordinance on the admission and treatment of arrested and detained , and on the records of detainees in police detention unit ( NN 88 /09 .)was changed and custodial supervisor manager and assistant manager in the Operation communication centers of Police Administration( detention supervisors) was educated.

**3.Safeguards against ill-treatment of persons deprived of their liberty**

16.Immediately upon arrest police officers get to know the person an understandable way with rights, except when the arrested person is not able to understand, or there is danger to life or limb , then they will be familiar with the rights as soon as possible. After getting acquainted with the rights, arrested person shall be given written lesson in rights. All arrested persons familiarize themselves with their rights and a lesson on the Rights contains information about the reason for arrest, the right not to express , the right to counsel of their choice or a list of attorneys on duty and the right to interpretation for foreigners , the right to notify family or other person designated by the arrested person, for foreigners the right to inform embassy, the right to emergency medical care, and the information how long may last the arrest.

Detention Supervisor checks have the arrested person been given and did he/she understood the Instruction on his/hers rights and those information notes in the Detention Record, which is signed by the arrested person.

From the beginning of arrest to the arrested person are guaranteed all of his/hers rights based on Law and during his/hers arrival to the Detention Police Unit the Detention Supervisor again checks did he/she understood the meaning of his/hers rights, regardless of criminal offence that he/she has been arrested for.

17. As the Criminal Procedure Code stipulates, the arrested persons must be informed on their rights. When the person demands notification of his/hers family or another person which he/her determines of the arrest, by the telephone family member or another person is informed on location of arrested person.

After the admission of the arrested person, the Detention Supervisor checks did he/she notify his/hers family or another person which he/she determined. In case that arrested person demands from the Detention Supervisor the notification of his/hers family, which has not been notified before that, the Detention Supervisor shall notify his/hers family or another person and notes it in the Personal File of arrested person and Detention Record. The first information regarding the notification of family of the arrested person also is noted in the Confirmation of rights which is given to the arrested person from the Police officers who arrested him/her and which he/she has with him/her during the time of arrest.

18. The obligation of the Police officers is to immediately after the arrest inform the arrested person that he/she is entitled to legal assistance of a defence counsel of his/hers own choice. When he/she does not choose a defence counsel on its own and when its obligated by Law to have one, to the arrested person is offered to choose a defence counsel from the list of attorneys on duty. All information regarding the offered right on a defence counsel together with the contact information on a defence counsel (name, surname and address) are noted in the Confirmation of rights. After the admission of arrested person and notification of the General State Attorney the Detention Supervisor gives the information wheatear he/she wishes to have a defence counsel and, for the criminal offences for which the defence counsel is obligated by Law, the information whether the arrested person will choose a defence counsel of his/hers own choice or from the list of attorneys on duty. It is ensured that the arrested person has a right to a defence counsel who has the right to contact and visit the arrested person or detainee.

19. The arrested person is informed on his/hers right to a defence counsel immediately after the arrest, and once more by the Detention supervisor after his/hers admission to the Detention Police Unit. In any case, to the arrested person is provided to choose a defence counsel of his/hers own choice. In case that he/she didn't choose a defence counsel on its own the State Attorneys Office shall be informed about mentioned and prior to interrogation their representatives will offer to the arrested person the list of attorneys on duty from which he/she can choose a defence counsel for representing him/her and will be able to talk to him/her freely and without any interference. The list of attorneys on duty is presented to the arrested person after he/she didn't choose a defence counsel on its own. All Police officers are educated on treatment of the arrested persons with emphasize on humane treatment and respect of their dignity and other rights of the arrested persons according to the Criminal Procedure Code. The Detention Supervisors have successfully completed the course and gained a qualification Certificate for their work, where one of the main tasks is respect of rights of arrested persons and detainees.

20. To the arrested persons needed medical assistance is given in accordance to the Law and the Rulebook on the admission and treatment of arrested person and detainee and the Record of arrested person in the Detention Police Unit (The Official Gazette No. 88/09). Immediately after the arrest, the arrested person is informed on his/hers right to medical assistance. After the admission of arrested person, the Detention Supervisor checks his/hers current state of health, is he/she suffering from some severe illnesses and provides to the arrested person a satisfying health care and emergency medical treatment. Also, the arrested person is provided with a medical therapy under the supervision of doctor. If the arrested person or detainee is suffering from an acute or infectious disease that requires treatment or isolation, it will be processed in accordance with general regulations. Medical interventions towards the arrested person or detainee shall be taken only with his prior consent, and in the case of minor it is needed prior consent of his/hers parent or guardian.

According to certain standards, the premises for the persons deprived of their freedom must have a room for medical examination of the arrested persons or detainees. This room does not have a video or audio surveillance because the medical examination must be performed without the presence and out of scope of hearing of a police officer. During medical examination, the police officer is in front of the room.

Data regarding the health status of the arrested person, his/hers use of therapy, hospital documentation and provided medical assistance, the Detention Supervisor enters to the Personal file of arrested person and Records.

By the inspection of the Detention Supervisors is checked whether all information related to the health status of arrested person and provided medical assistance are noted and draws attention on the rights and demands of arrested person in connection with providing of medical help.

22. It should be emphasized that the arrested person does not note his/hers rights in the Confirmation of rights on its own - this is done by the Police officer after arrested person read and approved the text in the Confirmation which he signs.

#### **4. Terms of detention**

23. Regarding the accommodation of persons deprived of their freedom, were set up the Standards for the premises for the detention of persons deprived of their freedom and the facilities used by the Detention Supervisors. According to those standards there are certain conditions which they must comply with, their size, equipment, lighting, sanitary parts, video and audio system, heating and ventilation, room for search of arrested person, room for a reception of arrested person, room for a conversation with defense counsel and a room for medical examination.

Given that the most of the police administrations have the rooms for detention of arrested persons which comply with the basic requirements in accordance to the Article 53 of the Rulebook on admission and treatment of arrested person and detainee and with the Record of arrested person in the Detention police unit (The Official Gazette No. 88/09), we are satisfied with the current condition while the current premises are designed in accordance with mentioned standards.

With regard to daily recreation in the fresh air of arrestees or detainees who is in police custody for more than 24 hours, it is organized in accordance to recreation opportunities in the fresh air. The newly built detention police units such as in the Dubrovačko-neretvanska Police Department have space for recreation in the fresh air, while in the other Police Departments recreation in the fresh air is conducted in accordance with the possibilities. It should be emphasized that the small number of arrestees spends more than 24 hours in police detention unit, because before that time questioning by the State Attorney's Office is done and the arrestees or detainees is released from prison or detention is determined.

24. A delegation of the CPT noticed in some detention areas the deficit of natural light and a lack of ventilation (VIII PP Trnje, where almost no accommodation of arrestees is done, and in PP Petrinja). In this regard, and for reasons to rectify irregularities some standards are made for rooms, where it is determined that the rooms must have a luminaire protected grid, and the light output must be sufficient to read. The room must also have intake-exhaust ventilation sufficient for the size of the room and the number of persons accommodated, whose switch must be located on the corridor, and air vents protected by grates.

As far as the size of the room is concerned, it is determined by the size of the floor section (footprint) of at least 5 square feet (4.40 m<sup>2</sup>) for one person and the amount of room between the floor and ceiling is 2.4 m.

Each room has a bed on which there is a one-piece mattress, and as needed, a chair made of durable material, that will serve the detainees for rest, review documents, prepare his defense, writing complaints and correspondence with counsel.

For existing facilities that meet the optimum conditions, it will be discussed on strategies for regulation, in order to ensure satisfactory conditions of detention, in order to adapt to the set standards.

Facilities that currently do not meet the minimum criteria and recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CT), will not be used until it met the minimum standards.

25. To meet its obligations with regard to nutrition of arrestees or detainees are regulated by Article 25 Ordinance on the admission and treatment of arrested and detained, and on the records of detainees in police detention unit (NN 88/09.). Daily meals detainees eat on the premises or in the common areas designated by the detention supervisor. For detainees are provided at least three meals in period of 24 hours, one of which must be of higher calorific value. Sick arrestees or detainees receive food whose amount and type is determined by the doctor.

At a specific time during the day to arrested persons and detainees a meal is offered which they can refuse. Police officers who serve food keep evidence of that and food for ill arrested persons and detainees is ordered from police restaurant.

Finally we would like to emphasize that the General Police Directorate, with the letter number: 511-01-22/6-620/12-04dated 9<sup>th</sup> of December 2004, ordered to all Police Administrations tasks and obligations in order to eliminate deficiencies identified by the delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) during their 2<sup>nd</sup> periodical visit to the Republic of Croatia from 01<sup>st</sup> to 09<sup>th</sup> of December 2003.

Considering that the Report of CPT from 2013 is mentioning that the representatives of CPT, during their visit to the 4<sup>th</sup> Police Station Zagreb, have found one baseball bat in the premises of the mentioned Police Station, we would like to note that by the aforementioned letter, among other things, is ordered that from all police premises must be remove all unnecessary items that can be intimidating to persons, as well as those items suitable for attack, escape or self-harm.

Sincerely,

Head of Office

Zlatko Košćić

**Response of the Ministry of Justice**



REPUBLIC OF CROATIA  
MINISTRY OF JUSTICE  
PRISON SYSTEM DIRECTORATE  
Central Office

CLASS: 910-02/12-01/44  
NO.: 514-07-01-02-01/5-10

Zagreb, 20 January 2014

MINISTRY OF INTERIOR  
International Relations Department  
Attn.: Mr. Damir Brnetić

Subject: Statement on the measures undertaken in accordance with the  
recommendations of the European Committee for the Prevention of Torture  
and Inhuman or Degrading Treatment or Punishment  
- is hereby delivered

In respect of the Report to the Croatian Government on the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to Croatia from 18 to 27 September 2012, under No. CPT (2013) 7 in accordance with Article 10 of the European Convention on the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, a statement on the measures and activities undertaken in accordance with the CPT recommendations is hereby delivered.

**B. Prisons**

a. Prison Overcrowding

**1. Introductory notes**

28. At the very beginning of the Statement related to overcrowding, it should be emphasized that the number of prisoners and juveniles in the prison system has decreased considerably since 2010 when it reached the maximum (5,162 prisoners); on 31 December 2011 there were 5,084 prisoners in the system, and in 2012 there were 4,741 prisoners. The decreasing trend in the number of prisoners, which is a result of the amendments to the Criminal Procedure Act relating to the duration of pre-trial detention of the one part, and on the other part the consequence of a larger number of imposing alternative sanctions continues also in 2013, i.e. there are 4,508 prisoners in the prison system in October this year.



Compared to 2011, the total number of prisoners in 2012 was lower by 7.43%, and in October 2013 by 12.80%.

The prison system is still characterised by overcrowding and inability to adhere to determined standards for prisoners serving sentences in closed institutions. The Law on the Enforcement of the Prison Sentence sets standards for prisoner accommodation, including 4m<sup>2</sup> and 10m<sup>3</sup> of dormitory space per prisoner. The current capacity provides space for the accommodation of 3,771 prisoners, and on 31 December 2012 there were 4,741 prisoners in the prison system. The total legal capacity of penitentiaries and prisons in 2012 covered the accommodation of 3,771 prisoners, of which:

- 2,915 (77.30%) serving prison sentence and pre-trial detention in closed conditions,
- 625 (16.57%) serving prison sentence in semi-open conditions, and
- 231 (6.13%) serving prison sentence in open conditions.

Occupancy rate is still the highest in closed conditions, i.e. in October this year it amounts to 127.20%, followed by 113.13% occupancy in open conditions, whereas semi-open conditions are not overcrowded in the above mentioned period (occupancy of 96.32%).

The Prison System Directorate, in accordance with the Action Plan for the Improvement of the Prison System (2011–2014), carries out different activities to improve the conditions of accommodation and reduce negative consequences of overcrowding, as follows:

1. The Act on Confirmation of the Framework Loan Agreement between the Republic of Croatia and the Council of Europe Development Bank for the Project of Extension and Rehabilitation of the Zagreb Prison No. F/P 1725 (2010) was published in *Official Gazette – International Agreements*, No. 8/2012 of 14 November 2012. The Prison System Directorate was included in the IPA TAIB 2012-2013 Project called SUPPORT TO THE PRISON SYSTEM OF THE REPUBLIC OF CROATIA with the envisaged funds of EUR 4.69 million, and an overall objective of improving professional and management skills of the Prison System Directorate and support for the implementation of the European Convention for the Protection of Human Rights and Fundamental Freedoms in prison systems. The realization of the Project of Extension and Rehabilitation of the Zagreb Prison and IPA TAIB 2012-2013 - Support to the prison system of the Republic of Croatia - is expected to begin in 2014. The project realization shall result in the compliance with the Order of the Constitutional Court of the Republic of Croatia (U-III/4182/2008) in relation to the adjustment of the Zagreb Prison capacities to the requirements for accommodation of pre-trial detainees in conformity with the Council of Europe standards and practices of the European Court for Human Rights in Strasbourg which shall not be humiliating for the prisoners, as well as relating to allowing for unhindered movement of the disabled (U-III/64744/2009).

2. In addition to the construction of a new facility at the Glina Penitentiary for the accommodation of 420 prisoners who are to serve their sentence in a closed conditions, an existing, i.e. an old prisoner accommodation facility known under the name "Boarding School", was completely renovated, which is intended for the accommodation of prisoners in semi-open conditions within a closed penitentiary, which enables better reclassification of prisoners.





3. In 2012 activities for the reconstruction of a part of the facility housing the prison were initiated at the Bjelovar Prison, and which will result in additional housing space for the accommodation of fifteen prisoners, appropriate archive rooms, as well as an improved kitchen area where the prisoners meals are prepared, with auxiliary rooms for food preparation and a storage. The value of the investment is approximately HRK 500,000.

Also in 2012, activities continued with the purpose of reducing the negative impact of overcrowding which is an occurrence characteristic exclusively for the enforcement of sentences in a closed conditions, and which is mitigated by:

1. Enhancing the variety of treatment programs and number of prisoners encompassed by those activities;
2. Transfer prisoners into more loosen conditions of the enforcement of prison sentence;
3. Enhanced maintenance of all areas where prisoners stay and work.

Acknowledging an absolute ban on torture, inhuman and degrading treatment or punishment, greatest efforts are made in order to ensure the realization of prisoners' rights to an accommodation appropriate for human dignity and health standards, nutritious and sufficient meals, and the prisoners' stay outside their rooms, i.e. cells, as long as possible, while enabling the appropriate activities for organized use of free time, but taking into account the needs resulting from the risk assessment for each prisoner, and, consequently, security of the penal institutions and social community.

## **2. Abuse and inhuman treatment**

32. The CPT recommendation is accepted stating that the Minister of Justice and prison director give a clear message to all staff of the Zagreb Prison in order to remind them of the fact that physical and verbal abuse is unacceptable and will be adequately sanctioned.

Based on the recommendation of the CPT delegation, an additional education for all officers of the Zagreb Prison Security Department was carried out with the topic of prisoners' human rights with a special emphasis on the harm caused by physical and verbal abuse of prisoners.

### **Case 1**

By checking the data it was established that the conduct of juveniles, involved in the mentioned incident, during his stay in pre-trial detention, was monitored by staff of the Treatment Department and Healthcare Department, and it was noted that the juvenile wished to draw attention to himself by his conduct in order to be granted release from detention. In doing so, we cannot completely exclude the truthfulness of allegations, but based on the currently available documentation, overstepping of authority by officers of the Security Department in their treatment of the minor cannot be established.

### **Case 2**

This is justified implementation of Special Measures for the Maintenance of Order and Security - placing the detainee into a specially secured room free from dangerous objects, tying his wrists and ankles with handcuffs, with enhanced supervision. Namely, the said Special Measure for Maintaining Order and Security was implemented with the aim of



protecting the detainee, since he threatened with inflicting self-injuries, i.e. disturb order and security, and it should certainly emphasize that the implementation of the said measure followed after all other possibilities of diverting him from inflicting self-injuries have been exhausted.

Having checked the allegations, it was established that the Judicial Police officers in both cases acted in accordance with provisions of the Law on the Enforcement of the Prison Sentence, which is evident from the report sent by the Zagreb Prison to the competent authorities (Zagreb Municipal Criminal Court, VI Police Station of the Zagreb Police Administration, Head Office of the Ministry of Justice Prison System Directorate and Ombudsman). None of the above mentioned institutions which were informed about the mentioned events and the implementation of special measures for maintaining order and security noted that authority has been overstepped or that it was the case of physical and verbal abuse of the prisoner.

33. The recommendation of the Committee related to the need to pay more attention to the problem of mutual intimidation among the prisoners in Module 4 of the Glina Penitentiary is accepted.

The Ward IV of the Glina Penitentiary accommodates prisoners who are opiate-addicts who have been prescribed opioid substitution therapy, i.e. opioid agonist therapy. These prisoners are separated from others with the aim of reducing misuse and manipulation of opioid agonists by prisoners who have been prescribed this therapy by a physician, i.e. a possibility of misuse of opioid agonists by prisoners who are not opiate-addicts, i.e. the ones who were not prescribed the mentioned therapy by a physician. The aim of separate accommodation is better control over the prescribed therapy with the purpose of protecting prisoners' lives and health and preventing the creation of new addicts as a result of misuse of psychopharmacological therapy. Until the prisoners addicts undergoing substitution therapy were separated from others, conflicts among prisoners related to the misuse of therapy occurred on the level of the entire Penitentiary, and after they were physically separated from other prisoners, conflicts have mostly occurred on Ward IV.

After the Committee's visit, additional attention has been paid to mutual relations among prisoners on this ward, and advancement of psycho-social climate in order to reduce the occurrence of mutual conflicts and abuse of prisoners. With this aim, based on the Committee's recommendation, intensified engagement of the Security Department officers on this ward is being insisted upon, and in addition to a security officer on the ward, another available officer has been sent to the ward to provide assistance. A range of working, occupational, educational and treatment activities has been enhanced as well as free-time activities for the prisoners of the ward IV, and the number of staff in charge of treatment working with those prisoners has been increased. Even though mutual contact of prisoners cannot be completely avoided because they all use common TV-halls and a walking area, in order to reduce the possibility of mutual conflicts, prisoners' movement between the ground floor and the first floor has been forbidden.

In relation to the time of the Committee's visit, the number of prisoners on Ward IV of the Glina Penitentiary has been in the meantime reduced as the number of prisoners undergoing substitution therapy for opiate-addicts is gradually diminishing, and at present, there are about 50 prisoners on the Ward.

### **3. Pre-trial detention conditions for general prison population**



a. Material conditions

34. The Committee's recommendation related to necessary steps to be taken to improve material conditions in the Glina Penitentiary, the Zagreb Prison and the Sisak Prison is accepted.

In the "Boarding House" facility of the Glina Penitentiary, rooms on the ground floor and in the left wing of the first floor are in use and those areas of the facility were renovated five years ago. Following the Committee's visit, and in accordance with the recommendation, on the ground floor of the building on the left side a separate admission unit for prisoners has been established, and in 2013, on the right side of the ground floor, a separate unit for release of prisoners was established, too. A semi-open ward of the Glina Penitentiary was opened on the first floor of the "Boarding House" building on 1 February 2013 where the prisoners' rooms are not locked, but are left unlocked 24 hours a day. The rooms have large windows which can be easily opened and provide sufficient daylight and fresh air. Prisoners accommodated in this ward (about 60 prisoners) may use a part of the yard intended to be used by the semi-open ward; they also have a wider range of conveniences at their disposal, in line with the Glina Penitentiary House Rules. Prisoners in the semi-open ward have at their disposal living rooms equipped with TV sets and billiards table, and a well-equipped gym is located on the ground floor. The right wing on the first floor is still unusable until funds are provided for its thorough renovation.

Regular rodent control and de-infestation of the Glina Penitentiary is conducted by authorized companies, and in 2013, the Penitentiary has spent HRK 16,732.70 for that purpose.

Following the Committee's visit, in the meantime, the number of prisoners on the Ward IV of the Glina Penitentiary has been reduced as the number of prisoners undergoing opioid agonist substitution therapy is gradually diminishing. Accordingly, a considerably lower number of prisoners are accommodated in Ward IV than in other wards. A total of about fifty prisoners on Ward IV are accommodated in 14 four-bed rooms and eight two-bed rooms. There are two bathrooms with six showers, two TV-halls (smoking and non-smoking) and two phone booths on the ward. The walking area of the 25 by 15 meter-size which is part of the Ward is located in the open, with the area being restricted by wire and its surface covered by gravel. Under the roofed part of the walking area, there is a newly-renovated gym with nine exercise machines for prisoners' training and recreation.

The Zagreb Prison has an evident problem of the lack of privacy during the use of sanitary facilities, and activities have been undertaken to separate the sanitary area of all rooms from the remaining part of the rooms by a physical partition to be built all the way to the ceiling by the end of 2014.

Window shades on the windows of the cells in the Zagreb Prison will be removed by the end of 2013.

With regard to four rooms of the Sisak Prison situated on the northern side and where natural daylight is blocked by a wall of the Sisak-Moslavina Police Administration, windows will be enlarged in order to provide prisoners with more natural light. As regards air-conditioners installed on the wall of the Sisak-Moslavina Police Administration, whose operation resulted in elevated temperatures in the summer period in those four rooms, those air-conditioners have been removed to other location where their operation no longer affects the prisoners.



As regards the ventilation upgrading in the cells situated on the northern side of the prison, we wish to emphasise that each cell has windows that can be opened/closed by the prisoners as they please, and depending on the financial resources, new air-conditioners will be provided.

36. The Committee's recommendation about the Croatian authorities taking measures to reduce the prison cells' occupancy level in all prisons they visited (as well as in other prisons in Croatia) in order to ensure at least 4m<sup>2</sup> per prisoner in cells where several prisoners are accommodated at the same time, is accepted. In accordance with the Action Plan for the Improvement of the Prison System (2011-2014), the prison system continues to undertake various measures to improve the accommodation conditions and reduce negative effects of overcrowding. In 2012, measures continued to be taken with the purpose of reducing negative impact of overcrowding by enhancing the variety of treatment contents and number of prisoners encompassed by those activities, by transferring prisoners into more loose conditions of the enforcement of prison sentence and enhancing maintenance of all areas where prisoners stay and work.

b. Activities

37. After the claims from the CPT delegation's conclusions have been checked, according to which the prisoners assigned to work in the Food Section of the Sisak Prison are not provided with a possibility to spend time in the open, the following has been established: an insight into the records kept by the Security Department clearly showed that all prisoners of the Sisak Prison, including those who work in the Food Section, are allowed to stay in the open on the daily basis. However, since the Sisak Prison cannot force anyone to use his legal right to stay in the open, if any of the prisoners refuses to spend time in the open, his wish is respected but it is recorded in the logbooks of prisoners' stay in the prison open-air area.

With regard to the CPT recommendation related to the reduction of the number of prisoners who stay in the open-air area within the enclosed yard of the Sisak Prison (surface area of approximately 100m<sup>2</sup>), we wish to emphasise that the mentioned measure cannot be fully implemented at present because the Prison is overcrowded. Namely, the Prison is capacitated to accommodate 48 prisoners, whereas on 15 October 2013 there were 24 pre-trial detainees, 45 prisoners, 4 persons serving a fine substituted by prison sentence and 5 persons sanctioned for misdemeanour, therefore, a total of 78 prisoners, i.e. the number of prisoners which exceeds the prison capacity by almost 50%. If the number of prisoners will be dropping in the foreseeable future, the possibility of stay in the open will certainly be provided for smaller groups of prisoners.

It should also be emphasized that criteria for forming groups that will stay in the open are, among other things, conditional on security reasons, too.

Subsequently, it is our opinion that the Sisak Prison did its best with regard to the given recommendation since the prisoners' stay in the open, in view of the earlier mentioned circumstances, has been organized in the currently best possible way.

Acknowledging the CPT recommendation, the Head Office of the Prison System Directorate shall make efforts when sending prisoners to serve sentence and transferring prisoners to gradually reduce the number of prisoners serving sentence in the Sisak Prison in order to create conditions for improving the organization of the sentence execution.





40. The CPT recommendation for enhancing the program of activities, including work activities and vocational training for prisoners serving sentences in the Glina Penitentiary and prisons in Zagreb and Sisak is accepted.

Prisoners accommodated in Ward IV of the Glina Penitentiary are given a possibility to take part in all existing activities of the Penitentiary, just as prisoners accommodated in other wards. Prisoners on Ward IV may, together with other prisoners, take part in art, music, IT and other sections; they may attend concerts organized by the music section, participate in all football, basketball and other sports tournaments, take part in the group implementation of special programs, especially the program of drug and alcohol addiction treatment; they also take part in the literacy programs, education programs and trainings. In accordance with the daily schedule of activities, they are given a possibility to stay in the open air twice a day, they have access to the gym and table football in the roofed area next to the Ward, and three times a week, recreational activities for the prisoners of Ward IV are organized at the big sports field. Living rooms in the wards are equipped with table tennis tables, and the prisoners are additionally encouraged to take part in sports tournaments.

As regards the work schedule and training program, one cannot ignore the fact that the psychopharmacologic treatment is objectively a limiting factor in the selection of a small number of available jobs and training programs which include practical classes. This issue is dealt with in cooperation with physicians who assess the work ability of each prisoner.

The Glina Penitentiary was given approval to organize trainings for prisoners in 2013 (acquisition of literacy, primary school education, vocational trainings) which are conducted by staff of the Turopolje Correctional Institution, and the preparations for the implementation of trainings are under way.

In accordance with the Committee's recommendation, the training for computer operator within the Croatian Government project entitled "*Project of re-socialization of drug addicts who completed one of the treatment and rehabilitation programs in a therapeutic community or prison system, and addicts who undergo out-of-hospital treatment and maintain abstinence in a stable manner for a longer period of time and observe the prescribed manner of treatment*" has turned out to be most stimulating training for prisoners addicts. Within the framework of the said project, until the end of 2012, a total of 165 prisoners drug addicts successfully completed the training for computer operators, out of which 30 were from the Glina Penitentiary.

In the Sisak Prison, there is just one room intended for free activities of prisoners, equipped with a relatively old computer; it is open for prisoners' use in accordance with the daily schedule. We emphasise that it is a room at the disposal of all prisoners who have expressed the wish to occupy themselves with drawing, painting or literary expression. However, in practice, a relatively small number of prisoners have shown interest in this possibility. At present, the Sisak Prison is unable to take measures to replace the old computer with a new one due to the lack of financial resources. Once the financial situation improves, the mentioned objection will be certainly taken into account.

In addition to the above mentioned, the Sisak Prison organizes table tennis and chess tournaments every three months, and the prisoners also have exercise machines at their disposal during their stay in the open. In addition, literary and model-making workshops will



be organised in the forthcoming period, and prisoners will also have an option to take part in the workshops on the development of parental competencies.

Over the past 10 months, four chess and table tennis tournaments were organized for the prisoners of the Sisak Prison. The Prison will keep organizing tournaments in social games for prisoners who wish to take part in them in order to additionally improve the program of free activities.

The claims from the CPT report about prisoners in the Sisak Prison staying 22 hours a day in the rooms where they are accommodated, and the remaining two hours being allowed to stay in the open are accurate. This is caused primarily by overcrowding which makes it impossible to organize a longer stay of prisoners in the Prison's open-air area. An additional aggravating circumstance is a cramped prison yard.

Acknowledging the recommendation, additional efforts shall be invested so the reduction of the number of prisoners could create the conditions for opening a living room which would provide opportunity for a longer stay of prisoners outside their rooms.

The Zagreb Prison organizes occasional sports and recreational competitions for prisoners (for example chess competition), lectures and art performances at least once in three months. Thus, for example, the Sinj Public Theatre gave, on several occasions so far, various theatrical performances which were attended by all prisoners, as well as pre-trial detainees, who wished to attend them, and which were performed in the most spacious prison area intended for performances.

The prisoners are also provided with a possibility to take part in other programs such as, for example, anti-stress program based on breathing techniques by the "Art of Living" Association, a literary workshop by the "Skribonauti" Association, screening of the movie entitled "12 Angry Lebanese" by the "Domino" Association.

As far as the sports activities are concerned, prisoners serving prison sentence have a possibility to use the sports hall in accordance with the daily schedule. In addition to the above mentioned, with the aim of further improvement of the program of activities, prisoners will soon be provided with the possibility to play indoor table tennis.

Acknowledging the CPT recommendation, the Zagreb Prison shall also provide pre-trial detainees and prisoners with the more frequent access to the sports hall and indoor sports field, and the possibility to play football, basketball and table tennis.

41. The recommendation is accepted to take measures to provide all juveniles temporarily accommodated in prisons with a full program of planned activities; on 22 May 2013, the Minister of Justice, in line with his authority and a provision of the Juvenile Courts Act, made a Decision ordering all prisons to establish a special prison unit for juveniles where pre-trial detention of juveniles will be enforced. During the enforcement of their pre-trial detention, juveniles will be provided with psycho-social assistance and permanent health care in a special prison unit, and within the framework of prison conditions, they will be also given an opportunity to work and attend trainings useful for their education and vocation as continuation of their previously commenced education. Time spent in the special prison unit will be credited against the length of time of an institutional correctional measure given to a juvenile.



Juveniles are placed in the special prison unit and separated from adults. If a juvenile should be accommodated alone in a room, and if in a physician's opinion, such accommodation might ill-affect the juvenile's health, the Prison Director shall immediately inform the competent court asking for approval to place the juvenile in a room together with an adult who will not affect him in a detrimental manner.

The Zagreb Prison staff is trained to work with juveniles ordered to be held in pre-trial detention and who are accommodated in a special prison unit (room), through the program entitled "Education program for prison staff on the treatment of juvenile perpetrators of criminal acts". The program content includes: legislative framework, sanctions against juveniles with a special emphasis on the sanctions enforced within the prison system, specific characteristics of the treatment of juvenile offenders and behavioural disorders. The emphasis is put on the fact that the work with juvenile offenders involves joint activities of the staff in charge of treatment and security. With regard to education, attention is paid to educational influence of staff involved in the work with juveniles, and the staff is reminded that they influence the juveniles mostly by providing their own example. The education program emphasizes the need for professional and expert approach to juveniles who should be treated with respect and taking into account their specific needs.

Specific activities to achieve planned objectives and potential improvements of conditions are carried out through regular joint meetings of the Treatment Department and Security Department officers in charge of working with juveniles.

42. The recommendation is accepted and the prisoners and pre-trial detainees in the Zagreb Prison will be given access to all sports contents, both to those in the Prison open-air area and in the sports hall, and special attention will be paid to conceiving vocational and free activities adjusted to their needs.

c. Department for Diagnostics at the Zagreb (District) Prison

44. The Centre for Diagnostics in Zagreb is responsible for a diagnostic procedure on the basis of which the treatment program is proposed for each prisoner. The Head Office is responsible for making a decision on accommodation and in doing so it is given, on one hand, insight into the report of the Centre's expert team with the findings of the diagnostic procedure and the proposal for individual treatment program, and on the other hand, it has at its disposal information on the penal institutions' occupancy rate.

The comparative analysis of assignment proposals with the decisions on assignment in a three-month period has shown that the Head Office made decisions differing from the proposal in 15.12% of cases. In these cases, where a different decision was reached for organizational reasons, care has been taken that in penal institution to which the prisoner was assigned all aspects of proposed individual treatment program can be implemented, as proposed by the Centre for Diagnostic's team, i.e. that a prisoner is not deprived in any way of possibilities of a high quality program of the sentence execution.

At the same time we would like to emphasise that on 10 December 2012, the Minister of Justice set Framework Benchmarks for Assigning and Categorizing Prisoners Serving Prison Sentences, which set in detail criteria for making proposals by the Centre for Diagnostics in



Zagreb and decisions by the Head Office of the Ministry of Justice Prison System Directorate on a penitentiary or prison where the prisoner will continue serving his prison sentence. Thus, the Framework Benchmarks specify that the Head Office will make a decision on the penitentiary or prison where the prisoner will continue serving his prison sentence by acknowledging an expert assessment of the Centre for Diagnostics, and taking into account an overall security and organizational situation in the prison system as well as other expert criteria resulting from each individual case of assignment.

#### **4. Medical services**

##### **a. Access to medical services**

45. The CPT recommendation to take the steps necessary to improve the health care services is accepted and certain measures have already been taken to achieve that goal.

Following the CPT visit to the Zagreb Prison, a vacancy was announced and two general practitioners and one medical nurse were employed, so that now this penal institution has four general practitioners, one psychiatrist, two dentists, ten nurses and one pharmacy technician, all permanently employed.

In this way, the access to health care has been facilitated and accelerated. We wish to stress that one of the nurses has years-long work experience on a hospital psychiatric ward.

The noticeable problem in the Glina Penitentiary is the inability to employ a general practitioner and a psychiatrist, especially after the termination of employment and departure of Dr. Natalija Išerić in January 2012.

In compliance with the Amendment to the Civil Service Admission Plan for the State Administrative and Professional Services of the Government of the Republic of Croatia in 2013 (NN (*Official Gazette*) no. 76/13), approval has been given to the Ministry of Justice (penal institutions) for admission of 29 civil servants with a university degree, 1 civil servant with a two-year degree, 23 civil servants with completed secondary education and 3 interns with a university degree. Of the total number of approved civil service posts, it is planned to employ 7 general practitioners, 4 physicians-specialists and 5 medical technicians/nurses. The planned admission of employees to civil services will significantly contribute to the quality of the health care for prisoners not just in the Glina Penitentiary but throughout the prison system.

Following the CPT recommendation, we would like to stress that on 11 September 2013, a public vacancy competition was announced in the *Official Gazette* no. 113/13 for the post of physician specialized in psychiatry. In addition, on 14 October 2013, the Croatian Employment Service published a public invitation for the vocational training of a medical technician (1 vacancy). Also, we believe that number of 7 employed medical technicians/nurses meets the needs of the Glina Penitentiary. They work in two shifts – every working day, on weekends and on holidays. Due to shortage of physicians (head of the Department), there is a need for a pharmacy technician and a senior nurse/technician who would be hired as our employee and tasked with organizing the work in the Health Care Department.





If the post of physician in the Glina Penitentiary remains vacant, additional visits of the physicians from the Lipovica-Popovača Penitentiary or the Zagreb Prison will be arranged at least once a week. Also, we will continue to use the services of the external physician on work contract.

46. The recommendation to procure a new dental chair for the Zagreb Prison and to find adequate premises for the out-patient clinic at the Sisak Prison is accepted.

The purchase of a new dental chair for the Zagreb Prison is planned within the next budgetary period and it will be procured once the funds are available.

The CPT report states that the "Out-patient clinic in the Sisak Prison consists of two 2.5 m<sup>2</sup> rooms, which is insufficient for all medical services that need to be provided (counselling, treatments, pharmacy, archives)." Although the actual surface of the out-patient clinic is 11 m<sup>2</sup>, we agree that it is not large enough for the performance of all medical activities. Presently, there is no other adequate room on the premises of the Sisak Prison that could serve as an out-patient clinic. However, in compliance with the Committee's recommendation, should the number of prisoners in Sisak Prison decrease, some other space will be made available to enable performance of all medical activities.

b. Medical examinations, recording of injuries and confidentiality

47. Acknowledging the Committee's opinion, the procedures relative to the initial examinations upon admission to a penitentiary or prison were reassessed. It is correct that upon admission of new prisoners into the Sisak Prison medical examinations are usually done on the same day or within one or two days thereafter. There is one nurse employed in the Prison and a physician on contract comes twice a week. His employment is not a permanent one. When the nurse detects a health problem or if a prisoner requests an urgent examination, the physician is immediately notified thereof and the prisoner is examined in the Emergency Room of the Sisak General Hospital or is referred to the Zagreb Prison Hospital.

When two general practitioners were hired in the Zagreb Prison, the work in two shifts on workdays expanded to the work on week-ends and holidays as well, which makes it possible to ensure that all prisoners are examined in the shortest time possible.

The physicians in the Zagreb Prison keep medical files which include information on the prisoners' health status and injuries, if any. If the examination indicates that a prisoner suffers from a disease that requires specialist's examination or hospitalization, the prisoner is sent to the Prison Hospital or to an external health institution.

As regards medical examinations of prisoners upon their admission to the Glina Penitentiary, they are done as soon as possible. In agreement with the penal institution from which a prisoner is sent/transferred, the transfer of such prisoner is made, if possible, on the day when the physician is on call. As a rule, prisoners come to the Glina Penitentiary either from the Diagnostics Centre where a physician from the Zagreb Prison examines them before they are transferred along with their medical files and the prescribed therapy or, less often, they come from some other penal institution where they were also under medical supervision. If at his or her admission a prisoner complains about having some health problems or if a physician notices some injuries, or if a prisoner's health status is in any other way suspicious and the physician is not on call that day, the prison/penitentiary officer on duty is under the obligation



to arrange examination of prisoners either in the local Emergency Unit or in the Zagreb Prison Hospital.

49. The CPT recommendation is accepted; the earlier practice and method of registering injuries will be enhanced as recommended. A protocol will be established and it will specify how the details on injuries should be recorded, photographed and safeguarded, respecting the rules of medical profession. Likewise, the protocol will include the obligation of reporting thereof to the Head Office of the Prison System Directorate, which will then, in accordance with its competences, undertake necessary measures.

50. The CPT recommendation is accepted and, within the scope of the said measures for the employment of additional medical staff (mentioned in Item 45), another medical nurse/technician will be employed in the Sisak Prison so that the therapy could be administered by medical professional and only exceptionally by the Security Department personnel.

Upon inspection of the current mode of work, it has been established that in the Sisak Prison the medicaments are not distributed solely by the prison guards but rather that this takes place when the nurse is not on call (therapy administered in the evenings, on week-ends and on holidays). We would also like to point out that the opioid substitution therapy are administered to the addicts always in the morning hours and, as a rule, by the nurse on duty.

c. Psychiatric care and problems related to drug addiction

51. The security measure of compulsory psychiatric treatment imposed in addition to the prison sentence is enforced, pursuant to Article 75 of the Criminal Code (KZ/97), in the form of an inpatient clinic of the Prison Hospital, as prescribed by Article 20(4) of the Law on the Enforcement of the Prison Sentence. When all medical and penological preconditions are met, the physicians specialized in psychiatry and forensic science at the Prison Hospital establish whether or not it is possible to continue with the measures in an out-patient clinic of one of the penitentiaries or prisons that is capable of providing adequate medical care and the required individual or group therapy. After that, the Head Office of the Prison System Directorate takes a decision on the transfer.

With the view to enforcing this measure as strictly as possible, some ten years ago the Head Office set up an expert team in charge of monitoring the execution of the compulsory measure of psychiatric treatment. This team consists of a representative of the Prison Hospital (administrator of treatment and specialists in psychiatry and forensic psychiatry), a representative of the Head Office of the Prison System Directorate, and representatives of the penitentiaries and prisons (an administrator of treatment, a security officer and a physician), as well as the enforcement judge with the jurisdiction over the penitentiary or prison in question. The expert team holds meetings every four months at the penitentiary or prison hospital where the security measure is being enforced in the form of out-patient treatment. It analyses the methods and form in which the measures are enforced, be it in the form of inpatient or out-patient treatment and determines / evaluates the results of the implementation of each particular program of the enforcement of prison sentence, as well as the results of the medical treatment conducted as a security measure of the compulsory psychiatric treatment.

On the same occasion, recommendations and conclusions are provided regarding the improvement and uniform approach to treatment of prisoners of this category. It is important



to stress that when a prisoner is to be transferred, the proposal of the Prison Hospital as to which penitentiary or prison such prisoner is to be transferred, should be taken into account. This proposal depends on the diagnosis and the extent of procedures required for each particular prisoner.

Finally, we point out that, respecting this recommendation, we have undertaken adequate measures, and at the level of the entire prison system within the time lime from September 2012 to September 2013 seven physicians and nine medical nurses/technicians were employed.

52. Upon an insight into the register of the prisoners accommodated in the Glina Penitentiary in the specially secured facility free from dangerous objects, it was established that in March 2011 and in June 2012 the Security Department registered by mistake two prisoners who, when they heard that they would be tested for the presence of narcotics, declared that they could not provide a sample of urine. They were given the option to drink some water (2 dl) if they so wished and, while being guarded by the Security Department officers, they were given two hours to give urine so that the testing could be carried out in compliance with the Protocol.

Acknowledging the CPT recommendations received during the CPT visit, the measure of accommodation in the room free from dangerous objects in the Glina Penitentiary was abolished in order to give the prisoners time to provide a sample of urine required for the testing for drugs in adequate and controlled conditions.

#### **5. Other issues**

- a. Special measures for maintenance of order and security - accommodation in the specially secured room without dangerous objects and restraint by handcuffs.

53. The recommendation that measures should be undertaken to provide daylight and an alarm bell in the specially secured rooms free from dangerous objects, is accepted.

The Glina Penitentiary has three newly renovated rooms free from dangerous objects, located in the new accommodation facility (one on the ground floor, two on the first floor). They are used very rarely and on those occasions only the one on the ground floor is usually used. Access to daylight is not possible (artificial lighting exists) because the room has no free external wall. However, alarm bells for the case of emergency in all three rooms are in the process of installation.

Access to daylight, as recommended, would be possible only by changing the location of this facility, but this would require additional funding. The relocation of the room free from dangerous objects to a more adequate section of the building will be included in the plan for the future period.

As regards the Zagreb Prison, all three specially secured rooms free from dangerous objects ("rubber cells") will be rearranged in such a way as to provide natural light and signal bells for the case of emergency.



In the room free from dangerous objects ("rubber cell") at the Sisak Prison, the window is not installed on the ceiling of the room, as established in the CPT report, because that room is located on the ground floor and it has a window at the external wall of the building.

The alarm bell for the case of emergency was installed in the room free from dangerous objects at the Sisak Prison on 18 October 2013.

58. The recommendation is accepted and the procedures for confinement to the rooms free from dangerous objects have been thoroughly examined in a large number of penal facilities.

The measure of confinement of a prisoner to a "rubber cell" and the measure of handcuffing are applied in compliance with the provisions of the Law on the Enforcement of the Prison Sentence (Article 135(2), Article 136 and Article 138).

The special measure for maintenance of order and security, i.e. restraining of hands and legs, if necessary, with handcuffs or straps, was applied solely in compliance with Article 138 of the Law on the Enforcement of the Prison Sentence and not for longer than 12 consecutive hours.

The said measure was not enforced after the lapse of time prescribed by the law or without a specific reason.

The special measure for maintenance of order and security, accommodation to a specially secured room free from dangerous objects, was not applied as punishment of the prisoners, but solely for the purpose of protecting the life and health of the prisoners, i.e. to prevent self-wounding and if order and security were jeopardized. This measure was applied only until the prisoner calmed down, in other words if the reason for its taking ceased to exist. Throughout the enforcement of the said measures, the Security Department officers and the officers of the Treatment Department were regularly checking on the state of the prisoners accommodated in the specially secured room.

All those special measures for maintenance of order and security applied in respect of prisoners were enforced only when no other measure gave results and not before a positive opinion was received from the physician who had examined the prisoner. Also, clothes were removed with consent of the physician in charge, due to the fact that the prisoners' clothes were not resistant to ripping and tearing.

In compliance with the recommendation of the CPT delegation, all Security Department officers have been additionally educated about the implementation of the special measures for maintenance of order and security. With regard to the above, the Zagreb Prison management has set forth the "Guidelines for the execution of special measures for maintenance of order and security", which prescribe in detail who takes a decision on introducing and terminating the special measures for maintenance of order and security.

59. The CPT recommendation that the restraint by handcuffs in prison must be applied with minimum protection measures and standards is accepted. To that end and with the view to enhancing the work and standardize the procedures related to the implementation of the security measure of handcuffing prisoners, on 28 August 2013 the Head Office of the Prison System Directorate set forth instructions which prescribe the following:





1. The measure of restraining hands and legs, if necessary, with handcuffs or straps shall be applied against a prisoner who jeopardizes or threatens to jeopardize order and security only in the case where the implementation of such measure, be it independently or in combination with other measures referred to in Article 135 of the Act, is the last resort to restoring order and security.
2. When applied in addition to the measure for maintenance of order and security which foresees accommodation in a specially secured room free from dangerous objects, the said measure may be applied solely in exceptional cases, i.e. when its enforcement will prevent the obvious intention of a prisoner to commit self-wounding or suicide by using the objects available in the room where he or she has been accommodated; in other words, when the room where he or she is accommodated contains objects the prisoner might use to commit self-wounding, and when the enhanced supervision indicates that a prisoner is likely to commit self-wounding.
3. All the measures from Article 135 of the Law on the Enforcement of the Prison Sentence may be applied only for the reasons prescribed by the Law and for no other reason whatsoever. In addition, when enforcing the special measure for maintenance of order and security by restraining hands and, if necessary, legs with handcuffs or straps, it is imperative to use only the items specifically intended for that purpose – handcuffs, handcuffs for hands and legs, and straps fixed only to the prisoner's body.
4. A prisoner may be restrained or fixed in some other way only if so required for medical reasons.
5. In the cases of extraordinary situations which are likely to result in serious disturbance of order and security, when there is a threat to the lives and bodies of prisoners, official persons, riots, etc. or when it is necessary to act quickly in order to protect the prisoners and the staff and to prevent major material damage, and when the standard manner of restraining is not likely to be effective, it is possible to briefly depart from the said rules on restraining. Such situations must be well documented and explained.
6. In addition to the obligations arising from the consistent implementation of the legal provisions, the commencement of implementation of the said measure should coincide with the commencement of the treatment (more frequent conversations) of the prisoner who was subjected to this measure, depending on availability of adequate professionals in the penitentiary or prison. Apart from the enhanced supervision of the prisoner, measures will be undertaken in order to establish the reasons of the prisoner's behaviour which led to the application of this particular measure and, accordingly, to remediate the prisoner's condition by applying adequate treatment.
7. If the medical examination indicates that the condition of the prisoner requires special medical treatment in a public health institution or in the Zagreb Prison Hospital, urgent action must be taken to arrange prisoner's hospitalization.

In view of the above and given the Committee's recommendation, the Prison System Directorate will continue to take relevant steps for the implementation of the procedures and the recommended minimum protective measures. It will also make sure that these measures are implemented in all prisons which apply the measure of restraint with handcuffs.



b. Discipline and separation from other prisoners

60. Acknowledging the Committee's recommendation to amend the provisions of Article 146(2)(4) of the Law on the Enforcement of the Prison Sentence referring to the duration of the disciplinary measure of sending to a solitary confinement from up to 21 days in free time or during the entire day or night to up to 14 days of continuing confinement, the Croatian authorities will look into the possibility of implementing these recommendations within a reasonable time.

61. The CPT recommendation to undertake measures to improve ventilation in the cells of the ward for the enforcement of security and disciplinary measures in the Glina Penitentiary is accepted. Two 40x15cm sized plates with small holes sized 1cm in diameter have been installed (one high, one low) on the door of each of the three rooms free from dangerous objects ("rubber rooms"), located at the new accommodation facility of the Glina Penitentiary. In order to enhance the flow of fresh air into those rooms, additional openings have been drilled, as the material on the door allowed.

The CPT finding established that there is sufficient natural light in the solitary confinement rooms and isolation rooms of the Glina Penitentiary. A hook has been provided which will make it possible for the Security Department officer to open the windows of the cells because this is the only possibility left by the contractor who built the new facility. This will improve the natural ventilation of the premises.

62. Acknowledging the recommendation to find alternative ways of taking care of the prisoners who are, for the reasons of security, accommodated at the Ward for the execution of security and disciplinary measures in the Glina Penitentiary, certain measures have already been taken. They include the already described enhancement of the treatment of prisoners accommodated at the 4<sup>th</sup> Ward. The fact is that upon the enforcement of the disciplinary measure some inmates on the Ward for the enforcement of security and disciplinary measures in the Glina Penitentiary persistently refuse, stating "security" reasons, to be accommodated at any other ward, but they also refuse to provide names of the inmates who threaten their security or to give reason therefor.

It is not correct that the inmates stay on this Ward because of the positive results of the tests for detection of presence of drugs. The inmates in question stay on this Ward at their own request, seeking transfer to some other penal institution (usually the one closer to their place of residence), although they do not satisfy the penological requirements for such transfer. It often happens that the inmates go into debts among themselves for which they alone bear responsibility as they are fully aware of the risk of getting engaged in unlawful activities (borrowing things, betting, etc.).

Setting up some kind of a "protected ward" is not foreseen by the Law on the Enforcement of the Prison Sentence; prisoners who have objective security-wise problems can be transferred to some other ward within the Glina Penitentiary or, as a last resort, transfer to some other penal institution can be suggested if the reasons are assessed as justified.

63. The CPT recommendation is accepted and the role of the physician in the execution of disciplinary measures of sending to solitary confinement will be defined by way of the guidelines for the standardization of practice, which are already being drafted in view of the new House Rules to be implemented as of 1 January 2014. The legal provision on the compulsory medical examination is primarily aimed at protecting the health of inmates rather





than including the physician in the taking of a decision on the type of sanction to be pronounced.

64. The CPT recommendation to enhance the implementation of the disciplinary procedure is accepted. On 14 May 2013, an internal inspection was conducted in the Glina Penitentiary and it showed that there were certain irregularities in the implementation of disciplinary measures against the prisoners in that some disciplinary procedures were initiated beyond the time limit foreseen by the Law, and the dates cited in the motion for the initiation of disciplinary procedures, in the minutes from the hearing and in the decision on the pronounced disciplinary measure did not match. Also, while working on the complaint filed by prisoner M.M. in July 2013, it was established that a copy of the decision is not handed to the prisoners who waive their right to appeal at the main hearing during the disciplinary proceedings, as provided for in Article 148(6) of the the Law on the Enforcement of the Prison Sentence.

On 11 September 2013, the conclusions on the conducted internal inspection were delivered to the Glina Penitentiary and measures for removal of the irregularities were imposed including *inter alia*, the obligation to conduct disciplinary proceedings against prisoners in compliance with the Law on the Enforcement of the Prison Sentence and the Criminal Procedure Act.

On 14 October 2013, the Glina Penitentiary submitted a report on the implementation of the imposed measures, in which it is stated that the prison director appointed two legal professionals in charge of conducting disciplinary proceedings in accordance with the Law on the Enforcement of the Prison Sentence and the Criminal Procedure Act. They will consult the enforcement judges of the Sisak County Court about all contentious issues.

65. It is correct that the legal provision of Article 145(3)(17) of the Law on the Enforcement of the Prison Sentence ("deliberate endangering of one's own health with the purpose of incapacitation for the performance of obligations") has not been amended; this is because self-wounding is in practice not treated through disciplinary procedures, first of all because of the aetiology of self-wounding, which is in most cases pertaining to the prisoner's general clinical picture.

In order to ensure equal procedures in all penal institutions, this issue will also be covered in the guidelines on the unification of practice. The Croatian authorities will take appropriate steps to make the changes in due course.

66. The CPT recommendation to reassess the inadequate accommodation of the prisoners who are waiting to be released on conditional release, is accepted and certain measures have been undertaken.

As of 15 October 2013, the prisoners preparing to be released are accommodated on the ground floor of the dormitory building. It is a spacious and well-arranged section of the building with adequate sanitary facility, living-room and cells with enough daylight. The staff still continues to work with them on their individual programs of sentence, which means that they proceed with all earlier activities, but now with the emphasis on the preparations for release. These prisoners are kept separately in order to reduce the possibility of maltreatment and manipulations by the inmates who continue to serve their sentences, which has often been the case.



c. Staff

67. The Prison System Directorate is aware of the fact that prisons and penitentiaries are short of staff, both the staff in charge of security and officers of other professions (medical and treatment staff).

Pursuant to the Amendment to the Civil Service Admission Plan for the State Administrative and Professional Services of the Government of the Republic of Croatia for 2013 (*Official Gazette* no. 76/13), the Ministry of Justice (penal institutions) was granted approval to admit 29 civil servants with a university degree, 1 civil servant with a two-year degree, 23 civil servants with completed secondary education and 3 interns with a university degree. Of the total number of approved civil service posts, it is planned to employ 7 general practitioners, 4 physicians-specialists and 5 medical technicians/nurses. The planned admission of employees to civil services would significantly contribute to the quality of the health care for prisoners not just in the Glina Penitentiary but throughout the prison system.

During 2013, 56 new judicial police officers were employed on the basis of the needs reported by the penal institutions in 2011 and 53 officers on the basis of the outplacement program for the staff from other national authorities.

The newly admitted staff members are attending the 23<sup>rd</sup> and 24<sup>th</sup> basic training for the judicial police officers.

68. During 2012, the Educational Centre for Prison Staff organized the following programs:

- 21<sup>st</sup> basic training for judicial police trainees – 32 attendants
- 7 one-day lectures on “Specific features of the treatment of disabled persons within the prison system”, in cooperation with the Croatian Union of Associations of Persons with Disabilities – 125 attendants at the level of the prison system
- 8 three-day seminars entitled “Team work of the penal institutions’ staff – mixed groups of approximately 15 members per group – 123 attendants
- “Prevention of recidivism and control of impulsive behaviour” – 10 officers from treatment departments in different penal institutions
- 4 one-day lectures on “Safety at work”, intended for the staff of the Glina Penitentiary – 78 attendants
- “Training for vocational teachers” – 4 three-day seminars – 62 attendants
- “Professional communication in the performance of civil service – 6 one-day seminars attended by a total of 94 officers.

In conclusion, in 2012 a total of 524 officers attended various education programs in the Centre.

69. The recommendation to take appropriate steps to abolish the practice of carrying truncheons in open view at the points of lock-up, is accepted. As early as 2007, the Head Office of the Prison System Directorate issued an order concerning carrying of truncheons in a specially designed pocket of the uniform. Given the rather generalized nature of the CPT finding that “the majority of prison guards in all of the visited institutions still carry





truncheons in full view of prisoners”, we allow the possibility that the delegation saw truncheons on the security ward officers engaged in escorting the prisoners.

With regard to the fact that the abovementioned order is still in effect, and also taking into account this CPT recommendation, a notification on the need to consistently implement this order will be issued at a joint meeting of the heads of security departments of all penal institutions.

d. Access to information

70. The recommendation is accepted and the Head Office of the Prison System Directorate will actualize the existing Handbook for Prisoners, with new information about the rights, obligations and procedures relevant to the prisoners during the enforcement of prison sentence.

In view of the new house rules that will become effective as of 1 January 2014 in all penal institutions, the adjustment of this handbook has become a necessity. We wish to emphasize that the concept of the new house rules is aimed at enabling prisoners to find at one place all necessary information on their rights and instructions on how to exercise those rights. House rules must be made available to all prisoners.

Once it is upgraded, this handbook will be distributed to the penal institutions which will then hand it to the newly arrived prisoners at the point of admission.

Pursuant to the Access Information Act (*Official Gazette* no. 25/13) the Prison System Directorate published on its web site <http://www.mprh.hr/uprava-zazatvorski-sustav> the updated information concerning the organization and competences of the Head Office of the Prison System Directorate and data on all penal institutions (names of prison directors, addresses, phone numbers and visiting hours). All laws, ordinances and rules related to the operation of the Prison System Directorate have also been updated.

A new section, entitled 'Catalogue of products manufactured by prisoners' contains articles about the activities of prisoners in their free time.

Also, news are published about the work of the Prison System Directorate and section 'Vacancies' informs about all public announcements of permanent and temporary jobs available in the Prison System Directorate at the Ministry of Justice.

In section 'Public Procurement' all penal institutions publish contract and annexes to contracts which are not registered in the Register of Public Procurement Contracts and Framework Agreements. Also, it provides an overview of the concluded public procurement contracts and their execution, procurement plans, etc. The activities related to updating of information, preparation and publication of articles on the Internet web site are performed by several persons.

e. Contact with the world outside

71. The recommendation to review prisoners' right to receive visits is accepted. The Law on the Enforcement of the Prison Sentence sets forth prisoners' right to receive visits by family members two times a week and on holidays, and the right of minor children to visit



their parents once every week and on holidays. The new House Rules prescribe that all rights to receive visits may be exercised, as well as exceptional visits approved as a special benefit.

With an aim of expanding the possibilities of contacts with the outside world, and in particular of contacts between children and their parents who are serving sentences, amendments have been made to the provision of the Regulation on Benefits which previously restricted the number of all categories of visits on week-ends and holidays. Now it is possible for the prisoners to receive two visits on weekends if they qualify for this option by way of acquired benefits.

72. The prisoners in pre-trial detention in the Sisak Prison contact their visitors through a physical barrier. Open visits are allowed for minor children of the prisoners in pre-trial detention and occasionally also for other family members at a written request of the prisoner.

As regards the visits of children, the House Rules in the Sisak Prison allow open visits of children and other visitors on Saturdays between 09:00 and 12:00 hours. The prisoners may spend that time playing with their children. For that purpose, one corner of the room is equipped with adequate toys and board games which are periodically replaced by new ones. The convicted prisoners in the Sisak Prison receive only open visits under the supervision of the judicial police officers in a room where they sit opposite to their visitors.

Also, the Zagreb Prison makes maximum efforts within its organizational and architectural capacities to make open visits possible for all prisoners in the pre-trial detention at least once a month, whereas all other prisoners may receive open visits. In compliance with the CPT recommendation, necessary steps will be taken to expand the number of open visits to the prisoners in the pre-trial detention remand prison.

The Diagnostics Centre in Zagreb does not have a separate room for children's visits, so that visits take place in a specially arranged room located in the Zagreb Prison.

This space is separated from the other visiting areas, walls are painted with children-suitable contents. There are also chairs to suit children's needs (small and painted). There is also a big board against the wall where children can leave their drawings and the room is equipped with drawing paper and crayons.

Minor children (under 14 years of age) who visit their imprisoned parents must be accompanied by an adult family member, whereas those aged between 14 and 18 may come alone to visit their parents who serve sentence.

Children may visit prisoners every week on Tuesdays and Fridays and on every first and third Sunday in a month. The duration of each visit is one hour.

f. Complaints and inspections procedures

73. The CPT recommendation is accepted to undertake necessary measures not only in the Glina Penitentiary and Sisak Prison, but also throughout the prison system in order to ensure confidentiality of complaints filed with external authorities and prevent the situations where a prisoner suffers negative consequences of filing such complaint with external authorities.

Having examined the procedure of addressing the complaints filed with external authorities about the treatment during the execution of prison sentence in the Glina Penitentiary and the



Sisak Prison, not a single case has been detected of a breach of confidentiality or a case where a prisoner suffered negative consequences for having filed such complaint. However, we accept that the information collected by the CPT is enough warning that such situations are possible.

When making a list of high-risk prisoners, it is not foreseen that one of the criteria would be how often a prisoner has addressed the bodies and institutions outside the prison with his or her grievance or complaint. In that regard and in accordance with the recommendation, instructions will be sent to the penal institutions on how to enhance work in this respect and how to standardize procedural practices in this area.

74. Pursuant to Article 47 of the Law on the Enforcement of the Prison Sentence, the enforcement judge having territorial jurisdiction over the penitentiary or prison in question should pay a visit to prisoners at least once a year and instruct them about their rights arising from this Law, and about the ways of exercising these rights. Under Article 41(4) of the cited Law, the Supreme Court of the Republic of Croatia convenes a meeting of enforcement judges at least once a year for the purpose of the unification of the implementation of this Law.

At the meeting held late in 2012, it was established that the cooperation between the enforcement judges and the prison management was good. We wish to point out here that the enforcement judges visit the penitentiaries and prisons several times a year, if the need be.

75. Acting within their powers based on the Act on National Preventive Mechanism for the Prevention of Torture and other Inhumane and Degrading Treatment or Punishment which was adopted by the Croatian Parliament at its session held on 28 January 2011 and became effective eight days from its publication in the *Official Gazette* on 28 January 2011, the Ombudsman visited the Zagreb Prison, the Osijek Prison and the Prison Hospital in 2012 and compiled a report thereof. For that purpose he addressed the Head Office of the Prison System Directorate and requested additional information; also he requested supervision over the implementation of the measures imposed.

In relation to his visit to the Prison Hospital, in his 2012 Annual Report on the activities of the National Preventive Mechanism, the Ombudsman clarified that it was a planned visit to a Turkish citizen who was placed in extradition custody. The Ombudsman then sent his opinion to the Ministry of Justice requesting that the detainee be allowed to return to Germany where she enjoyed the status of refugee. When the Supreme Court of the Republic of Croatia rejected extradition, the detainee was allowed to return freely to the Federal Republic of Germany, so that in this particular case there were no complaints as to the treatment and accommodation of the detainee in the Prison Hospital.

In February 2013, the Ombudsman visited the Glina Penitentiary.

The Prison System Directorate has not yet received the report on the inspection of the Zagreb Prison in September 2012.

## **6. Subsequent visits to the Hospital for Persons Deprived of Liberty**

77. The recommendation is accepted and the management of the Prison Hospital in Zagreb (director, assistant director and head of Security Department) will be ordered to enforce the CPT recommendation at the meetings of the Security Department officers: they will be



reminded that "all forms of torture (including verbal insults) are forbidden and are subject to appropriate punishment".

78. Acknowledging the CPT recommendation, the Head Office of the Prison System Directorate will include the reconstruction of the accommodation facilities in the Prison Hospital in Zagreb as one of the priorities in the process of improving the prison conditions. Its realization will depend primarily on the financial resources allocated from the state budget. Meanwhile, through staff meetings and enhanced supervision of the performance of the Security Department, the management of the Zagreb Prison Hospital will be ordered to implement the CPT recommendation and make sure that the prisoners have access to the sanitary facilities which are in working order and in keeping with their needs at any given time of day or night.

Pursuant to the part of the recommendation that "the rooms accommodating several patients must provide at least 4m<sup>2</sup> of living space for each patient and that the rooms sized 7m<sup>2</sup> should commonly accommodate only one patient", it will be put in practice when the capacity level throughout the prison system is reduced, in other words when the number of prisoners referred from other penitentiaries and prisons to the Prison Hospital is reduced.

79. Acknowledging the recommendation that all patients, if their condition allows, should be permitted to spend some time every day in the open space of the hospital compound and that the walking area should be equipped with a shelter from the rain and sunshine, the Croatian authorities will take appropriate steps within a reasonable time.

Please note that the tender for the construction of an elevator is in progress and that the completion of works is expected in 2014.

80. Acknowledging the CPT recommendation that during their stay at the Prison Hospital in Zagreb prisoners (patients) should be allowed to wear their everyday clothes and that they should be provided with suitable outdoor clothes when they are out in the open, we wish to stress that, since prisoners are in hospital primarily to receive treatment and medical care, they are dressed in hospital pyjama's and frocks, commonly used in all other external health institutions where patients are hospitalized. The type of clothes is regulated by House Rules of the Prison Hospital in Zagreb and suitable clothes are available for the stay in the open.

81. The recommendation is accepted and the vacant posts of medical professionals, specialists and medical technicians/nurses in the Prison Hospital in Zagreb will be filled in accordance with the Civil Service Admission Plan. In the course of August 2013, one nurse was employed on the basis of the announced vacancy. Also, in September 2013, a vacancy was announced for the permanent post of 1 general practitioner and, due to increased work volume, one temporary post for a physician specialized in psychiatry for the period of one year.

82. Acknowledging the recommendation, an assessment was made of the management of clinical wards in the Prison Hospital, the intrusion of Security Department officers into the prisoners' living area and the carrying of truncheons in full sight.

The Prison Hospital in Zagreb is a close-type penitentiary and the majority of prisoners from other penitentiaries and prisons who are treated there very often come from penal institutions of the same type in terms of the security level and restricted freedom of movement.





Medical staff members are escorted by the Security Department officers who perform the duties and tasks pertaining to their job description (locking/unlocking of rooms, escorting prisoners, securing facilities). Consequently they enter the "living space of prisoners" but not without a special authorization.

As regards the procedure for "restraining of patients", the Security Department officers take part in it solely at the request of the physicians and/or medical technicians/nurses.

In relation to the carrying of truncheons in plain view, we hereby report that the Security Department officers in the Zagreb Prison Hospital do not carry truncheons on hospital wards (meaning, among patients). The CPT representatives probably saw truncheons on the officers of some other penitentiaries or prisons who were escorting prisoners to their medical consultations.

83. Acknowledging the Committee's recommendation, we are taking the liberty of offering an explanation regarding the treatment of the patients in the Prison Hospital and the whole range of psycho-social activities at their disposal.

Individual program for the enforcement of prison sentence is being created for each prisoner, including the prisoners sentenced to the security measure of compulsory psychiatric treatment. This program includes allocation to unit, working assignment according to working abilities, special treatment programs, psychological and psychiatric assistance, individual and group psychosocial treatment, use of free time, education, contacts with the outside world, benefits, and measures for post release inclusion. The security measure of compulsory psychiatric treatment is carried out and supervised directly by specialists in psychiatry. All other elements of the execution of individual programs for prisoners who were pronounced the measure of compulsory psychiatric treatment are carried out by other staff members of the penal institution, depending on their job description and professional skills. In addition to the individual psychiatric treatment, the prisoners who were pronounced the measure of compulsory psychiatric treatment participate in group treatment in the form of specific group therapy. Depending on the contents of prisoners' individual programs for the enforcement of prison sentence, special programs are provided for the treatment of addiction to drugs and alcohol, working activities and work-therapy activities are also provided, as well as organized free time (art workshop, drama workshop, sports activities depending on the state of health, computer workshops, etc.).

84. CPT recommendation to "provide the persons subjected to restraining procedures with access to sanitary facilities whenever needed" has been accepted. Please note that sanitary facilities are available to those persons and that they are given diapers solely for medical reasons. The management of the Prison Hospital in Zagreb has been warned of the necessity to control and supervise the implementation of this recommendation on a regular basis.

As to CPT recommendation regarding "methods of restraint of patients", please be informed that the medical staff who impose and carry out restraints were warned in the course of the CPT delegation's visit that they should update and put more detail into the existing records (in compliance with the Protocol on the application of physical restraint against persons who, as a result of mental disorder, endanger theirs or other people's life and health).



We would like to stress that the application of physical restraint to the persons who as a result of mental disorder, endanger theirs or other people's life must be justified for every single case and properly founded.

Acknowledging the CPT recommendation, new instructions have been drawn up with a detailed protocol of procedures for the application of physical restraint of persons hospitalized in the Prison Hospital, i.e. prisoners. In addition, the budget plan for the next year includes investment into conversion of one of the hospital rooms at the Psychiatric Ward into a room reserved for accommodation of physically restrained patients who will be permanently monitored (through a window on the door).

86. Acknowledging the recommendation to take steps to ensuring full effectiveness of the procedure for the submission of complaints which would guarantee that patients will receive a response within a reasonable time, a written confirmation of receipt of each complaint, and a sensible written response, measures will be undertaken to notify the Head Office of the Prison System Directorate that they should continue answering all lodged complaints within the statutory term of 30 days. However, neither the Prison Hospital nor the Prison System Directorate can guarantee that other institutions to which the complaints are addressed will do the same.

The Prison Hospital inmates may submit their grievances and complaints to all bodies of the state and judicial authorities and also to the organizations engaged in the protection of human rights. The hospital staff has no right to examine the content of the complaints (they are sent in closed envelopes, should not be opened and their content should not be checked).

Special records are kept of all grievances/complaints addressed to the head of the Prison Hospital; they should contain the date of submission of the grievance/complaint, the reason for submission and the date a reply was provided by the management within the prescribed period.

88. The recommendation is accepted and the Head Office of the Prison System Directorate will continue with the activities aimed at engaging the Ministry of Health in the supervision of the implementation of medical care provided for prisoners in both the Prison Hospital and other penal institutions. The cooperation with the Ministry of Health in the supervision of the penal institutions of the Republic of Croatia is carried out in accordance with the Law on the Enforcement of the Prison Sentence (Article 18(7)), which prescribes that the supervision over the implementation of medical care for prisoners must be performed by the ministry responsible for the protection of health.

So, by way of example, in 2013 an inspection was conducted in the following penal institutions: on 26 April 2013 in the Lepoglava Penitentiary; on 30 April 2013 in the Turopolje Penitentiary and the Turopolje Correctional Institution; on 14 May 2013 in the Glina Penitentiary; and on 11 September 2013 in the Valtura Penitentiary and the Pula Prison.

Inspection of the remaining penal institutions is planned for the forthcoming period.

During the inspection, facts about the overall situation were established and the final report thereof, including measures taken and recommendations given, will be drafted once the inspection of all penal institutions is completed.



With a view to develop and improve medical care for the prisoners, a task force appointed by the Prison System Directorate has provided an expertise for the drafting of the Rules on the conditions of the premises, equipment and staff of a health institution which provide medical care for the persons deprived of liberty. The drafting of these rules is in progress and it is the responsibility of the Ministry of Health.

Yours sincerely,



ASSISTANT MINISTER

*Ivica Šimac*  
/signed and stamped/



**Response of the Ministry of Social Policy and Youth**

REPUBLIC OF CROATIA  
MINISTRY OF SOCIAL POLICY AND YOUTH

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Zagreb, 2 August 2013

MINISTRY OF INTERIOR  
General Police Directorate  
Police Academy  
Police School of Professional Higher Education  
to the attn. of Mr. Damir Brnetić

SUBJECT: Statement regarding CPT's Report drawn up upon the visit of the CPT  
Delegation to the Republic of Croatia in September 2012  
- to be submitted

The Ministry of Social Policy and Youth received the report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), following the Committee's visit to Croatia in the period from 18 to 27 September 2012. In the follow-up to the requested information, we hereby submit the following Statement:

Introductory notes

The Committee made a remark on the need to avoid admission of minors at the Centre for Rehabilitation "Stančić"

Article 96 of the Social Welfare Act (OG 33/12) stipulates that the social welfare centre must grant the children, in particular children younger than seven years of age, the right to be placed in foster care in accordance with the conditions laid down in this Act. The right to accommodation in a home or other legal entity or natural person carrying out the activity of social welfare may be recognised only in the case where the child, at the time such need occurs, cannot be provided with accommodation in a foster family, and that such accommodation stint may not be longer than six months. Exceptionally, such accommodation may be longer than said period in the case of need to provide treatment or health care to the child which cannot be provided in a foster family. The social welfare centre is obliged to advocate the best interest of the child whose right to accommodation was recognised, and to provide the conditions for the child's return in own or foster family, or the conditions for the child's adoption in accordance with the individual plan which is prepared in cooperation with the service provider. We underline that implementation is underway of the project entitled "Transformation and Deinstitutionalisation of the Centre for Rehabilitation Stančić and the Centre for Rehabilitation Zagreb", which is attached to the Statement, and that the Centre for Rehabilitation "Stančić" is not admitting new residents (beneficiaries).

The Committee requested a review of the text of amendments to the Social Welfare Act and the Family Act, emphasising the need for improved implementation of the measures for the protection of human rights, especially with regard to the deprivation of legal capacity and custodianship.



Amending of the Social Welfare Act and the Family Act is in progress. Guidelines for the Draft proposal of the Social Welfare Act are available at the website [http://www.mspm.hr/content/download/8892/67863/file/ZAKON%20O%20SOCIJALNOJ%20SKRBI%20-%20TEZE%20\(svibanj%202013%20\).docx](http://www.mspm.hr/content/download/8892/67863/file/ZAKON%20O%20SOCIJALNOJ%20SKRBI%20-%20TEZE%20(svibanj%202013%20).docx), while Guidelines for the Draft proposal of the Family Act are available at [http://www.mspm.hr/content/download/826/67549/version/1/file/TEZE++za+novi+Obiteljski+zakon++08\\_05\\_2013.doc](http://www.mspm.hr/content/download/826/67549/version/1/file/TEZE++za+novi+Obiteljski+zakon++08_05_2013.doc). The Department for People with Disability participated in the discussion of the Working Group on amendments to the Family Act and proposed that the institute of full deprivation of legal capacity be repealed, and said proposal was included in the Draft Family Act. The discussion about the Draft Family Act is still ongoing, and the Act is planned to enter into force on 1 January 2014.

The Committee requires current information related to the implementation of the Plan of Deinstitutionalization and Transformation of the Social Welfare Homes and Other Legal Entities Performing Social Welfare Activities in the Republic of Croatia 2011 - 2018, especially with respect to the Home for Mentally Ill Adults Zagreb, Mirkovec branch.

The Plan of Deinstitutionalization and Transformation of the Social Welfare Homes and Other Legal Entities Performing Social Welfare Activities in the Republic of Croatia 2011 \* 2018 envisages, among other things, to deinstitutionalize 20 % of mentally disabled residents. At the same time, it is planned to develop community care services, such as supported living arrangements. Some progress has been made in terms of expansion of the service of supported living arrangements which are currently provided by the following homes for mentally ill adults:

Home for Mentally Ill Adults Zemunik with one housing unit for four users (it is planned to set up two more housing units).

Home for Mentally Ill Adults Osijek with two housing units accommodating 5 persons respectively.

Home for Mentally Ill Adults Lohor-Grad with three housing units accommodating four residents respectively.

For the purpose of completing this process in the quality manner, intensive implementation is underway of the project of the Ministry of Social Policy and Youth in cooperation with the Oxford Policy Management consortium entitled "Support to the Social Welfare Sector in the Process of Further Deinstitutionalisation of Social Services", through an EU programme for Croatia IPA Component IV – Human Resources Development. For the purpose of additional stepping up the process of transformation and deinstitutionalisation, as well as providing the funds required for the process, the Ministry of Social Policy and Youth will prepare, as the programme for the European Social Fund, the project entitled "support to Further Process of Transformation and Deinstitutionalisation of Social Welfare Institutions and Prevention of Institutionalisation", which will include the homes under its jurisdiction.

In the Draft Report on the Assessment of Transformation and Deinstitutionalisation of Social Care Homes, Transformation Model C is proposed for Mirkovec branch of the Home for Mentally Ill Adults Zagreb, meaning closing down of the facility. Mirkovec branch consists of a mansion which, in the view of the Project Team, is not adequate for accommodation and living since some dormitories are too big and are used as passageways (as referred to in CPT's Report), the staircases are narrow and meandering, the day room is located in the basement and is damp, while the room where residents can make coffee etc. is rarely in use according to the Project Team. The facility is situated in an isolated location, it is fenced off and there is no pavement leading to the nearby town. Transformational Model C is proposed because the facility is located in the mansion which is classified as protected heritage so it is prohibited to make the necessary reconstructions.

The Committee requested the Plan for Deinstitutionalisation of the Centre for Rehabilitation Stančić For the purpose of ensuring a higher level of quality of life for the residents of the Centre for Rehabilitation Stančić and in order to step up the process of its transformation and deinstitutionalisation, as well as of the Centre for Rehabilitation Zagreb as two largest institutions in terms of residents with intellectual disabilities (the Centre for Rehabilitation Stančić - 303 residents and the Centre for Rehabilitation Zagreb – 154 residents), the Ministry of Social Policy and Youth in cooperation with the Centre for Rehabilitation Stančić and the Centre for Rehabilitation Zagreb has prepared the project entitled "Transformation and Deinstitutionalisation of the Centre for Rehabilitation Stančić and the Centre for Rehabilitation Zagreb".

As the State budget does not have sufficient funds allocated for this purpose, the Ministry decided to utilise other sources of funding so it applied said project to the Open Society Institute for, a five-year period of co-financing the process of transformation and deinstitutionalisation. The Open Society Institute approved the project on 22 March 2013, and on 17 May 2013 the Ministry of Social Policy and Youth and the Open Society Institute signed the Mutual Cooperation Agreement.

Said project is enclosed in the attachment, and the following facts are underlined below:

The total funds approved by the Open Society Institute to the Centre for Rehabilitation Stančić for a five-year project implementation period and to the Centre for Rehabilitation Zagreb for a three-year project implementation period amount to HRK I6,736,000.00, of which HRK 12,146,000.00 are allocated to the Centre Stančić, i.e. 75% of the total value of the project.

During the five-year period, the Centre Stančić will be converted from an in-patient social welfare institution into a Centre for providing community-supported services and a facility for the long-stay intensive care, and it will be capable of ensuring the long-term and intensive care to all beneficiaries who require such form of care, but under more humane and better quality conditions. Therefore, transformation in this case does not imply only physical relocation of residents from the institution into apartments in the community, but it also implies the transformation of the mode of operation of the institution itself and its staff, and the change of attitudes of the residents, the staff and the community toward the persons with mental disabilities. The transformation of the inpatient institution into a service provider in the community will show that comprehensive, sustainable and worthwhile services in the community may and should be developed as alternatives to in-patient accommodation for all those beneficiaries who can function under such form of care.

Deinstitutionalisation of residents of the Centre for Rehabilitation Stančić started under said project in June and July 2013 where 36 residents were accommodated in t housing communities.

The project will continue in the following stages, as stated therein:

- September-October 2013 - 30 residents moved to facilities in other counties
- January-February 2014 - relocation of 4I residents
- March-June 2014 - 30 residents moved to facilities in other counties
- September-October 2011- relocation of 4I residents
- January-February 2015 - relocation of 4I residents
- March-April 2015 - 30 residents moved to facilities in other counties
- September-October 2015 - possible relocation of 28 residents

Under the project, up to 282 residents of the Centre for Rehabilitation Stančić will be relocated, of whom 192 will be accommodated in 47 housing communities in the area of Zagreb and Zagreb County, and 90 residents will be moved to other counties according to their previous domicile.

Apart from deinstitutionalisation of residents from the institution into apartments in the community, a parallel process is the transformation of the mode of operation of the institution itself and its personnel, the change of attitudes of the residents, the staff and the society toward the persons with intellectual disabilities. The transformation of an inpatient institution into a service provider in the community will show that comprehensive, sustainable and worthwhile quality services can and should be developed as alternatives to in-patient accommodation for all those beneficiaries who can function under such forms of care.

### **Living conditions**

The Committee proposed reducing the occupancy of dormitories at the Centre for Rehabilitation Stanđić with a view to ensuring at least 4 m<sup>2</sup> of living space per resident.

Deinstitutionalisation of residents of the Centre for Rehabilitation Stanđić, i.e. their relocation to housing communities will reduce the number of residents in the dormitories.

We would like remark that for the purpose of ensuring adequate living conditions to the residents who are being accommodated in housing communities, the Ministry has submitted to the Centre an Instruction on the spatial requirements to be fulfilled by the apartments that will be leased for the purpose of providing the service of supported living under the project, and in accordance with the current Ordinance on the type and activity of social welfare homes, manner of providing care outside own family, requirements for the area, equipment and staff of social welfare homes, therapeutic communities, religious communities, associations and other legal persons and centres for assistance and home care. The instruction emphasises that the surface area of bedrooms must be at least 6 m<sup>2</sup> per mobile resident or 7 m<sup>2</sup> per wheelchair bound resident.

The Committee proposed providing to the residents of homes compartments which can be locked where they can keep their personal belongings, as well as with more visual stimulation and personalisation of their dormitories.

The Committee stated that large dormitories where a number of residents are accommodated (like the ones in Mirkovec branch) are far from ideal for the persons with mental (or intellectual) disabilities, and that large dormitories should be replaced by the smaller ones.

The Ministry of Social Policy and Youth issued said instruction to all homes for mentally ill adults with recommendations for improving the living conditions of residents in relation to providing personal compartments for residents which can be locked (closets and similar), to supply the space for personal effects and decorations in their rooms and etc. The instruction was issued as part of the regular annual meeting with the directors of state-owned and private homes for mentally ill adults. The meeting was held on 4 and 5 July 2013 at the Home for Mentally Ill Adults Nuđtar. Thus far, certain steps have been taken to providing for the proposed changes, so the Home for Mentally Ill Adults Lobar- Grad was granted the funds to partition large dormitories in order to improve the living conditions of the residents.

### **Treatment of residents and need for additional staff members**

The Committee found that the records of residents at Mirkovec branch do not contain the residents' individualised change plans. Therefore, the Committee recommends that an individual plan that would comprise the goals of the treatment, means of therapy and experts to be included in the

process be developed for each resident. In addition, the residents should be included in the development of their individual plans and should be informed about their progress.

Pursuant to Article 190 of the Social Welfare Act, in the procedure for recognising the rights under the Act, including the right to accommodation, social welfare centres have to obligation to draw up individual care plans based on the needs assessment, to establish the goal to be achieved by the plan and to take measures to enable disadvantaged persons to take care of themselves and their family members. In addition, the centre is obliged to cooperate with the persons seeking help and members of their family.

The Ministry of Social Policy and Youth continually issues professional instructions to the homes and social welfare centres related to the preparation of individual plans for residents, which include the goals, methods for achieving such goals and experts included in the process of change. Also, it is insisted that the residents themselves should be included in the preparation of their individual plans, which represents one of the social service Quality Standards in social welfare activity, i.e. Standard 4 related to assessment and planning, which requires that the assessment of the needs of each beneficiary be carried out by qualified staff in cooperation with the beneficiary of the service, his or her family, custodian or representative or, as need may be, other services. Likewise, it stipulates that the plan of providing services for each beneficiary has to be prepared, with active participation of and in agreement with the beneficiary him or herself, his or her family members, custodian or representative, and beneficiaries of welfare services with limited capacity should be given appropriate support and incentive to ensure their active participation in the process of planning. The beneficiary should also take part in the evaluation and monitoring of implementation of the individual plan. The above is in accordance with Standard 5 which pertains to decision-making and self-determination of the beneficiary.

In the previous period, based on the decision of the Ministry of Social Policy and Youth, the Home for Mentally Ill Adults Breznica Eakovaika, accommodating 124 residents, was closed down as well as the Family Home of Marija Dragoajac which housed 22 residents. The Ministry provided support to the social welfare centres in the process of relocating residents and it ensured temporary accommodation for all residents in the state-owned homes for mentally ill adults. In this process, the competent social welfare centres were required to start drawing up individual plans in cooperation with the beneficiaries for the purpose of finding a permanent form of care in accordance with the Plan of Deinstitutionalization and Transformation of the Social Welfare Homes and Other Legal Entities Performing Social Welfare Activities in the Republic of Croatia 201 I - 2018.

In cooperation with other qualified personnel of the Centre for Rehabilitation Stančić, the Centre's social service drew up the template for the individual plan which was accepted by the Centre's Expert Council at its meeting on 25 April 2013. At the same meeting the Protocol for drawing up the individual plan and programme for each resident was adopted. Intensive drawing up of plans and analysis of residents (according to their specific characteristics and needs) began in March 2013. While performing assessment, the Centre's expert team took into consideration the residents' interests and their actual capability, deciding on three possible form of care - supported living, long-term care and intensive care. Of 305 permanent residents, individual plans were completed for 223 of them, and for the rest are planned to be completed by the end of September 2013.

We also emphasise that all residents of the Centre for Rehabilitation Stančić who have been relocated thus far were prepared by means of a preliminary interview, the assessment of interests and group dynamic was carried out in order to get to know better the beneficiaries who are included

in the community supported living programme, and visits were organised to the self-advocates who live in the community.

The Committee stated that only one nurse in the night shift at Mirkovec branch is not sufficient to meet the potential needs of residents. With regard to this, it is recommended to increase the number of nurses working the night shift at Mirkovec branch. The procedure is under way to amend the Ordinance on the type and activity of social welfare homes, manner of providing care outside own family, requirements for the area, equipment and staff of social welfare homes, therapeutic communities, religious communities, associations and other legal persons and centres for assistance and home care (OG 64/09), which lays down the number and qualification of service providers at homes for mentally ill adults with respect to the number of residents. In relation to night care, the Ordinance lays down that it is to be rendered in shifts on the part of the staff providing the service of health care and nursing care and that in order to provide health care and nursing care to the residents, the home and other legal entity have to ensure care during the night in each separate building. The Ministry of Social Policy and Youth will take into consideration CPT's opinion regarding the number of nurses in the night shift in the homes for mentally ill adults.

The Committee recommended full-time employment of psychiatrists and medical doctors at the Centre for Rehabilitation Stančić.

On account of deinstitutionalisation, the number of residents using permanent accommodation at the Centre for Rehabilitation Stančić is decreasing as well as the number of doctors. Under the Compulsory Health Insurance Act (Official Gazette 150/08, 94/09 and 153/09), the residents are entitled to freely choose their general practitioner family doctor according to their domicile, and pursuant to the above, the residents choose the doctors who are nearest to their place of residence. Moreover, we emphasise that all beneficiaries of the Centre Stančić have health insurance, and if they need hospital treatment, they use additional health services like other citizens of the Republic of Croatia.

The Committee recommended to increase the number of staff during the night shift. Through deinstitutionalisation of residents of the Centre for Rehabilitation Stančić, the number of permanent or weekly residents is dropping, whereby the proportion of the staff employed in the nightshift as well as of residents is reduced. The number of residents was reduced from 303 to 267 according to the project activities, and in conformity with the planned road map (workflow) it will be further reduced.

We again believe it is important to stress that the Centre for Rehabilitation Stančić is a social welfare institution and to its residents it provides primarily the services including accommodation, welfare and health care; this means that this type of nursing care differs to an extent from the tasks nurses carry out in healthcare institutions since their role is more oriented to care aiming to maintain the existing health condition.

The Committee recommended to take steps relating to seclusion rooms and remarks made in paragraph 126

The above moving of residents into housing communities increases free space, so during five years it will be transformed from an in-patient social welfare institution into a long stay acute care facility that will be organised so as to provide to the residents better quality services in more human conditions.

## Restraints

The Committee recommended to take steps related to the seclusion (isolation) room and remarks in paragraph 126

The above relocation of residents from the Centre for Rehabilitation Stančić into an assisted housing community leaves more free space, so during five years it will be transformed from an in-patient social welfare institution into a long stay acute care facility that will be organised so as to provide to the residents better quality services in more humane conditions.

Relative to the recommendation in paragraph 129, we report the following:

In relation to the need for staff education, we report that with the aim of quality implementation of said project, and in accordance with the project activities, training is in progress of the personnel at the Centre for Rehabilitation Stančić. Thus far, 21 senior assistants have completed the training (the training comprised 90 theoretical lessons and 40 lessons of practice), and the initial training for 30 primary support service assistants and training of coordinators and heads of professional assistant services on the subject of person-directed planning.

We also report that for the purpose of quality implementation of the process of transformation and deinstitutionalisation, the Ministry of Social Policy and Youth is implementing the project entitled "Support to the Social Welfare Sector in the Process of Further Deinstitutionalisation of Social Services", through an EU programme for Croatia IPA Component IV - Human Resources Development. The final goal of the project is to increase social inclusion of beneficiaries of rights and services of the social welfare system. The purpose of the project is to increase social inclusion of the beneficiaries of the rights and services in the social welfare system. The purpose of the project is to provide support to experts in the social welfare system in further development and implementation of efficient and inclusive social services by improving the process of social planning and transformation of institutions. The project covers two components:

Component 1: Expert capacity building in social welfare planning and fostering alternative forms of community-based care.

Component 2; Expert capacity building in the process of deinstitutionalisation and transformation of social welfare institutions.

The training programme on institutional transformation will commence under Component 2 in September and it will be attended by the staff of the Centre for Rehabilitation Stančić.

A detailed comprehensive strategy aiming to significantly reduce or abolish the use of isolation and other means has not been drawn up due to the lack of human resources seeing as the staff are actively engaged in the project, but it is included in the plan for 2014.

In the first semester of 2013, based on the confinement records of the Centre Stančić (in accordance with the protocol and approval of the competent psychiatrist), the following information per ward was registered:

Ward 1.A - 21 residents. Of that 1 humane straitjacket due to self-aggressive behavior and 20 residents strapped to a wheelchair (or bed) due to personal/health safety of residents.

Ward 1.B - 11 residents. Of that all 11 restricted movement / strapped on account of personal/health safety of residents (cystostomy, colostomy, urinary catheters, N.G. tubes.

No straitjackets.

Ward 2.A \* 6 residents, strapped at night on account of personal safety, psychomotor

Ward 2.B \* 8 residents. Of that 2 straitjackets (1 permanently, 1 from time to time due to self-aggressive and aggressive behaviour. The remaining 6 strapped for safety reasons (falls, disorientation, psychomotor agitation and similar).

Ward 3.A - 11 residents. Of that 1 confinement at night on account of undesirable behaviour, escaping, harassing other residents; 5 straitjackets at night and 3 from time to time, 2 strappings on account of falls and similar.

Ward 3.B - 6 residents. No straitjackets. Strapping during the psychiatrist for one female resident, restrained as required.

Approved by the

Ward 4. A- 15 residents. Of that: 1 restrained during the day on account of severe self-aggressiveness. The remaining 14 strapped at night.

Ward 4. B - 7 residents. Of that: 1 occasional restraining during the day on account of aggressiveness and self-aggressiveness, others \* strapped at night (personal safety, disorientation, instability, psychomotor agitation and similar).

Ward 5.A - no permanently registered, on two occasions one and the same resident was straitjacketed. The list is in the attachment.

Ward 5.8 - 14 registered in total, of that two are occasionally put in a straitjacket, as necessary, with psychiatric approval (severe aggressive behaviour, self-aggressiveness).

Others - strapping at night (residents of limited mobility, prone to falls and similar.)

Total of 99 residents - restraining, confinement, strapping.

Of that straitjacket 16 (occasionally, as required or at night, with psychiatric approval) 1 solitary confinement.

The remaining 83 are strapped during the night mainly for reasons of their personal safety, safety of other residents, health reasons, and among 86 of them are residents from hospital wards who have limited movement for reasons of personal safety.

## **Custodianship**

The Committee found that the decision on institutionalisation, decision on deprivation of legal capacity and review of legal capacity (which should be carried out every three years) were rarely enclosed with the residents' records. It is therefore recommended that the competent authorities of the Republic of Croatia adopt the legal provisions governing deprivation of legal capacity, to implement the review of institutionalisation in practice and to take measures to ensure that the residents' records are supplied with all necessary documentation.

The Ministry of Social Policy and Youth issued instructions to the homes for mentally ill adults about the need to compile appropriate documentation for the residents that must contain the decision on admittance of the resident, the decision on deprivation of legal capacity, and the doctor's opinion on the need for deprivation of legal capacity. If the documentation does not contain the opinion of the doctor about the health condition of the resident with regard to the reason for deprivation of legal capacity, which the doctor is obliged to supply at the request of the social welfare centre every three years (pursuant to Article 165 of the Family Act, OG 116/03, 17/04, 136/04, 107/07), the home must notify the social welfare centre about it.

The instruction was supplied at the regular annual meeting with the directors of state-owned and private homes for mentally ill adults.

The same will be supplied to the homes for the persons with physical, intellectual and sensory disabilities.

The Committee reiterated its recommendations stating that measures should be taken to ensure that the persons deprived of legal capacity who are placed in homes for persons with mental impairments are entitled to initiate the assessment procedure of their institutionalisation that will be decided by the court in a rushed procedure. Furthermore, in addition to the annual review of the need for institutionalisation by the competent social welfare centre, residents themselves should have to option to request, in reasonable time periods, the court to review the need for their further institutionalisation. The Delegation findings in 2012 show that the current practice does not provide for such right.

The issue of adopting a decision on admittance of all beneficiaries, including the persons deprived of legal capacity, into a social welfare home is a legislative issue since it is the right laid down in the Social Welfare Ac; and homes for mentally ill adults are not a type of closed hospital wards. CPT recommendations in this Report will be delivered to the Working Group on amendments to the Social Welfare Act.

The Committee found that the Centre for Rehabilitation Standi6 and Mirkovec branch have not taken measures to make available to the residents the information about the daily activities of the facility, institutionalisation and discharge rules, the residents' rights, and the possibilities of anonymous complaints to the clearly specified authorities.

Therefore, the recommendation is reiterated to consider the publication of a brochure that would contain said information and be distributed to the residents, their families and custodians upon their arrival to the institution. The residents who do not have the capacity to comprehend the brochure should be provided with adequate assistance.

The Strategic Plan of the Ministry of Social Policy and Youth for the period 2014 – 2016 includes the implementation of the social service Quality Standards in social welfare activity in all social care institutions. Standard I refers to availability of information and stipulates that the existing and potential beneficiaries of social care services should be given all information about the services they are entitled to in order to be able to properly choose those services which meet their requirements in the best way. Service providers should be provided with written guidelines about making the information available to their beneficiaries, their families and other relevant stakeholders. The beneficiaries should be provided with detailed information about the services and conditions for using these services and the information is to be provided over the Internet, telephone, message boards, written material, in direct contact etc. The information should be provided in the manner which is adjusted to different socially vulnerable groups of users and should be regularly updated, at least once every 12 months .for the purpose of accuracy and being up-to-date. The homes referred to in the CPT Report also have to supply the information in accordance with said Standard.

The Committee advises that the social care homes in Croatia (including the Centre for Rehabilitation Standi6 and homes for mentally ill adults) should be regularly visited by independent supervisory authorities (such as the Ombudsman for Persons with Disabilities).

The Ombudsman and the Ombudsman for Persons with Disabilities regularly visit social welfare homes and submit their reports with recommendations. In the previous period, this Ministry received several individual reports with recommendations, including the regular Annual Report of the Ombudsman for Persons with Disabilities for 2012. Also, the report was received relating to the visit to Mirkovec branch of the Home for Mentally Ill Adults Zagreb which contains recommendation for amendments to the House Rules of the Home relating to the measures which can be taken if the resident is violating the house rules, as well as recommendations for reducing the



number of beds in some dormitories, and to install safeguards on the cabinets holding personal belongings of all residents. Activities are underway to implement all said recommendations.

The Committee invited the Ministry of Social Policy and Youth to carry out the inspection supervision at the Centre for Rehabilitation Stančić at least once a year. The Ministry of Social Policy and Youth carried out the inspection at the Centre for Rehabilitation Stančić in the period 10-13 December 2012. In the decision of the Ministry of 3 January 2013, obligatory measures were imposed on the Centre, and the Centre reported in the statement of 26 January about the measures taken. The minutes drawn up in the process of inspection supervision of the Centre's professional conduct and legitimacy of operation of the Home, the decision ordering the necessary measures to be implemented and the report by the Centre about the actions taken are enclosed in the attachment to the Report.

Sincerely,

Vice President of the Government of the  
Republic of Croatia and Minister of Social Policy and Youth

Milanka Opačić