



CPT/Inf (2008) 30

**Responses 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 4 to 14 May 2007**

The Croatian Government has requested the publication of these responses. The report of the CPT on its May 2007 visit to Croatia is set out in document CPT/Inf (2008) 29.

Strasbourg, 9 October 2008

*Note:*

*In accordance with Article 11, paragraph 3, of the Convention, certain names have been deleted.*

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**Response of the Croatian Authorities concerning  
establishments under the responsibility of  
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**THE RESPONSE TO THE REPORT OF THE EUROPEAN COMMITTEE  
FOR THE PREVENTION OF TORTURE AND INHUMAN AND  
DEGRADING TREATMENT OR PUNISHMENT (CPT)**

In relation to the report of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) after its third periodic visit to the Republic of Croatia from 4 to 14 May 2007, on the basis of the analysis of the recommendations formulated by the Committee and the action taken by the General Police Directorate to implement them, our response is as follows:

A 1.10.

According to the report of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT), some persons summoned to a police station for “informative talks” complained that they were engaged in these talks for several hours before the arrest without being allowed to contact a lawyer. Our comment is as follows:

- taking into consideration the overall complexity of police inquiries prescribed by the present legislation of the Republic of Croatia “the police authorities may summon citizens”, “A person who appears upon being summoned or a suspect who is brought in by force and refuses to give information cannot be summoned again for the same reason.”

Namely, it is allowed to summon for an interview a person, who is reasonably assumed to have information necessary for performing the police tasks related to protection of life, rights, safety and inviolability of a person, protection of property, prevention and revealing of criminal acts, misdemeanours and offences, and searching for perpetrators of criminal acts, misdemeanours and offences and their taking to the competent authorities. Among other elements, the summons must contain the reason for summoning. The citizens who are not under suspicion of having committed an offence may refuse to respond to the summons, and may cease to cooperate at any point during the interview and request to leave the police premises. The police is obliged to comply with this request. These citizens may not be subjected to bringing in procedure. Bringing in procedure may be applied to physical entities if, at the time of summoning, there is a sufficient level of suspicion that the person is a perpetrator of a criminal offence, i.e. a suspected person. That person also has to be cautioned in the summons that in case of his failure to appear or if the circumstances clearly indicate that he/she is evading the receipt of the summons he will be brought in by force.

We assume that the complaints are related to the summoned citizens who during the interview provided some information which in combination with previous circumstantial evidence constitute a sufficient level of suspicion, thus putting them into the category of a suspected person who can subsequently be arrested. The same applies to the situations when there is a person against whom there are grounds for suspicion of having committed an offence subject to public prosecution and if any grounds exist for ordering detention such as: circumstances indicating a danger of flight, destruction of evidence and traces, influencing witnesses, repeating the offence or having committed a serious offence punishable by imprisonment for a term of 20 years or more and if this is necessary because of the particularly grave circumstances of the offence, etc. This police procedure is also prescribed by the provisions of the Article 24 of the Constitution of the Republic of Croatia.

It should be pointed out that the arrival of a person in the police premises as well as his presence there is not considered an arrest. When police officers warn the person not to leave the premises or to wait in the hall, this can be considered a detention i.e. the outset of deprivation of liberty. The police officers must immediately inform the arrested person of his rights, the reasons for arrest, that he is under no obligation to testify, that he is entitled to the legal assistance of a defence counsel and that upon his request his family or other person designated by him shall be informed that he is under arrest. The police authorities are bound to inform the family of the arrested person within 24 hours of the arrest, except if he is opposed to it. According to the present laws, the police authorities shall inform of the arrest the competent authority of social care if it is necessary to undertake measures of taking care of the children or other family members of the arrested person.

In the further course of collecting information the police authorities shall allow the suspected person to retain a defence counsel and if necessary they shall cease collecting information at the latest three hours from the moment the suspect declared his wish to retain a defence counsel. In case that the selected defence counsel will not be able to arrive within this term, the police authorities shall allow the suspect to retain a defence counsel from the list of attorneys on duty which is compiled by the Croatian Bar Association for the territory of a county. If the suspect does not retain a defence counsel or if a summoned defence counsel fails to appear, the police authorities may resume collecting information.

The police authorities shall take the arrested person immediately, and at the latest within 24 hours from the moment of the arrest, to the investigating judge or release him. A delay must be expressly explained. When the arrested person is brought before the investigating judge, a written notice of the reasons and the time of arrest shall be submitted. Such notice may be given orally on the record.

In the context of the aforementioned, we must point out that summoned citizens are allowed to have a legal representative, with appropriate legal education, present from the outset of their presence on police premises. However, since the person is not a suspect, the appropriate term to be used is the term "lawyer" instead of "defence counsel".

Additionally, according to the existing criminal procedure of the Republic of Croatia, the police authorities are entitled to arrest a person against whom they execute a warrant for bringing in or a ruling on detention, and a person caught in the act of committing an offence subject to public prosecution.

In the first two cases, the police authorities act as a service to judicial and other bodies. Therefore, on the basis of the practical experience it is almost improbable in these situations to detain a person in police premises unnecessarily or for a longer period of time without granting him his rights in due time. More detailed response calls for concretization of each individual case which, of course, does not release the police authorities from possible unacceptable exceptions, primarily if the term "arrest warrant" is related to police powers in the cases of initiated search measures for a person against whom there are grounds for suspicion of having committed an offence.

A 2.11.

According to the CPT's report there were certain cases of "physical and verbal abuse" of arrested persons. We report that we have no available data which would indicate the existence of any unlawful and unjustifiable use of force, i.e. abuse in the performance of police duties not being recorded or sanctioned. Since CPT have not indicated any concrete data, we are not able to conduct additional inquiries.

Furthermore, in the Republic of Croatia according to the Article 95 of the Code of Criminal Procedure police officers are entitled to arrest a person caught in the act of committing an offence subject to public prosecution, or a person against whom there are grounds for suspicion of having committed an offence subject to public prosecution, and if there are grounds for ordering the detention referred to in Article 102 of this Code such as circumstances indicating a danger of flight (the person is hiding, his identity cannot be established, etc.), if there exists reasonable suspicion that he shall destroy, hide, change or forge items of evidence and traces of importance for criminal proceedings or that he shall impede the investigation by influencing witnesses, co-principals or accessories, if special circumstances support the concern that he shall repeat the offence, or complete the attempted one, or perpetrate the offence he threatens to commit, and if the offences involved are murder, robbery, rape, terrorism, kidnapping, abuse of narcotic drugs, extortion, abuse of powers in economic business activities, abuse of office or authority, association to commit a criminal offence or any other criminal offence punishable by imprisonment for a term of twelve years or more and if this is necessary because of the particularly grave circumstances of the offence. Detention may be ordered pursuant to the provision of paragraph 1 subparagraph 3 of this Article provided that there is danger that an offence against property or other offence punishable by imprisonment for a term of three years or more may be committed.

According to the article 98 paragraph 1 of the Code of Criminal Procedure, in exceptional circumstances, on the motion of the police authorities or the state attorney the detention at a police station may be prolonged by additional 24 hours if the offences referred to in Article 181 of this Code punishable by imprisonment for a term of more than 5 years are involved. The investigating judge orders the detention by a written ruling with a statement of reasons.

According to the Article 19 of the Law on Police when applying police powers, a police officer is obliged to behave in a human way and respect the dignity, reputation and honour of every person, as well as other fundamental human rights and freedoms. Violations of these rights are described in the Article 127 of the Criminal Code which prescribes that an official person who, in the execution of his duty or public authority, maltreats, insults or generally treats another person in a manner offensive to human dignity, shall be punished by imprisonment for three months to three years.

Citizens who believe their rights have been violated during the arrest and detention, may file their complaints with the Internal Control Department, within the Cabinet of Minister of the Ministry of the Interior, or file a report with the competent State Attorney or with the Ombudsman. Thereafter, the inquiries into the reported cases are carried out.

A 2.12

During the follow-up visit to the Detention Centre for Illegal Immigrants in Ježevo, the CPT's delegation examined the medical files without the presence of health-care staff or other staff members. After the examination of the medical files, as it is stated in the report, there were two allegations of excessive use of force by custodial staff. After the examination of files and other documentations, we have established that there were no cases of excessive use of force by custodial staff in the last three years.

There were cases that foreign nationals arrived at the Centre with previously inflicted injuries without reporting them upon arrival at the Centre. Subsequently, they reported the injuries to the health-care staff, especially if the injuries had to be treated by a doctor, accusing the custodial staff of inflicting them. Due to these and the similar cases, the management of the Centre, in consultation with the health-care staff, have been carrying out a close supervision of the procedure upon the arrival at the Centre in order to prevent such allegations.

Therefore, we confirm that the CPT's delegation, on the basis of the examined medical files, came to the knowledge of some cases of excessive use of force, but not by custodial staff working in the Centre, as it is was explained to the delegation during their visit. Furthermore, it was also explained that foreign nationals very soon come to the knowledge that the Center provides medical care for them, that they have the right to be treated in other medical institutions and that they will receive appropriate medical care free of charge, so they try to take advantage of the situation.

A 3.17

As regards the remarks on the respect of the rights of brought in and arrested persons, it has to be pointed out that these obligations are clearly and unambiguously prescribed by laws and sub-laws which regulate police procedures. Before the Misdemeanour Act came into force, the General Police Directorate elaborated appropriate forms which has to be filled out obligatorily after the arrest of a person suspected of committing a misdemeanour or for a person under the influence of intoxicating substances against whom the order for detention in appropriate police premises has been issued until he sobers up.

Notifying the family of an arrested person, according to the legislation of the Republic of Croatia, is prescribed by the Article 6 of the Code of Criminal Procedure stipulating that a person arrested under suspicion of having committed an offence shall be promptly informed of the reasons for his arrest, that he is under no obligation to testify, that he is entitled to the legal assistance of a defence counsel of his own choice, and that the competent authority shall upon his request inform his family or other person designated by the defendant that he is under arrest.

Police officers always respect the provisions of the Article 6 of the Code of Criminal Procedure.



A 3.18

As regards the Point 18 of the Report of CPT, we have to point out that the new Code of Criminal Procedure is being drafted. It will regulate in its entirety the rights and obligations of police officers, the rights of persons summoned to give information, as well as the rights of persons arrested under suspicion of having committed an offence.

A 3.20

According to the Constitution of the Republic of Croatia, respect of human rights is the highest value of the constitutional order of the Republic of Croatia. The primary task of the police determined by the Law on Police is protection of life, rights, safety and inviolability of a person.

All police officers are obliged to act according to the Code of Conduct for Law Enforcement Officials which in the Article 8 stipulates: "In conduct towards persons whose condition requires medical care, a police officer shall call medical staff regardless of the person's behaviour that preceded the moment of injuring. A police officer shall obey the instructions of the medical staff pertaining to further conduct with that person."

In accordance with the above mentioned, it has been introduced into practice that police officers always provide a medical examination to a person if he requests it or if he complains of any pain or medical problems. According to our data, these persons are taken to receive a medical examination in the shortest possible time.

It also has to be pointed out that these obligations are prescribed by the Article 2, paragraph 2 and by the Article 3, paragraph 1, subparagraph 1 of the Law on Police. As regards the persons against whom the means of coercion have been used, the obligations of police officers are additionally prescribed by the Article 31 of the Ordinance on Police Procedures.

As regards the remarks of CPT concerning the medical examinations of detained persons in the presence of police officers, since this type of procedure is not prescribed by a positive piece of legislation, we are of the opinion that it is primarily a doctor's decision on how to carry out the medical examinations, and police officers shall obey the instructions of the medical staff, taking into consideration the possibility of attack of detained persons on doctors and other medical staff as well as other persons.

A 3.21

As regards Point 21 we must point out that in order to solve this problem, the forms containing all rights and obligations of persons in police custody, translated into different foreign languages such as English, French, Spanish, German and Italian, have been issued. This form is given to such persons immediately from the outset of police custody. Additionally, we point out that forms translated into other foreign languages, i.e. the languages of countries whose citizens come in Croatia, are being drafted as well.

A 4.26

As regards the remark of CPT (an urgent answer has been requested in relation to it) on using unsatisfactory holding facilities in Nova Gradiška Police Station, we submit information that the Brod-Posavina Police Administration had withdrawn these holding facilities from service and organized transportation to other police stations with adequate holding facilities. Subsequently, a completely new holding facility was built with adequate material conditions of detention, but without video surveillance.

A 4.30

CPT put forward a proposal to Croatian authorities that they need to ensure that foreign nationals who are refused entry to Croatian territory at Zagreb International Airport are provided with acceptable conditions while awaiting procedure for coming back.

The remark or recommendation has been enacted on the basis of incorrect hypothesis as apostrophe in the report. According to the report the room included supervision border crossing, in the area of waiting-room for international air traffic, it was functioning as an accommodation for asylum seekers as well as detention of foreign nationals in terms of police powers.

Mentioned room within area of arrival the passengers in international air traffic is strictly functioning as a room to accommodate foreign nationals who do not have conditions to entry in the country, pursuant to Aliens Act. According to norm of the Schengen Agreement, regular passengers and foreign nationals who do not have conditions to enter the country are separated. The room was built pursuant to section 14 of the Code of Supervision of the State Border and it is under police supervision only to ensure that foreign nationals do not enter illegally in the Republic of Croatia.

International standard and practice as well as Croatian act of law is that foreign nationals, passengers who are refused entry to Croatian territory have been returned to starting destination or to the third country by the same airplane they have come or by the next airplane of the same operator. They wait for their flight in the waiting-room for international air traffic in the space of the airport. If departure realization is not possible in that period of flight or in case of the special circumstances, passengers can stay in the room singled out till going on board.

In the international space of the airport police does not use detention as the police power in term of restriction of movement in space of international part of the airport. Pursuant to mentioned standards and regulations, police role is to supervise movement in the protected area and to ensure that foreign nationals do not enter illegally in the Republic of Croatia leaving area of border crossing.

We emphasize that result of administrative decision that refused entry in the country is procedure of coming back foreign nationals and their coming back is come within the competence of the airplane operator.

In that context it is not possible to categorize debatable room as a room for detention because airplane operator is responsible for conditions improving according abilities that at Zagreb International Airport are limited.

A 5. 32

The remark that the Centre's management could not or did not inform delegation as to the total numbers of juveniles (persons under the age of 18) being held at the time of the delegation visit does not suit the state of fact. There is possibility that the delegation came across that cognition because of the unprofessional translation but not because of the ignorance of the Centre's management because they keep everyday files on number of juveniles being held at the Centre. It is quite probable that statement of delegation that only persons under the age of 14 were considered to be juveniles was the result of the unprofessional translation. It must be remembered that the delegation was explained that pursuant to Croatian act in law persons under the age of 14 were considered to be children and it is not possible to accommodate them at the Centre without escorted by parents or without escort under legal representative. It is also pointed out that it is not possible to accommodate children under the age of 6 at the Centre because of the conditions even if they are escorted by parents or legal representative.

A 5. 33

The remark that the dormitory for men is narrow is partly valid point because it contains 12 beds. Ministry of the Interior has not managed to realise completely procurement equipment at the Centre and new beds and mattresses or wardrobe for keeping personal belongings have not been provided. According to plan for procurement in 2008 priority settlement of the accommodations at the Centre was requested. In this way occupancy levels in the dormitories will be reduced, number of beds will be reduced at 10 or less because of wardrobes for keeping personal belongings that should be provided. In this way the complete accommodation capacity at the Centre will be reduced.

A 5. 34

The remark that access to mail toilet during the night is not satisfactory is well taken but because of the building structures it is not possible to change that. But during the whole night police officer is present at dormitories space so he can make possible to them to use toilets in a way that he unlock the door that separate female and male dormitories or because of the technical problems an alterative is that detained persons are able to use sanitary without being disturbed in two smaller rooms for detained families if they are empty.

Access to shower facilities is according to the given schedule and the capacity of hot water serves the needs so this remark is not founded, we assume. Hygiene of foreign nationals within the Centre is a very important segment and special care is taken of it. It should be mentioned that showers in the sanitary in the male rooms were reconstructed two years ago but because of the permanent using these shower rooms are in a bad condition. Plan for this year is to newly repair the shower rooms as well as repair sanitary annexes in the women's rooms.

A 5. 36

Food at the Centre is under the competence of service unit of this Ministry and menus and norms of the calories as well as quantity of meals are given by service unit of the Ministry. Food is of a good quality in our view and every request of added meal was fulfilled. It should be noted that foreign nationals can eat food pursuant to their religious tradition as well as special meals are made for foreign nationals who have medical problems according to medical reference.

We noted that a week after delegation visit the remark to food service was taken. Diner time moved from 6 p.m. to 7 p. m. (We moved the schedule forward).

A 5. 37

On the recommendation of this item of the delegation report we have interviewed foreign nationals detained about clothes and concluded that they like more provided clothes and they have nothing against it. If foreign nationals detained insist to wear their own clothes the Centre will allow.

A 5. 38

On the recommendation of this item of the delegation report the Centre established a library with 989 books in Croatian and other foreign languages (Albanian, English, France, German, Italian, Persian, Russian, Spanish and Turkish) so foreign nationals detained can read every day. The new tables and the new chairs are bought for the sitting room and for the common room constructed next to the dining hall as well as two new TV. We make an effort to provide more equipment that foreign nationals detained could have more activities.

A 5. 39

Centre need psychologist and we will make an effort to keep this workplace busy.

A 5. 40

We presented the remark to medical staff and we will improve the quality of that part of work at the Centre.

A 5. 41

We do not agree with the recommendation of this item because we assume that delegation did not identify the real situation in full. The delegation visited the Centre after working time so they met staff responsible for security only. The delegation did not meet police officers for procedure of detention or police officer for psychological and welfare care so the delegation did not get an inside in communication between staff and detainees. Staff working in Centres will be provided with appropriate training and seminars to encourage interpersonal communication between staff and detainees. From the past exchanged experiences in other European countries we realised that too much familiar relationship of the detainees and the staff could have negative connotations.

A 5. 42

According to the remark of CPT that police officers carried batons in visible manner in the Ježevc Detention Centre for foreign nationals, it should be mentioned that section 18 of the Code of the Police that police officer is authorised to carry weapons and ammunition as well as use of other instruments of restraint under the conditions determined by law.

Pursuant to Executive order of weapons types and equipment for police officers Ministry of the interior, baton is among others basic police equipment. But the regulations did not prescribe the manners how police officer should carry batons during the job.

The baton is a part of the basic police equipment. This includes that uniformed police carry batons. But pursuant to Section 10 of the Regulation of manner carrying of weapons and ammunition batons as a personal weapons can be lay on the safety place in official premises without everybody's reach.

Mentioned regulations can be apply to for example police officers who works indoors but if police officers does not work indoors there is no regulations that will allow performance of a duty without baton as a part of the basic police equipment.

Police officers who work in the internal insurance must carry batons because of the security action. There is a pocket on the current police uniform in which batons are carried. In this way staff carries batons in invisible manner.

A 5. 43

There is enough number of female members of staff at the Centre. On each shift there is one female police officer and during one shift female police officer is the chief of the shift. Police officers of the detention process as well as of the welfare care are female.

A 5. 44

In our view foreign nationals were enough informed of all their rights and of the deportation process but we will still take further measures to ensure that foreign nationals held at the Centre are informed.

A 5. 45

We stress that pay phones at the Centre were installed since 1997 and they are available to the foreign nationals. We are removing the mobile phones of foreign nationals because of the negative transaction such as abstraction of movable property of another. But we stress that if foreign national want to make a contact by mobile phones staff will make it possible.

A 5. 46

It is true that the Centre accommodates juvenile's foreign nationals (between ages of 16 and 18) together with tutor who is definite by authorised institution (Social Care Centre). We agree with the recommendation of CPT of this item but institution that is concerned with this issue still did not find better solution to it. On record past experience we did not have phenomenon of exploitation the juveniles by adults because we work under reducing the risk of domination the special supervision.

We stress that Ministry of the Interior will start soon to implement PHARE 2005 PPF "MUP support preparing project documentation/competition for transits detention centres" project. The aim of this project is preparing feasibility study for building of two new transit detention centres for foreign nationals (Trilj i Tovarnik) as well as to prepare project of establishment separate unit for juvenile within Detention Centre. If the Ministry of the Interior manage (the time limit planned is end of the 2010) to build and put in function two mentioned transit detention centres and to establish separate unit for juveniles within Detention Centre for Foreign Nationals, the total accommodation capacity will increase (for around 80 rooms) and staff working with foreign nationals will relieve.

In the end we stress that we accept the recommendations of CPT delegation very seriously and that we will systematically implement them pursuant to our laws and regulations, possibilities, experiences and necessities.

It follows from above that it should be stressed that in cooperation to Operating-communication Centre it has been found that significant number of rooms in police administrations or stations that serve as accommodation for brought persons, arrested persons and intoxicated persons do not fulfil or partly fulfil the requirement recommendations of CPT. To solve this problem, the police administrations or stations were informed with announcement of 27 June 2007. This Police Administration in the name of Police Directorate stressed necessity of making an effort to put in order these rooms. It is necessary to realise this efforts as soon as possible according to insured funds of this Ministry. In that case next periodical visit of the delegation of European Committee would be more prepared.

**Response of the Croatian Authorities concerning  
establishments under the responsibility of  
the Ministry of Justice**



**REPUBLIC OF CROATIA**

**PRISON ADMINISTRATION  
Head Office**

*MINISTRY OF JUSTICE*

Ref: 910-08/07-01/31  
Reg.No: 514-08-01-08-16  
Zagreb, 23 April 2008

**MINISTRY OF INTERIOR  
Directorate for International Affairs  
Attn. Of Mr. Damir Brnetić**

**Subject:** Report on measures undertaken following recommendations of European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment

Further to report for Croatian Government about the visit of European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to Croatia from 4 to 14 May 2007, having Number CPT (2007) 69 and in compliance with Article 10 of the European Convention for Prevention of Torture and Inhuman or Degrading Treatment or Punishment, we herewith deliver report on measures and activities undertaken following recommendations of the CPT and of the complaints of inmates:

### **C Consultations held by the delegation and achieved cooperation**

5 Further to notification of visit of the CPT to Croatian Prison System, the Head Office of Prison Administration of Ministry of Justice forwarded a letter to penitentiaries, prisons and juvenile correctional institutions as to inform them about the visit and to repeatedly stress rights of the CPT and obligations of Croatian authorities as are determined in the European Convention for Prevention of Torture and Inhuman or Degrading Treatment or Punishment that had been ratified by the Republic of Croatia. Again, the governors were instructed to provide inmates with conditions for undisturbed and unsupervised interviews with CPT representatives, to advise employees about prohibition to interview inmates who choose to talk with CPT representatives in order to determine subjects of interviews, and on protection of such inmates against any undesirable reactions of employees. The Head Office of Prison Administration established that employees of penal institutions visited by CPT had conducted in spirit of the European Convention and there had been no undesirable reactions or consequences.



6 On 25<sup>th</sup> February 2008 the Head Office of Prison Administration held meeting with governors of all penitentiaries, prisons and juvenile correctional institutions in order to present the Report of CPT, to pass conclusions related to activities that should enable realization of those Recommendations laying in sole competence of the Prison Administration and do not depend on undertaking activities by other institutions.

The Report was also presented on meeting of Heads of Security Units of all penitentiaries, prisons and juvenile correctional institutions held on 3 March 2008.

Governors of all penal institutions and of the Training Centre for Prison Staff were obligated to present the report to all staff for purpose of their education.

## **B Institutions within Ministry of Justice**

### **1 Preliminary remarks**

48 Inflation of inmates continued after the CPT visit and on February 15, 2008 it was 4 624. Thereinafter, the Head Office of Prison Administration undertook those measures and activities to enlarge housing capacities that it may have taken by itself without engaging other competent bodies of authority. This resulted in increasing of overall accommodation capacities in summer 2007 from 3009 to 3265 places and specifically:

- in Penitentiary Glina for 104 places;
- in Penitentiary Lipovica-Popovača for 100 places;
- in Penitentiary Turopolje for 14 places;

and in Prisons in Split and Varaždin for 38 places. Prison in Zadar was granted to use another floor of the building that was reconstructed for housing 18 inmates and there is ongoing refurbishment of this area and putting it to use.

Following adoption of the State Budget in March 2008, Ministry of Justice:

- had announced public bidding for choosing contractor for building new premises for housing of inmates in Glina Penitentiary,
- had requested construction licence for partial refurbishment of building in Varaždin Prison in order to enlarge capacities for additional 37 inmates.

In addition, preparatory work is completed for:

- announcing public bidding for construction works on annex and adaptation of Prison Hospital in Zagreb where, in addition to medical treatment for all categories of inmates, a compulsory measure of psychiatric treatment imposed along with prison sentence is carried out. This should provide for additional housing places for 106 inmates,
- announcing public bidding for preparing project documentation and acquiring construction licence for annex to accommodation wing for 376 inmates in Zagreb Prison,
- finalization of project task for construction of new penitentiary and prison near Šibenik for 600 inmates altogether.

Following acceptance of CPT Recommendation to double efforts for combating prison overcrowding, Head Office of Prison Administration decided upon number of activities:

- There is an ongoing procedure for establishing a Committee compiled of representatives of Ministry of Justice – Criminal Law Administration, Judicial Academy, and Head Office of Prison Administration, as well as from representatives of State Attorney's Office and of the Supreme Court, in order to analyse current situation from position of each of those bodies and to propose measures that each body should undertake in order to limit further inflation of inmates as was suggested in respective CPT Report;

- Recommendations of the Committee of Ministers of the Council of Europe to member states Rec (99) 22 and Rec (2003) 22 were presented at meeting with governors of penitentiaries, prisons and juvenile correctional institutions and additional efforts for putting them in place were requested;

- Judicial Academy of the Ministry of Justice organized training for enforcement judges that had been held on 17 March 2008. Given the fact that enforcement judges are changeable members of Parole Board and they also have competence in providing after care for inmates, the Rec (2003) 22 of the Committee of Ministers of the Council of Europe to member states was presented;

- Training sessions for prison staff are planned to be held during May and June 2008 targeting topics about human rights in prisons. This training will also involve introduction of prison staff with Rec (99)22 and Rec (2003)22. Education is aimed for governors of penitentiaries and prisons, as well as for employees responsible for providing conditions and exercising fundamental rights of inmates, creation of individual programs for enforcement of prison sentence, proposing activities for inmates and contacting social welfare centres in order to enable after care;

- Continuation of activities for establishing probation service whereas a working group for drafting the Probation Act had been appointed and began to work;

- Continuation of training for judges in organization of Judicial Academy in order to stimulate broader implementation of alternative sanctions involving community work and suspended sentence with protective supervision;

- Reports compiling data analysis of remand in custody (numbers about imposed remand in custody, criminal deeds in which remand in custody was imposed, length of remand in custody, court's supervision over enforcing remand in custody), analysis of imposed alternative sanctions of community work and suspended sentence with protective supervision with review of Courts that impose those sanctions were delivered to the Supreme Court;

- The analysis of remand in custody and of alternative sanctions was presented on meeting of Presidents of Courts held on Brijuni in April 2008.

49 We agree with and accept the CPT Recommendation about necessity to enhance activities for convicted and remand prisoners both, this being directly correlated with purpose of enforcing prison sentence and re-socialization of inmates. We would like to point out that all inmates allocated in open and semi open conditions (Penitentiaries in Lipovica-Popovača, Požega, Turopolje and Valtura) are involved in various types of activities including specific treatment programs, work, vocational training, various types of education, organized usage of leisure time in numerous activities' groups, sports and other types of recreation appropriate to health conditions and age of inmates.

For inmates with specific treatment requirements like drug addicts, alcohol addicts, inmates with diagnosed PTSD, specific treatment programs are available and implemented in closed conditions of Glina Penitentiary. There is an ongoing education of employees for implementing specific programs aimed for inmates who committed crimes against sexual freedom (sexual offenders). Work of inmates is organized in workshops and those without elementary education or vocational training are involved in various types of learning activities. Inmates are given daily opportunities for sports and recreational activities. In addition, inmates are encouraged to participate in organized models of using leisure time through participating in various groups and music band seems to be an attractive choice. The band having name "Not Guilty" participates not only in performances within prison system, but also gives shows for citizens. In production of Croatia Records, the band published a CD that is commonly sold in shops and songs from CD are played on radio stations.

Despite overcrowding, inmates allocated in Lepoglava Penitentiary are involved in specific treatment programs (for drug addicts and alcohol addicts, for inmates suffering from PTSD and for those who committed sexually based offences). Throughout 2007, an average of 70% of inmates in Lepoglava Penitentiary had been working. Those who were not working either refused to work, or were disabled to work or too old. Inmates are also involved in various and numerous programs of vocational training and participate in various leisure time activities and in sports in accordance with health condition and age.

Insufficient space and overcrowding makes organization of activities for inmates allocated in prisons very difficult. In other words, prisons are designed to enforce prison sentence in closed conditions, as well as to enforce remand in custody and the occupancy rate of prisons is on an average of 161%. Due to increased number of prisoners serving prison sentence and of persons remanded in custody in combination with insufficient space, it is difficult to provide them with working activities, thus having 457 ( or 16,5) inmates on maintenance work within prisons or on jobs resulting from contracts with outside companies. Noticeable is increased number of inmates who were granted continuation of work with their employer or continuation of their own commercial activity. When compared with previous year, increased efforts resulted with 30% more working inmates allocated in prisons.

In prisons are inmates having specific treatment requirements involved in various programs (for drug and alcohol addicts, for inmates suffering from PTSD and for those who committed sexually based offences, as well as for those who need anger management support). Prisoners are offered sports activities within available conditions.

It is unquestionable that the activities organized within prisons are insufficient and in relation to remand prisoners in particular. Thence, the Head Office will continue efforts to provide necessary conditions for organizing various types of activities for all categories of prisoners, and specifically in prisons.

## **2 Ill-treatment**

50 Information related to Prison in Rijeka were delivered to the Committee previously.

In respect to part of the CPT Report related to possible ill-treatment of female juvenile offenders from staff in Juvenile Correctional Institution in Požega, we inform that the CPT Report was delivered to that institution, as well as to Prisons in Osijek in Rijeka and to Penitentiary in Lepoglava with request to report on CPT's observations. The Report was also presented to governors of all other penitentiaries, prisons, Juvenile Correctional Institution in Turopolje and the Training Centre for Prison Staff.

Juvenile Correctional Institution in Požega has knowledge about one isolated case of complaint filed by a juvenile because of an abusive remark made by Institution's employee. Information about the case was obtained through Ombudsman's Office on 20 November 2006. Following detailed consideration of situation, on meeting of treatment staff held on 4 January 2007, Institution's governor gave following orders: "Contacts with juveniles should be void of any bias verbal statements, as well as of any statement that might be considered abusive, so as to respect youth and vulnerability of juveniles and to avoid feelings and perceptions of ill-treatment that such statements may produce." On 31 May 2007, the governor requested to further intensify formal behaviour with juveniles, whereas all informalities in verbal communications should be avoided even when juveniles induce them (joking, ingratiating) and physical contact should be kindly, but persistently rejected.

51 The CPT Report was presented on meeting of Heads of Security Units held in March this year and the CPT Recommendation related to education of these staff for conduct in high-risk situations and resolving such situations without excessive force was adopted. Educations that will be held throughout 2008 are designed to involve all security staff. In addition, in framework of a bilateral project MATRA MPAD with partners from Netherlands, education of security staff for conduct with violent offenders will take place in 2008.

It is worth mentioning that there are continuous training courses for security staff targeting communication skills and resolving of crises by communication. These educations will continue within Training Centre for Prison Staff, as is planned in Centre's Program of Work for 2008.

The CPT Report was presented to governors of penitentiaries, prisons and juvenile correctional institutions. Particular attention was given to CPT Recommendations including those related to communication with inmates. Governors were obligated to present Report to all employees and advise them about ways to communicate with inmates and juveniles. They were also instructed to sanction every communication or conduct of employees that may be characterized as degrading for inmates and those conducts that present or may present ill-treatment of inmates and juveniles in particular. In addition, in May and June this year sequences of trainings targeting human rights of inmates will take place. Target groups will be governors and other managerial staff in penal institutions. This education will involve detailed elaboration of cases involved in CPT Report, the respective Recommendations and the European Convention for Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

52 As related to complaints of inmates about conduct of employees, we consider it important to list numerous protective mechanisms inmates have at disposal pursuant to Croatian legislation. Those are:

- an inmate may complain to governor who is obliged to scrutinize allegations of complaint, to determine facts and report to inmate the findings;
- inmates may address complaint (verbal or written in closed envelope) directly to Head Office. In such case, all relevant documentation will be requested and if findings indicate so, an administrative supervision or inspection will be ordered. In order to determine reliability of allegations from the complaint, such procedures will involve hearing of all persons (inmates and employees) that have or may have information about facts relevant to determine admissibility of complaint, scrutinizing of relevant data from all stipulated registers and records and comparison of contents of those registers and records including personal file of inmate and one's medical record. Report about findings will be delivered to complainant and to governor together with instructions to conduct appropriate measures if necessary;
- an inmate may file a complaint to enforcement judge (verbal or written in closed envelope) who will request all information necessary for establishing facts and may order elimination of determined irregular or unlawful conduct;
- an inmate is entitled to appeal to enforcement judge in all situations in which one considers any right to be limited or denied. Enforcement judge is obligated to scrutinize allegations of appeal and order elimination of determined irregular or unlawful conduct and will report about the findings to the Head Office;
- an inmate may directly file written complaint (delivered in closed envelope) to other state bodies of authority or to organizations that protect rights of inmates. Those bodies of authority and organizations will request from the Head Office to determine all facts, whereas Head Office will conduct as was previously described. The Head Office will inform about its findings and undertaken measures the respective body of authority or the organization, as well as inmate and governor of institution.

As was already said, the legal stipulations provide for numerous possibilities of filing complaints, which reduces and minimizes possibilities of staff to influence on inmates as to withhold facts or to write false statements. Nevertheless, governors were instructed to advise employees that in such cases they would be charged in procedure for severe abuse of official duty because of denial of right to complain and abuse of official position.

**Review of procedures for severe abuse of official duty committed against inmates or juveniles:**

In 2006, the Penitentiary in Lipovica-Popovača initiated procedure for severe abuse of official duty against employee who was charged with verbal and physical conflict with an inmate. The employee was acquitted.

In 2007, the Penitentiary in Valtura initiated procedure for severe abuse of official duty against employee who was charged with underestimating of health problems of prisoners. Employee was sentenced to suspended sentence of terminating civil service with probation term lasting one year. The judgement is not final yet.

In 2007, the Penitentiary in Požega initiated procedure for severe abuse of official duty against employee who was charged with unjustified use of means of coercion against a juvenile, whereas the employee had exceeded authority in service. Final ruling terminated the procedure.

Pursuant to Committee's request, we herewith provide list of complaints filed by inmates because of physical and verbal ill-treatment that were received in the whole Prison System, that is in Head Office of Prison Administration, as well as in penitentiaries and prisons throughout 2006 and 2007, together with information of established findings and passed decisions. We would like to draw attention to Law on Civil Servants, which stipulates conducts that represent abuses of official duty and may be committed by all civil servants including employees of Prison System. In addition, Law on the Enforcement of Prison Sentence stipulates conducts typical for prison system that may bear characteristics of verbal or physical abuse of inmates or remand prisoners and are always qualified as severe abuse of official duty. All complaints of inmates elaborated hereafter were scrutinized and the facts were established beyond doubt.

### **Complaints filed in 2006**

The Head Office of Prison Administration received two complaints of inmates containing allegations about ill-treatment:

- The first one involved allegations against an employee who verbally threatened an inmate. The inmate refused to reveal employee's name, and it was impossible to determine existence of ill-treatment;
- The second one was related to unlawful psychiatric expertise and restraint while inmate was escorted to psychiatric hospital. The psychiatric expertise was ordered by Municipal Court in Zagreb, and restraint of the inmate who was assessed as high-risk prisoner was based upon by-law regulating procedures and conduct of custodial staff. Thence, the complaint was found unsubstantiated.

Prison in Rijeka received two complaints from convicted and remands:

- because of physical abuse by custodial staff. It was determined that an inmate started yelling in presence of many other patients while in waiting room of the General Hospital in Pula, and he disobeyed warning of custodial officer. Following this situation, the inmate was taken to prison vehicle where he waited for doctor's attendance. The doctor examined him and inmate was taken back to prison with no registered injuries.

- because of assault and ill-treatment by custodial staff. The Prison governor determined that use of means of coercion was lawful and necessary and reported to Court having authority of supervision over enforcement the remand in custody.

Prison in Zagreb received two complaints from convicted prisoners:

- because of physical ill-treatment. The complaint was determined unsubstantiated;
- because of verbal and physical ill-treatment and abuse. The complaint was determined unsubstantiated.

Penitentiary in Lepoglava received one complaint because of psychological ill-treatment by custodial staff. It was determined that use of means of coercion was justified.

### **Complaints filed in 2007**

The Head Office of Prison Administration received five complaints of prisoners:

- because of restraint of hands and legs during escort to ophthalmological exam to General Hospital in Pula. The complaint was found unsubstantiated because the inmate has been special recidivist and succeeded to escape as a juvenile. This restraint measure was applied in compliance with by-law regulating procedures and conduct of custodial staff;

- because of physical ill-treatment. The complaint was determined unsubstantiated.

- because of psychological ill-treatment. The complaint was determined unsubstantiated.

- because of psychological ill-treatment. The complaint was determined unsubstantiated.

- because of physical ill-treatment. The complaint was determined unsubstantiated. The case was reported to County Court in Split because the complaint was filed by a remand prisoner.

Penitentiary in Lepoglava received two complaints of inmates and both contained allegations about physical ill-treatment of inmates by custodial staff. Use of means of coercion was determined justified in both cases.

Prison in Pula received two complaints from convicted and remands both:

- because of strapping to bed and alleged verbal threat made by custodial officer that the inmate will remain so strapped for next 24 hours. The enforcement judge determined that custodial staff conducted in accordance with Law because inmate threatened to harm himself, and no verbal threats were proven;

- because of physical ill-treatment (hitting to head) and verbal molestation. Following request made by judge authorised to supervise remand in custody, the governor has examined allegations made by remanded person, thence establishing the complaint as unsubstantiated. The governor also proposed disciplinary hearing for the remanded prisoner who filed complaint in this case.

Penitentiary in Lipovica-Popovača received three complaints of inmates:

- two alleged verbal molestation. Both were examined and found unsubstantiated.

- the third complaint also alleged verbal molestation of inmate and the governor found it substantiated. The employee was given admonition.

Prison in Osijek received one complaint by remand prisoner because of alleged physical ill-treatment. It was established that both Head Office of Prison Administration and judge from County Court in Vukovar who is authorised to supervise remand in custody were informed about use of means of coercion in this case. It was also established that conduct of custodial officers was justified because the remand prisoner resisted custodial officers. In addition, justified application of means of coercion was proven by medical exams conducted in Emergency Clinic in Osijek. Custodial officer and remand prisoner both had injuries of minor intensity.

Prison in Zagreb received complaints from convicted and remands both as follows:

- from remand prisoner because of psychical and mental ill-treatment. The governor found complaint unsubstantiated;

- from remand prisoner because of verbal molestation by employee. The alleged violation was not determined;

- from convicted inmate because of ill-treatment. The alleged violation was not determined;

- from convicted prisoner because of verbal threat. The alleged violation was not determined;

- from remand prisoner because of verbal molestation he allegedly experienced in Split Prison. The complaint was filed after the remand prisoner had been transferred from Split to Zagreb. The procedure of examining the facts is still ongoing.

Prison in Rijeka received one complaint filed by convicted prisoner because of alleged physical ill-treatment. The complaint was found unsubstantiated.

53. In Lepoglava Penitentiary, as well as in other penal institution, particular attention is given to safety of prisoners, what also means prevention of conflicts and ill-treatment among them. Each behaviour of inmate aimed to other inmate and representing ill-treatment is sanctioned in disciplinary procedure stipulated in Law on the Enforcement of Prison Sentence. Penitentiaries and prisons deliver to Head Office daily reports containing information about all events that may be qualified as incidents and involving inter-prisoners ill-treatment. Head Office keeps records of all such events, analyses them and plans adequate measures and activities.

In other words, pursuant to Law on the Enforcement of Prison Sentence, governors have obligation to immediately report Head Office about each incident, and to deliver detailed record of that event and of undertaken activities after establishing all relevant facts.



In addition, in case an incident or event involves elements of ill-treatment or of alleged ill-treatment, including inter-prisoners molestations or abuses, employees from the Head Office will conduct administrative supervision or inspection, and will additionally determine circumstances of any event, efficiency of undertaken measures and will propose appropriate procedures.

It is impossible to hush up inter-prisoners' ill-treatment because inmates have regular contacts not only with custodial staff, but also with treatment personnel, vocational trainers, medical staff, representatives of chosen religious community, personnel participating in organization and carrying out specific treatment programs, and employees in charge with organization of leisure-time activities. All these people are skilled in communication techniques with inmates and are qualified to recognize changes in behaviour that may result from ill-treatment.

Moreover, impossibility of hushing up inter-prisoners' ill-treatment is enabled through one of prisoners' fundamental rights – contacts with outside world. It seems rather unlikely to assume that prisoner would not communicate ill-treatment to members of one's family or friends who visit him/her, or with whom one communicates through phone calls. In addition, inmates communicate with their legal representatives, as well as with various national bodies of authority and with international organizations for protection of human rights. Such types of communications also fall within scope of fundamental rights of inmates and the correspondence, in respect of contents of letters, in unsupervised.

As the aforementioned indicates, possibility to suppress and/or to hide ill-treatment is either minimal or does not exist.

Prison Administration will remain alert in respect of intimidation, violence, ill-treatment and other undesirable relationships among inmates and will take all necessary precaution to prevent such developments.

### **3 Housing conditions of persons deprived of liberty in penal institutions visited by the CPT**

#### ***i. Inmates serving long-term sentences***

56 Material conditions related to serving of prison sentence

Penitentiaries in Glina and in Lepoglava are the only closed penal institutions designed for imprisonment of adult male convicts. As result of increased number of inmates, both penitentiaries have been overcrowded, and penitentiary in Lepoglava in particular. In the latter have been allocated recidivists, inmates with imposed long prison sentences and long-term imprisonment, as well as high-risk inmates. Thus, the Head Office had undertaken the activities listed and described under Paragraph 48.

In addition, following the proposal of Lepoglava penitentiary governor, the Head Office decides upon transfers of prisoners in other penitentiaries with semi-open or open conditions. Throughout 2007, the 259 of inmates were transferred from Lepoglava Penitentiary and 196 to semi-open conditions, while 63 were transferred to open conditions. This year, 106 inmates were transferred from Lepoglava Penitentiary to institutions having reduced security regime – 83 of them to semi-open conditions and 23 to open conditions. It is necessary to say that inmates who are transferred from Lepoglava Penitentiary fulfil adequate level of successfulness in realization of individual treatment programs (by their behaviour and active participation in planned activities) so that it may be assumed that they would be able to continue serving the sentence in reduced security conditions.

Apart from premises for serving prison sentence in closed conditions, Lepoglava Penitentiary also has four semi-open units, with legally established capacity for accommodation of 126 inmates. At this time, 135 inmates were allocated to those wards by governor's decision because they met requests for such allocation.

All described actions are aimed to reduce negative impacts of overcrowding in premises of so-called "Star Wings" of Lepoglava Penitentiary. However, due to constant inflation of inmates, real results are unlikely to be expected or observed in near future. Reduction of overcrowding and enabling inmates with housing conditions stipulated in the Law is likely to expect only after new capacities (annexes and extensions) will be built in Glina Penitentiary and in Prison Hospital in Zagreb. Those projects should commence this year.

It should be noted that Prison Administration has no legal authority or possibilities to influence inflation of inmates and their number per this day is 4718. As was previously said, the Head Office of Prison Administration carried out activities described in Paragraph 48 of this Report, and those are within scope of authority of the Office, which is defined as body of executive administrative power.

57 Lepoglava Penitentiary is designed for serving longer prison sentences, as well as long-term imprisonment. Number of inmates who were imposed such sentence is constantly rising. An individual enforcement program is also designed for such inmates as is for the others. They are given opportunity to work on jobs adjusted to their acquired knowledge and skills, estimated health capacities and health condition, their motivation for specific job and to level of security risk one represents.

Inmates with imposed long-term imprisonment are given opportunity to gain new working skills and vocational training for profession different from one they might already have, and after completing the training, they are offered new working posts appropriate to acquired skills.

In addition to working activities, special attention is given to structuring of daily regime of activities for inmates serving long-term imprisonment. We accept recommendation of the CPT related to enhancing regime of activities for this group of prisoners. For them is dominant the necessity for constructive use of free-time what is planned in individual programs of enforcement of prison sentence, through involving them in various activities within available workshop like computer workshop, sports and occupational activities (painting, wood-carving, and alike).

Such activities require intensified involvement of professional staff within Penitentiary, and treatment personnel (social workers and psychologists) and medical professionals (psychiatrist) in particular. They follow-up on inmates and try to provide continuous support and assistance through maintaining or establishing relationships with family members, as well as through timely resolving of psychological crisis. Such involvement of staff results in adapting of individual enforcement programs to current conditions and needs of inmates and these activities are aimed for protection of inmates, maintenance of their health and preparation for life in freedom.

Further to acceptance of Committee's Recommendation, Head Office of Prison Administration initiated activities for designing specific programs for inmates serving long-term imprisonment. Those will include proposals for various structured activities and additional psychological and social assistance.

59 Special measure of maintaining order and security by placing an inmate to Unit for Intensified Supervision pursuant to Article 135 of the Law on Enforcement of Prison Sentence may be applied only towards an inmate who threatens order and security, that is who represents security risk. Team of experts including heads of treatment and security departments may propose application of this measure, and governor has authority for passing the decision itself.

However, previous to passing decision regarding application of special measures for maintaining order and security, all circumstances relevant for making such decision should be established, and it is common case that inmate gives statement related to such circumstances.. Procedure for taking inmate's statement is not formalized; it does not have form of minutes taken in presence of governor and other employees. This is rather an interview, which enables inmate to understand reasons for applying this special measure.

Pursuant to Article 137 of the Law on the Enforcement of Prison Sentence, governor passes decision on accommodation to Unit for Intensified Supervision. This decision may be challenged by an appeal filed to enforcement judge who is required to scrutinize circumstances for passing such decision in term of three days following receipt of the appeal, and to decide upon appeal itself. This means that the enforcement judge may alter governor's decision and decide not to apply the special measure.

Consequently, although this situation regulates application of a special measure for maintaining order and security, and does not affect rights of inmates, judicial protection is provided in order to protect inmates and secure objectivity in application of such measure.

60 Application of the whole spectrum of special measures for maintaining order and security including allocation on Unit for Intensified Supervision is completely individualised pursuant to Law on the Enforcement of Prison Sentence. It is related to security risk level as is assessed for each particular inmate to whom this measure will be applied. In order to assess and establish reasons requiring application of this measure, security officers and treatment personnel conduct interviews with inmates and indicate acceptable models of behaviour that would allow suspension of the measure.

The treatment team composed from treatment professionals, social worker, therapist and security personnel conducts sequences of interviews with an inmate during one's three-month allocation on Unit for Intensified Supervision. Following observations based upon interviews, members of this team propose to heads of security and treatment departments either to prolong the measure or to suspend it. The final decision lies within governor's authority.

Treatment personnel of Lepoglava Penitentiary provide social and psychological assistance to inmates housed on Unit for Intensified Supervision.

However, we accept Committees Recommendation for providing more intensified psychological and social support to inmates accommodated on this Unit in order to suppress reasons for their behaviour, which represents danger to order and security and thus may affect the period for application of the measure.

62 Law on the Enforcement of Prison Sentence stipulates organizing all activities for inmates allocated on Unit for Intensified Supervision, including work and education, within this Unit.

Inmates temporarily housed on Unit for Intensified Supervision are enabled to participate in education processes, and in learning of foreign languages (English and German). Attempts to provide them with working activities are facing difficulties because working process should take place on that Unit.

While staying on Unit for Intensified Supervision inmates may participate in sports activities like table tennis and chess; they may watch TV program and use DVD player, read daily papers and magazines, borrow books, use computers, and participate in religious ceremonies and in organized cultural performances.

Principles for planning and involving inmates in various organized activities by taking into account their wishes and interests are equally applied to inmates allocated on Unit for Intensified Supervision.

Nevertheless, overall overcrowding present in Lepoglava Penitentiary reflects to overcrowding of the Unit for Intensified Supervision and makes difficult organizing of more necessary and desirable activities for inmates temporarily allocated on this Unit. Lepoglava Penitentiary and Head Office of Prison Administration will continue with efforts to provide conditions for organizing additional activities on Unit for Intensified Supervision.

63 Custodial staff assigned to work on Unit for Intensified Supervision has communication skills required for communication with inmates and for resolving of incident situations through communication.

In order to improve working skills required for handling inmates on Unit for Intensified Supervision, custodial staff assigned to work in that Unit was specially trained for resolving risk situations without use of force. In 2007, they completed training for "Resolving conflicts by communication rather than by force" and training targeting "Conduct and Communication in Serious Incident Situations within Penal Institutions".

We accept Committee's Recommendation and additionally emphasize that we ourselves acknowledge the necessity to assign custodial staff on this Unit only for limited time. However, in time of visit by CPT delegation, the Croatian Prison System had still had vacant places for custodial officers, which resulted with difficulties in organization of working rosters, as well as with daily overtime work. Thence, transfer of employees from one working post to another was aggravated. By the end of 2007, the Prison System was given permission to employ all necessary custodial officers on vacant posts. The procedure was completed and there is ongoing training for newcomers-trainees. This situation allows transfer of custodial officers from Unit for Intensified Supervision to other posts and their replacement with new staff appropriately trained in communication skills.

64 Lepoglava Penitentiary continuously carries out activities for equalizing conditions of imprisonment that have inmates allocated on Unit 4B with those available to other inmates. If compared with previous situation, inmates placed on Unit 4B have opportunity to participate in all activities as have inmates allocated in other Units. Currently, 35 inmates are placed on this Unit, and 18 of them were convicted for war crimes, while the rest were found guilty for other criminal offences, and are of various nationalities. Given the number of inmates placed on Unit 4B it is clear that accommodating conditions on this Unit are much favourable than on other Units that are intensely overcrowded.

65 Inmates placed on Unit 4B of Lepoglava penitentiary are enabled to participate in all activities available for other inmates. They may work, and most of them choose to do so. They may also take lessons in computer workshop and some of them are interested in participating in music group.

It should be pointed out that all inmates in Republic of Croatia are guaranteed equal status while serving prison sentence, which is also valid for this group of inmates. However, in order to protect safety of inmates housed on Unit 4B, the available activities take place on the Unit itself.

69 The Management and employees in Osijek Prison take good care of cleanliness and hygiene in Prison. All cells and rooms for accommodation of inmates are painted once a year at least, and particular efforts are dedicated to elimination of cockroaches and other insects. Those procedures have been trusted to licensed company from Osijek and disinfestations of overall Prison premises take place in regular periods.

In addition, few qualified Prison staff occasionally check up on crucial spots and undertake appropriate measures if so required.

70 In penal institutions of Croatian Prison System that have sanitary annexes and showers within prison cells, inmates may use showers daily without any limitations. However, Prisons in Rijeka and Osijek have no showers within cells, and all inmates use common bathrooms due to planned roster.

Each inmate may have shower at least once a week, and if one participates in sports or works on job where one may get dirty or sweat, taking a shower may even be requested from that inmate.

b. Prisons in Osijek and Rijeka

i. *material conditions*

71 Croatian Prison Administration accepts Committee's Recommendations and revokes that all activities aimed to reduce overcrowding in closed penitentiaries and prisons have been described under Paragraph 48. The latter should also provide for proper standards of accommodation for inmates allocated in Prisons in Osijek and Rijeka.

Heating period for prisons and penitentiaries is identical to heating regime applicable to all objects in place where prison or penitentiary is situated. Insufficient heating of some isolated room may occur due to a defect that is repaired as soon as possible.

Enabling inmates to take showers is not only right of inmates but also falls within their duty to maintain personal hygiene as is set forth by Law. Thence, governors were instructed to supervise realization of this right and duty of inmates.

Prison in Osijek completed installation of cell-call system, which is completely in function.

74 Law on the Enforcement of Prison Sentence and by-law on House Rules in Prisons for Enforcing Remand in Custody both stipulate right of all inmates to spend at least two hours a day on fresh air. The fact is that, occasionally, this time on fresh air is shortened for convicted and remands housed in prisons in order to enable access to fresh air to all of them for some time, at least.

On the other hand, inmates allocated in penitentiaries spend at least two hours a day on fresh air and this right is in most cases available to convicts and remands housed in prisons. There were few occasions in some prisons when this right could not be effectuated in full as result of court order forbidding possibility of contact among remand prisoners who were suspected accomplices. Thus, in such situations, time on fresh air was reduced for all inmates, yet enabling them all to spend on fresh air some time even if it was less than two hours.

Governors promptly reported to Head Office difficulties in providing time on fresh air to all inmates for two hours daily. The Head Office undertook measures for reducing number of inmates in specific prisons and most of them were aimed to transfer convicted prisoners to penitentiaries. In some prisons (in Varaždin, Osijek and Split), where architecture so allows, additional space for time outside cells was provided.

In addition, on 9 July 2007, the Head Office instructed prisons to modify daily activities' rosters, to enable all inmates to have two hours daily exercise on fresh air. Prisons complied with that order Ref.No.730-02/07-01/24, Reg.No. 514-08-01-01-02/2-07-2.

Following visit of CPT to Prisons in Osijek and Rijeka, the number of convicted and remand prisoners who work either within prisons or for outside contractors, as well as number of convicted inmates who were allowed to continue working for their employer while serving the sentence, or to continue with own business activities was increased.

Furthermore, efforts to provide additional area for recreation of inmates resulted in designing additional outer space in Osijek Prison for sports activities. In addition, new space for prison workshop is set up, which will serve for additional working activities of inmates.

Nevertheless, we accept Committee's Recommendation to continue with efforts aimed to enhance conditions for working activities of inmates in Osijek and Rijeka Prisons, and to provide opportunities for organization of various activities.

In Croatian Prison System, inmates have possibility to borrow books in libraries within prisons and penitentiaries, as well as in civil libraries. In cities where such option is available, a library bus comes to prison once a week. All inmates may purchase daily newspapers and magazines, national and foreign, in prison shops. Such possibilities also have inmates in Osijek and Rijeka Prisons.

However, we acknowledge Committee's Recommendation, and will do all necessary to improve choice of books in those penal institutions.

c. Juvenile Correctional Institution in Požega for young women

75 The Head Office of Prison Administration forwarded Committee's Recommendation to Criminal Law Administration and to Administration for Organizational Affairs of Judiciary and for Human Resources. Those two Administrations have competences in supervising implementation of the Law on Juvenile Courts and in organizing training for judges. In addition, Judicial Academy will plan training for juvenile courts' judges.

81 Young women allocated in Požega Juvenile Correctional Institution participate in education processes and in other various activities like:

- leisure time activities within workshops for painting, dancing and drama, computer literacy courses, sports activities and needlework;
- lectures in health promotion provided by health-care staff and other outside experts;
- organizing various performances within Institution;
- visiting cultural events in city of Požega;
- attending program for prevention of drug abuse,
- attending courses targeting topics of special interest for this age group like what one should know before getting married, issues related to child and divorce, organization of United Nations etc;
- driving school and conduct in traffic.

Vocational programs involve training for dressmakers and cooks. Bearing in mind that average stay of young women in Institution lasts fifteen months; those programs are designed to last either half a year or one year, thus enabling young women to complete training while in Institution.

Young women who successfully complied with program of enforcing correctional measure may use benefits of leave.

#### **4 Health care**

83 Croatian legislation sets forth limitations for employment of new staff in state administration, thus each employment of new civil servants requires special approval of Croatian Government. The elaborated request of Prison Administration for additional employees at the end of 2007 was recognized by Croatian Government and resulted in approval for employment of various civil servants including medical staff, i.e. physicians and nurses. Public competitions for those working posts either have been finalised or will be completed in short time.

The procedure for employing a physician in Osijek Prison is expected to be finalised and the chosen employee should start working.

As regards Committee's Recommendation to provide for replacement of absent doctor or nurse in Prison system, we would like to inform the Committee that such model is regularly used in practice. In cases when it is impossible to find replacement within public health institutions, governors make contracts with private surgeries and additionally pay for medical services required for inmates.

We acknowledge The Committee's Recommendation related to necessity for increasing number of medical staff in Lepoglava Penitentiary and in Osijek and Rijeka Prisons. All penal institutions have been proposing increase of medical staff for some time now, and the same was determined within the Head Office through re-evaluation of conditions in penal institutions. The findings were reported in Annual Reports. However, as was previously elaborated, the head Office of Prison Administration and ministry of Justice are not authorised to independently decide upon increasing the number of civil servants. This prerogative lies within Croatian Government, which determines organizational structure and number of civil servants in executive bodies of state authority by a Decree. Given the fact that Prison System was not allowed to increase number of civil servants, we communicated the respective Committee's Recommendation to competent authorities and requested additional employees, including medical care professionals.

In Lepoglava Penitentiary two general practitioners provide for medical care of inmates and one of them is a contractual associate. In addition, a Head Nurse and five other nurses, as well as one pharmaceutical technician assist them. Dental care of inmates provides dentist and a technician. There are still vacant posts for Head of Section of Medical Care, for a psychiatrist and for one additional general practitioner.



It should be noted that Lepoglava Penitentiary has been unsuccessfully trying to employ medical staff for more than ten years, but doctors had showed no interest for work in this penal institution. Despite unquestionable need for an additional psychiatrist in Lepoglava Penitentiary, employees in this penal institution with assistance of psychiatrists carry out special programs designed for targeted groups of inmates (alcohol and drug addicts, inmates suffering from PTSD, and inmates having disorders in sexual relationships – sex offenders). Approximately 270 of inmates are involved in such programs.

Implementation of aforementioned programs is continuously supported by cooperation with outside institutions and associations who engage in each of them.

In addition, two psychiatrists participate in realization of those programs as contractual associates, while another psychiatrist as an outside partner and psychiatrists from Prison Hospital in Zagreb provide specialist care for other inmates.

It appears that this model involving contractual associates from outside in combination with specialists from prison Hospital in Zagreb is the only possibility to provide psychiatric assistance and support for inmates in Lepoglava penitentiary.

As was previously elaborated under Paragraph 83, there is an ongoing procedure for designing new Decree on Internal Organization of Ministry of Justice. This also represents framework for number of employees in penitentiaries and prisons. The procedure itself lies within competencies of Croatian Government who was informed about the Committee's Recommendation and received proposal for increasing the total number of employees within Prison System in order to enable realization of all rights of inmates as are stipulated by Law.

85 We accept the Committee's Recommendation and inform that Ministry of Justice announced public tenders for medical equipment in Osijek Prison. In other words, legal provisions regulating procedure for public tenders require that all penal institutions, Training Centre for Prison Staff and Juvenile Correctional Institutions deliver to Head Office of Prison Administration requests for all necessary equipment. The Head Office prepares unified list of all items and forwards it to Administration for Finances. This Administration conducts the procedure for public tenders pursuant to Law on Public Tenders. Following the notification on completed procedure, the Head Office distributes purchased equipment in penal institutions.

86 Further to Committee's Recommendations dated in 1999, all physicians working in Prison System were instructed to follow those guidelines. However, as consequence to situation established by CPT during the visit in May 2007, on the meeting held in February 2008 all governors were additionally cautioned:

- to remind prison doctors on need to enter in medical records all statements of inmates about alleged injuries;
- to request from prison doctors listing of conclusions regarding possible causes of injuries;

- to remind prison doctors on duty to report to governor any suspicion about injuries that might have been caused by use of force;

- to initiate procedure for severe abuse of official duty against prison doctor who fails to oblige with aforementioned instructions.

As was already reported under Paragraph 83, the procedure for employing a physician in Osijek Prison is soon to be completed. Pursuant to legal provisions, this doctor will also conduct medical exams for all newly arrived inmates in terms set forth by Law.

87 The head Office of Prison Administration acknowledges Committee's Recommendation. We hereinafter inform that this topic was also discussed on meeting with governors held in February 2008. The governors were instructed to present the Report of CPT to all staff including physicians and other medical staff, as well as to custodial officers.

Governors were repeatedly cautioned about obligation to request conduct of medical exams of inmates in absence of all non-medical staff. It was made clear that violation of this instruction may be considered severe abuse of official duty, and that they have obligation to supervise implementation of the same.

88 The Croatian Parliament adopted Amendments of the Law on the Enforcement of Prison Sentence. Those were published in National Gazette No 76/07.

The Amendments reflected to Article 135 that stipulates special measures for maintaining order and security by excluding from list of those measures testing on controlled substances and on transmissible diseases.

The Amendments also involved Article 140, which so amended allows testing of inmates on controlled substances, alcohol and on transmissible diseases at any time. However, it is not allowed to apply special measure of maintaining order and security by restraining the inmate in aforementioned situations.

## **5 Other issues of relevance for CPT**

### **a. staff**

89 As was already elaborated under Paragraph 83 of this Report, there is an ongoing procedure for employment of custodial officers on all vacant posts, thus enabling easier carrying out of daily tasks and duties. Nevertheless, penitentiaries, prisons and the Head Office of Prison Administration estimated necessity to increase total number of those employees due to constant inflation of inmates. It was assessed that additional 233 of working posts for custodial staff would be required and this was proposed to Croatian Government in Draft of the new Decree on Internal Organization of Ministry of Justice.

We also accept the Committee's Recommendation to determine precise job descriptions for each employee within Prison System, which also involves custodial officers. This should additionally improve organization of work and increase efficiency.

90 In accordance with the Committee's Recommendation, tailoring modifications on uniforms of custodial staff were prepared allowing for additional pocket designed for batons. Thence, custodial staff may not carry batons in open sight when they are in prison wings.

In addition, a written order issued on 9 July 2007 (Ref. No. 730-02/07-01/25, Reg. No. 514-08-01-01-02/2-07-2) requests from custodial staff in all prisons, penitentiaries and juvenile correctional institutions to carry rubber batons in pockets of uniforms specially tailored for that purpose.

Moreover, this order was repeated on meeting of governors held in February 2008, when governors were cautioned to request from custodial officers to carry rubber batons in designed pockets, or to leave them in room of the officer on duty. Implementation of this order is responsibility of governors.

91 We would like to inform the Committee that the last round of employment of custodial staff at the end of 2007 allowed for employment of female custodial officers in penal institutions where female custodial staff appeared insufficient. In addition, another five female custodial officers will be employed this year.

b. order and isolation

92 As was already elaborated under Paragraph 88 of this Report, the Amendments of the Law on Enforcement of Prison Sentence targeted also the Article 146 that stipulates disciplinary measures that may be imposed to inmates who commit disciplinary offences.

Thus, the Paragraph 3 of Article 146 stipulates that, in case of imposing two or more disciplinary measures of solitary confinement in two or more consecutive disciplinary procedures, each of those measures must be enforced separately. The elapse of time between enforcing two of those disciplinary measures may not be shorter than eight days, unless inmate consents to it in written statement.

93 As related to remarks the Committee listed under this Paragraph, we herewith inform that civil servants from the Head Office conducted inspection in Osijek Prison in order to establish facts and, consequently, to initiate proceedings for severe abuse of official duty if so required.

The inspection did not reveal any situation indicating ill-treatment of inmates in Osijek Prison so that they would be held in solitary confinement up to five days in room without bed and bedding, as well as without possibility to use sanitary annexes and with irregular meals.

Should such situations be established, they would represent violation of fundamental human rights of inmates and unlawful conducts by Prison employees. In that case, the Head Office of Prison Administration would initiate proceedings against all responsible employees in Prison, involving Prison governor; they would have been suspended and criminal charges against all responsible officials would be filed pursuant to Croatian legislation.

The inspection showed that the room referred to in Committee's Report has no specific purpose and is not commonly in use. The Head Office of Prison Administration has information that one particularly high-risk inmate was placed in that room. In this case, special measure of maintaining order and security by placing the inmate in room without any dangerous objects was applied. The measure was applied for reasons of inmate's safety because he threatened to harm himself and to commit suicide. The inmate was given a mattress and bedding and was under direct supervision of custodial officer, i.e. on suicide watch.

In other words, one of the duties all prison employees have is to protect and preserve life and health of inmates. Thence, law on the Enforcement of Prison Sentence stipulates special measures for maintaining order and security and enables their implementation on inmates who represent security risk. The purpose of those measures is to prevent damage to inmate's health and life. Application of those measures is allowed for only so long as reasons for application exist. When reasons cease to exist, application of the measure must be suspended.

94 Disciplinary measure of separation in another room was not even once imposed in Požega Juvenile Correctional Institution through 2006. On the other hand, this measure was imposed in five cases in 2007.

The disciplinary measure of isolation imposes governor as last resort, following previously imposed less severe disciplinary measures, or in case when this measure was imposed conditionally and the young woman committed another disciplinary offence in probation period.

Minutes of every disciplinary hearing are taken in written form and each young woman may appeal against decision on imposed disciplinary measure.

95 Actions and conducts of inmates representing disciplinary offences and resulting in initiation of disciplinary proceedings that consequently may result with imposing of disciplinary measures are stipulated in Article 145 of the Law on the Enforcement of Prison Sentence.

The Aforementioned Amendments of this Law also involved revision of Article 145, so that acts of self-harm do not represent disciplinary offence any more. Thus, disciplinary proceedings cannot and may not be initiated against an inmate who commits such an act.

96 Legal status of remand prisoners is formalised by stipulations of the Criminal Procedure Act. In compliance with that Law, the exclusive authority for approving visits to remand prisoner lies within investigating judge, or within judge who is in charge of specific criminal case.

As related to enforcement of remand in custody, prisons have responsibility to provide for adequate conditions of accommodation, nourishment, health-care and for realization of visits approved by competent judge. Each visitor has to issue adequate judicial approval for each particular visit. Prison enables realization of allowed visit and files judicial approval in separate register.

The fact that prisons are overcrowded undoubtedly affects to length of visits, as well as on possibility to enable so-called “open” visits (without any physical barriers between visitor and remand prisoner). In other words, visitation premises, and premises for unsupervised visits in all prisons in particular, are limited, and those rooms are used primarily for visits of under aged children and spouses or extra-marital partners.

It appears necessary to point out those aforementioned provisions of the Criminal Procedure Act actually leave no room for prison management to influence approving of visits to remand prisoners.

However, since the Administration for Criminal Law initiated procedure for drafting the new Criminal Procedure Act, the head Office of Prison Administration proposed revision of provisions related to enforcement of remand in custody.

97 Pursuant to Law on the Enforcement of Prison Sentence, inmates who are foreign nationals have the same rights and duties as Croatian nationals serving prison sentence. This means that they have equal legal status.

One of rights of inmates stipulated in the Law is also the right on contacts with outside world. This right may be realized through visits, but also through phone calls and correspondence. All inmates in Croatian Prison System may use public phones installed at prison wings. They may purchase required cards in prison shops at their own expense and from money deposited on individual prison accounts. Remunerations for work are also deposited on those accounts in regular monthly intervals, as well as money transfers inmates get from family members or other individuals or corporations. In case that inmate has no financial assets of his or her own, prison or penitentiary management will enable placing phone calls at expense of particular penal institution. This model enables telephone communication to all persons deprived of liberty, regardless of their nationality.

Croatian Prison System allows inmates using of landlines for telephone communication, while at the same time forbids use of mobile phones. The operator determines price lists for telephone services, and they are the same in the whole country. This means that prices applicable for ordinary citizens are also valid for persons deprived of liberty. The Head Office of Prison Administration has no possibility to affect prices of telephone services.

98 Article 124 of the Law on the Enforcement of Prison Sentence stipulates confidentiality of inmates’ correspondence with attorneys, bodies of State authority and with those international organizations for protection of human rights to which Croatia is member-state. Consequently, censoring and reading of letters inmates write to or receive from attorneys, bodies of State authority or aforementioned international organizations are forbidden. Any opposite action would represent abuse of official duty and civil servant who committed such an act would be charged in proceedings for severe abuse of official duty. Moreover, such case would also result in pressing criminal charges against civil servant who acted in forbidden manner. In case of violating confidentiality of correspondence, governor has obligation to report to the Head Office.

As related to previous remarks, Osijek Prison reported to Head Office a case of receiving a letter addressed to that particular Prison, without specified name of inmate to whom the letter was sent on the envelope. Consequently, the employee in charge with reception of all mail addressed to Prison, opened the letter and only after doing so realized that it was meant for specific prisoner. Promptly, the employee reported this situation to Prison governor who informed the Head Office.

In other words, this situation did not involve opening and reading of letter addressed to prisoner or of a letter prisoner sent to persons and institutions specified in Article 124 of the Law, but it rather involved incomplete address of recipient.

c. Procedures following complaints and inspections

100 The Head Office accepts the Committee's Recommendation to additionally provide for delivery of inmates' complaints to respective bodies of authority. Nevertheless, we would like to point out that all persons deprived of liberty in Croatian Prison System have possibility to send complaints in closed envelopes to persons and entities specified under Paragraph 98 of this Report. Inmates may also opt for possibility to verbally complain to governor in absence of other employees, or to employees from Head Office and to enforcement judge during their visits, as well as to Ombudsman during his regular visits.

Thence, it is impossible to deny inmates right to complain, or to disable them in doing so.

101 The Head Office of Prison Administration forwarded the Committee's Recommendation regarding obligation of judges to supervise enforcement of remand in custody through direct contacts and interviews with inmates without presence of prison staff to Criminal Law Administration, Administration for Organizational Affairs of Judiciary and for Human Resources and to Judicial Academy. Those organizational units have competences in organizing additional training for judges competent for supervision over enforcing remand in custody.

102 Prison Administration has good cooperation with the Ombudsman's Office. The Ombudsman or one of his Deputies independently and without previous announcement visits all prisons, penitentiaries and juvenile correctional institutions, interviews inmates and young offenders and has possibility to inspect all premises, documentation and official records. Following each visit, the Ombudsman delivers to Head Office his findings and recommendations. The Head Office analyses each recommendation issued by Ombudsman, accepts it if substantiated and reports to Ombudsman.

**STATE SECRETARY  
Ivan Damjanović, MA**

**Response of the Croatian Authorities concerning  
establishments under the responsibility of  
the Ministry of Health and Social Welfare**

Class: 910-04/07-05/04  
Reg. no:534-05-01/1-08-10  
In Zagreb, on 16 May 2008

Delivery by courier

MINISTRY OF INTERIOR  
POLICE DIRECTORATE  
POLICE ACADEMY  
- C/O CPT Liaison officer  
Mr Damir Brnetić, MA

**Subject: CPT report**

- Response, hereby given

Re: Reg. no: 511-01-08-08-143 of 21 January 2008

Dear Mister Brnetić,

Further to your letter of 21 January 2008, asking for our response to the comments supplied by institutions visited and reviewed by CPT and remarks related to the CPT report delivered to us, we hereby provide our response.

**C. Institutions under the jurisdiction of the Ministry of Health and Social Welfare**

**4. Home for mentally ill adults**

113.

The new building of the Home for mentally ill adults, «Vila Maria» in Pula, 2 Šišanska Street, will have the capacity to provide for 175 mentally ill adults. The new building will have sanitary facilities adapted to the needs of disabled persons and persons with reduced mobility. The new building will also have two lifts enabling the aforementioned persons to have access to various floors in the building.

The Ministry is not in the position to determine the exact date of the start of operations of the Home for mentally ill adults, «Vila Maria» in Pula. This is due to the fact that elimination of defects listed in the report of the Committee for technical inspection is currently under way, which is a prerequisite for the submission of application for the use permit for the facility.

Related to the above, we would like to stress that the Ministry has been making efforts to speed up all the procedures in order to obtain the use permit for the new facility and to determine the conditions that the building and its equipment should satisfy in accordance with regulations, so that the Home can start operations on the new premises as soon as possible.



115.

The Delegation stated in its report that, based on what they saw, only a limited number of residents is involved in treatment-related activities.

This is due to the fact that residents take part in organized activities at various times and on various locations, depending on their personal interest, current motivation and health condition and free premises at a given moment in time. For example, there is a group involved in recreational exercises, which performs its activities early in the morning, a group providing assistance in the dining room, which performs its activities after meals in the dining room, a group involved in maintaining the premises and the environment clean and helping in the laundry room, and their activities are organized in the morning in the laundry and in the area around the building. There is also a group doing handiwork, a group for creative visual arts work, a reading group, and their activities take part as scheduled during the week, with restrictions imposed by the current lack of space for group activities. Some of the activities, such as yoga, painting, and board games, take place in the afternoon. Working hours of the professional staff (social worker, occupational therapist, nurse) are organized throughout the day in order to ensure that residents participate in work-related and occupational activities throughout the day and are also offered the required level of psycho-social rehabilitation activity.

Psycho-social rehabilitation also includes work of professional staff with resident individuals and groups, encouraging them to adopt and maintain the skill of looking after themselves, helping them in performing everyday activities, helping them in resolving conflicts and other crisis situations, encouraging their participation in preparing and organizing various sports and recreational activities, as well as entertainment and traditional festivities and related events and performances etc. Residents are also involved in other group activities, such as groups for recollection, groups to help newly admitted residents to adapt, groups for occupational activities, groups for getting to know people, groups for social games, groups for relaxation etc.

When residents move to a new building, this will definitely ensure better conditions for the performance of work related and occupational activities and the implementation of the psycho-social rehabilitation programme, as well as the possibility of simultaneous provision of various activities which should contribute to the participation of an increased number of residents in accordance with their interests and abilities.

116.

The Delegation stated that the Home for mentally ill adults «Vila Maria» in Pula employs only two social workers on part-time basis, and that a general practitioner and a psychiatrist visit the Home two times a week.

It is necessary to state here that the Home employs two social workers and two work therapists full time, that a general practitioner visits the Home four times a week and that a psychiatrist visits two times a week (with the possibility of a 24-hour telephone contact in case of need).

117.

Programmes of psycho-social rehabilitation aimed at improving the quality of life of residents, that will be implemented in the new building encompass individual housing for residents and a part of the building has been designed for the purpose. This should enable the residents to become independent and to adopt the habit of looking after themselves in order to be able to be reintegrated into their families and local communities.

As regards employment in the Home for mentally ill adults «Vila Maria» in Pula, it is necessary to state that new by-laws regulating internal organization and job descriptions for the institution are being drafted. This should result in improved work organization and higher service quality provision.

### **Protection measures**

#### **b. Home for mentally ill adults «Vila Maria» in Pula**

128.

Related to question 128, concerning the issue of placement of beneficiaries not deprived of their legal capacity into social welfare institutions, we stress that their written consent is required for the purpose. Such written consent has to be given at the relevant social welfare center which then passes the resolution on the right to care provided outside the beneficiary's family and the decision has to be attached to the relevant file. The above mentioned written consent on placement into a social welfare institution need not be held in the institution's files.

129.

The area of guardianship is covered by the Family Law ("Narodne novine" no 116/03, 17/04, 136/04 i 107/07).

The Family Law stipulates that courts are entitled to use *jurisdictio non contentiosa* to declare a person of age deprived of their legal capacity due to a mental disorder or another reason that makes these persons incapable of looking after their own needs, rights or interests or if such persons threaten the rights and interests of other persons either partially or completely.

A person fully or partially deprived of their legal capacity shall be put under guardianship and shall have a guardian nominated. In the guardian nomination procedure the Center for social welfare is required to consult the person being put under guardianship, if the person is capable of understanding the procedure, and the person's close relatives, for an opinion on the person it intends to nominate as the guardian.

The guardian should take good care of the person under their guardianship, and protect the person's rights, obligations and welfare.

The law says that the guardian is required, before taking important steps to protect the person under guardianship or the person's property interests, to consider the opinion, wishes and feelings of the person under guardianship. In all such cases, the guardian is also required to obtain a prior consent of the center for social welfare.

A person under guardianship can turn to the guardian for any need or with any proposal and the guardian is required to consider the proposal and inform the center for social welfare about it.

The relevant center for social welfare should monitor the overall circumstances of the person under guardianship and should protect the person's interests and make sure their rights are respected.

Related to placement of persons under guardianship into institutions, it is important to stress that the regulations in the Republic of Croatia stipulate that such decisions are not made by courts but by administrative bodies, i.e. centers for social welfare.

Care outside one's own family is a right within the system of social welfare that is granted to a mentally ill adult person when this person is not capable of fulfilling their basic everyday needs due to certain family, health, socio-economic or other circumstances, and the required care cannot be provided within the family or in another way.

In the process of granting the right to care outside one's own family, professionals from a center for social welfare that are responsible for guardianship issues (a legal expert and a social worker) shall inform the person deprived of their legal capacity about the need and reasons for the person's institutionalization in an adequate manner, as well as about the choice of the social care institution. They shall also inform the guardian about the relevant facts as the guardian gives consent to the institutionalization, i.e. the guardian substitutes the will of the person deprived of legal capacity.

130.

Valid regulations stipulate that guardianship is performed jointly by the center for social welfare and the nominated guardian.

The guardian shall submit a report on his or her activities and the property status of the person under guardianship every six months or upon request of the center for social welfare.

Social welfare center may, at any time, if it establishes that a guardian has been performing his or her duties with negligence or has jeopardized the interests of the person under guardianship, has abused his or her authority, or the institution establishes that it would be more beneficial for the person under guardianship to have another guardian nominated, relieve the guardian of his or her duties. In case the person under guardianship is able to understand the issue of the guardian appointment, the social welfare center will consult him or her.

Social welfare center shall monitor the life conditions of the resident beneficiary. An official representative of the center for social welfare shall visit the resident beneficiary at least two times a year, but shall also do so upon request by the guardian, or the beneficiary, and shall report on the visit. In this way the center monitors the activities of the guardian.

Taking into consideration the above stated, we consider that there is no conflict of interest when an employee of the social welfare institution is nominated guardian, but can provide additional advantages to the beneficiary because of good mutual understanding and the possibility of daily contact.

132.

The new building of the Home will have an area dedicated to visits, and this will enable both residents and their families to talk and spend time together without interference.

133.

The Ministry of Health and Social Welfare, Directorate for social welfare, Department for social care, Office for legal affairs, administrative and inspection supervision, Department for inspection supervision, carries out inspection supervision on implementation and execution of laws and other regulations, general and specific by-laws as well as supervision of professional activities carried out in Homes for social care, centers for assistance and nursing care, family-run homes, associations and other legal entities and individuals providing services of care outside one's own family.

Inspections are carried out by inspectors, senior inspectors and other state officials authorized to perform inspections by the Ministry responsible for social welfare activities. Inspections are carried out regularly and upon complaints made by beneficiaries.

In the course of an inspection, inspectors talk to the beneficiaries, in addition to performing other activities.

Inspectors submit reports on their activities and the irregularities found during inspections to the minister responsible for social welfare activities.

Supervision of professional activities carried out in homes of social care and other legal entities and individuals providing services of social care outside one's own family is carried out by inspectors, senior inspectors and other state officials authorized to perform inspections by the ministry responsible for social welfare activities. A rulebook detailing the methods and content of inspection implementation is currently being drafted.

### **3. Mental hospital Vrapče**

The CPT report states that cooperation with the staff in the institutions visited, including the Vrapče mental hospital staff, was „generally very good“. The Vrapče mental hospital staff claim that members of the European committee (CPT) when visiting Vrapče, enjoyed full support of the staff, who were at their disposal together with all their work equipment. Members of the European CPT were given total freedom to talk to the Vrapče hospital patients without the hospital staff being present and all the requested documents were also made available.

#### **2.1. Ad "Preliminary remarks"**

103. It is stated that the visit made by the CPT delegation to the Vrapče mental hospital in Zagreb in May 2007 was the second one. It is also stated that, following the CPT visit in 2003, the institution was given numerous recommendations and comments (reference to paragraph 124 of the document CPT/Inf(2007) 15 ).

The report also states the the hospital operates with a reduced accommodation capacity because of construction works under way, so that the total number of residents at the time of the visit was 744. We respond that this is true – due to renovation and adaptation of the building of the former Ward V, the hospital has been operating at reduced accommodation capacity (officially there are 881 beds), but in the course of works (finished in November 2007) no patient, who came to the Vrapče mental hospital asking for assistance in the form of hospitalization was left without it. The hospital adopted an intensified approach and mode of operation in order to provide assistance and treatment to all the patients in the area of its responsibility.

## **2.2. Ad "Poor treatment"**

The Vrapče mental hospital states with high level of satisfaction that no patient complained about poor treatment in the hospital! The comment made by the CTP Committee that they were „impressed by the caring attitude shown by staff towards patients and residents, who had only words of praise for the staff“ makes us all very proud.

## **2.3. Ad "Subsequent visit to the Vrapče mental hospital"**

After repeating the statement that the hospital did not receive recommendations or comments from the report on the visit made in 2003, the Committee stated that „it is not surprising that little or no activity was introduced to implement the recommendations stated in the report“.

As is obvious from this response, the hospital has received the full report on the CPT visit made in 2007.

### **2.3.1. Ad "Forensics"**

108. It is stated that the CPT report on the 2003 visit expressed concern regarding the situation on the Forensic department and recommended that building a new department for forensic psychiatry should be given priority.

The hospital responded to comments (not based on the comments delivered but in accordance with what the Committee stressed as a problem during the last meeting held at the hospital on 4 December 2003) by stressing that building a new department for forensic psychiatry was considered a priority and will do its utmost to have the project implemented.

#### **2.3.1.1. Ad " Building a center for forensic psychiatry"**

In the meantime the hospital has, after completion of all the project design documents for the building of the center for forensic psychiatry, paid the first installment of the amount due to the authorities and obtained a valid building permit for the construction of the center. The building permit became valid in March 2008 and construction works have to start in the course of two years. If works do not start in that period, it will be necessary to reapply for a new building permit.

We stress that the permit could have been obtained earlier, but we decided not to apply for it due to the fact that its validity is two years and it is not known when construction works could start! Talks about the project have been held with the representatives of the Ministry and the City of Zagreb, that is ready to invest in the project, and it seems that an agreement could be reached on the project implementation start. The next step would be to start tendering for contractors, enter contracts and start construction works. It would be possible to complete the construction project by the end of 2009, so that the opening ceremony coincides with the 130 anniversary of the hospital, which is on 15 November 2009.

Forensic patients have been moved from the building of former Ward V, which has been renovated in the meantime, and have been accommodated in the building of former Ward IX. As stated in the report of the Committee, the building has been renovated adequately, but the premises are not large enough to accommodate 70 patients (there are up to 8 beds in rooms of 16 – 20 m<sup>2</sup>!), and security measures have not been met.

We agree fully with the statement made by the CPT that finding a solution to this problem should be considered a priority.

### **2.3.1.2. Ad "Treatment of forensic patients and recommendation for improvement"**

109. The Committee has noted that only about fifteen of all the forensic patients were wearing daily clothes, while all the others were in their pyjamas. The Committee has stressed that such practice is not conducive to strengthening self respect and one's feeling of identity, that is, that individualized patient clothing should be seen as a part of their treatment. We fully agree with the statement. „Justifying“ the situation, we make reference to comments made in the following paragraphs (110 and 111). We state that, given the circumstances, 18 forensic patients are not allowed, for health and security reasons, to exit the premises and use the hospital grounds. These patients spend most of the time in their pyjamas. Many other patients are „in the habit“ of changing into their pyjamas when they are back in the ward and that is why the report said that most of the patients were in their pyjamas.

The Hospital management and the Forensic ward staff will pay due attention to the issue in the future and will do all they can to use individualized clothing to strengthen personal identity and self respect of each patient.

The Hospital management and the Forensic psychiatry ward staff are aware of the fact that under current circumstances patients are not given as much as they should be or as much as we would like to give them. It is true that the ward does not employ a work therapist, but patients are involved in work-occupational therapy and rehabilitation in the relevant ward where they work with work therapists. Various socio-therapeutic, group and individual psycho-therapeutic procedures are carried out by three psychiatrists, one psychologist, one social worker and one special education teacher – social pedagogue, one senior medical technician and several nurses. We definitely support the idea to employ a work therapist at the ward. However, given current restricted premises, it will not be possible to carry out all of these activities on the ward. Forensic patients will have to continue using the ward for work therapy and rehabilitation until the building of the Center for forensic psychiatry is completed, with premises dedicated to work-occupational, sports and recreational activities.

It is with satisfaction that we have learned about the fact that members of the Committee noticed that patient medical files are kept well and up to date. It is true that in certain cases of patient history, no explicit plan of individual treatment is provided. This has already been rectified, and as „justification“ we can say that there is a habit of „implying“, which is the source of certain uneasiness regarding explicit statement of patient treatment.

We fully support the recommendations based on comments in paragraph 110. The first recommendation (preparing individual treatment plans for each patient, including treatment goals and therapeutic means..) is already being implemented. Recommendations regarding further development of the scope of activities related to therapy, rehabilitation and recreation are being partly implemented, and will be fully implemented after the new Center for forensic psychiatry has been built. Additional staff (third recommendation) will be employed after the construction is over as they will then have premises where to carry out their tasks.

#### **2.4. Ad "CPT recommendation regarding patients in „closed“ wards (paragraph 111)"**

111. The CPT delegation stated with concern that patients in closed wards are not given to opportunity to exercise one hour a day in the open. We have given our reasons, and the committee seems to have accepted them at the hospital level – lack of staff able to control such patients under current circumstances. That is why the committee recommends to the Croatian authorities to take steps to enable such patients to exercise one hour a day in the open.

The hospital management has plans to get sports grounds organized for the purpose but these grounds have to be provided with a fence for security reasons. We hope to be able to implement the project in the next few years and until then, we will continue to do our best and invest additional efforts to enable the patients to exercise in the open.

#### **2.5. Ad "Male chronic patients "**

112. Regarding the objections prior to the identified (2003) problem with male chronic patients, the Hospital is pleased that the Committee has not found any significant objections to the current status of treatment of these (19 remaining) patients.

#### **2.6. Ad "Means of restraint/coercion"**

It is true that the isolation room at the admission ward (Institute of Diagnostics and Intensive Treatment) has not been used (Section 118), since it is not fully adapted for such purpose (no camera, room not fully padded ...), and not because there was no need for the use of means of restraint on this ward. We candidly state that another reason for such action, or lack thereof, was "inertia" on our part which makes us "lethargic" in the habits acquired in the past. While noting that we have set up two isolation rooms on another ward, we hereby state that the room mentioned in the CPT report will be adequately equipped and used as necessary, as soon as possible.

The Hospital's administration and its employees are particularly pleased that the CPT delegation got the impression that there is no excessive resorting to the means of restraint at the Hospital, and that CPT welcomes the fact that the Hospital has introduced Guidelines for using force and immobilization (paragraph 119). It is obvious that progress (compared to 2003) in this direction is the result of introducing better control of the application of such means. Regular use of two forms and regular reporting on the application of the means of restraint/coercion and the control of the procedure has led to more frequent avoidance of these means and replacing them with other methods (psychopharmaceuticals, psychotherapy approach...).

The Hospital, as stated in the report, has introduced guidelines for the use of force and immobilization, which explicitly state that the use of these methods is to be prescribed by a doctor – psychiatrist. Only in emergencies (threat to own life or lives of others), other employees (medical technicians and nurses) can apply the means of coercion, but immediately after the intervention, they must inform the psychiatrist of this, and the psychiatrist must immediately, without delay, examine the patient and decide on further application of the means of restraint/coercion or on their removal.

The Hospital's administration regrets that the Committee has had the impression that the introduction of the means of coercion and immobilization has not been accompanied by appropriate education of staff. While conceding that we can never have enough education and that "repetition is the mother of learning", we must say that, regarding the administration of physical force and use of immobilization means, as well as dealing with a patient before and after the use of force, we have organized a series of courses for our employees, and the task of every psychiatrist is to use every occasion to educate other employees on this subject. The Hospital will continue the education of nurses and medical technicians in this, as well as in other areas of communication with patients and the segments of psychiatry the knowledge of which is essential for their work.

The Hospital regrets that, due to badly worded statements regarding the "use of straitjackets" lead to an obvious, but also logical, misunderstanding and that the CPT members got the impression that nurses can prescribe the use of "straitjackets" at the Hospital. Namely, in its report, (paragraph 119), CPT states that **"some of the aspects of these guidelines** (this refers to the guidelines for using force and immobilization, [V.J.]) **are a cause for concern for CPT"**. As an example, it is cited that the guidelines **state "that it is possible to resort to these means** (use of force and immobilization, [V.J.]) **without requesting a doctor's approval, if the patient in question has already been restrained"** (!?!). It is true that this statement is contained in the comments regarding the use of physical force in the treatment of psychiatric patients. However, this evidently inadequate wording should be interpreted in an entirely different way. Namely, nurses had the approval to, even without the doctor's approval (which was implied), use the straitjacket only in cases when the patient asked for it (!?!). This seemingly paradoxical situation is not unusual to the people working daily with psychiatric patients. Some patients have a better way of dealing with their tension and agitation when restrained in some way. Feeling that they would not be able to control their actions, and having previous experience during such episodes of behaving in a way which they later regretted and were embarrassed about, some patients themselves request to be immobilized. This state (self-punishment, as psychiatrists of psychodynamic orientation would call it) usually lasts only a short time and then the patients ask to be released, which is immediately done... This assumption, based on experience, has been included, badly worded as we now see, into our instructions regarding the procedure in the use of physical force in the treatment of psychiatric patients.



From the entire remaining text of the instructions, it can be deduced that it is the doctor who prescribes and terminates the use of physical force. Only in emergencies, as stated above, when the doctor is not present and action is urgent and imperative, namely, if the life of the patient or a member of the staff or other patients or anybody else is in immediate danger, the decision on the use of force and immobilization can also be made by nurses/technicians, but they must immediately inform the doctor of this, who must examine the patient, talk to him/her, explain the reasons for using force and decide on its continued use or termination and enter all this into the patient's "temperature chart". The information on the use of force/ immobilization is entered into a separate form, and each case is reported to the director and the head nurse of the Hospital.

Expressing again our regret for the inadequate wording which, we hope, has not been a cause of abuse of the means of coercion (straitjacket) in the previous period, and remarking that the basic text which serves as orientation to nurses/technicians and other employees of the Hospital regarding the use of physical force, namely the text by Dr. Miroslav Goreta and Štefica Bagarić, Senior Nurse, published in the proceedings "Psychiatry and the Law" published by the Hospital in 1998, we state that the entire guidelines will be revised and the problematic directive removed altogether as soon as possible.

It is true that the "Guidelines for using force and immobilization" do not contain guidelines referring to "chemical restraint", which is used "without entering it into a separate register". We concede that this might be an omission which can be easily corrected. The Hospital's Expert Council will analyze all objections raised by the Committee, and this objection will be given particular attention, and any "amendments and corrections" of the Guidelines will also contain instructions related to the use of psychopharmaceuticals. In explaining the omission regarding the instructions on the use of "chemical means of restraint", we must emphasize that these means (psychopharmaceuticals) are prescribed solely by doctors, in accordance with the principles and algorithms for the use of psychopharmaceuticals in agitated and aggressive patients, and every psychiatrist must have good knowledge of these principles and algorithms. The administration of each psychopharmaceutical is entered into the patient's "temperature chart". Any exceptional administration of a drug (and this is the case in the situations when "chemical restraint" is necessary) is specifically marked on the chart, with the indication of the administration method, the dosage and the exact time when the drug was administered! Such record-keeping of the administration of these substances corresponds, in a way, of a "special register", on which the Committee insists. However, the Hospital will consider the possibility of introducing a "special register" for recording the use of the means of "chemical restraint".

CPT observes that Guidelines indicate that the prescribed therapy must be administered in the event of forced hospitalization regardless of whether the patient is cooperative or not. Assuming that this comment refers to the use of pharmacotherapy in a patient who has been forcefully committed, and who refuses to take medication, we state that in such cases, the Hospital, as is also noted in the Guidelines, proceeds in accordance with the interpretation of the Act on the Protection of Persons with Mental Disorders (Zakon o zaštiti osoba s duševnim smetnjama – ZZODS). Namely, ZZODS does not distinguish the principle of forced hospitalization from the principle of forced treatment. Believing that forced psychiatric hospitalization is not an end in itself (in addition to the fact that it is indicated by the conditions under Article 22 of ZZODS), but rather creates circumstances to remove the causes of forced hospitalization, which lie in the pathology which brings about the behavior which causes threat to the patient's own life, health or safety, or the lives, health and safety of others, it is understood that medication which removes or suppresses this psychopathology can be administered without the patient's consent. Other medication, the administration of which is not related to the reasons for forced hospitalization, if the patient refuses them, we will not, and do not, administer by force. Noting that different countries employ different solutions for this problem – in some, e.g. certain states of the USA, the administration of psychopharmaceuticals must in such cases be resolved by court proceedings – and hoping that in Croatia (and this is definitely the case with the Vrapče hospital) actions are taken in line with the above principle, without abusing it, we hereby express our willingness to take this CPT's comment into consideration on a broader Croatian psychiatric and legal-psychiatric level.

119. It is true that patients are generally restrained in their beds, in front of other patients. The Hospital's administration and its employees are also dissatisfied about that. However, in present conditions we will not be able to change this situation immediately. The Hospital intends to set up an area for isolation of such patients in all wards where patients are accommodated, whose condition is likely to instigate the need for using the means of enforcement.

#### **2. 6. 1. Ad "Recommendation regarding the appropriate use of means of restraint"**

20. CPT gives positions and recommendations regarding the means of restraint (for agitated and aggressive patients). Although these positions and recommendations are of general nature and therefore refer to all psychiatric institutions (CPT states that "all psychiatric institutions must have a comprehensive and carefully elaborated restraint policy"), considering that they are expressed as a part of the report on the visit to the Vrapče Mental Hospital and the comments on the situation in the Hospital, and particularly considering the fact that, after listing eight points (principles, measures) which "should be included into the guidelines for the use of restraint", it is emphasized that "CPT recommends that Croatian authorities undertake steps to ensure that the above principles are implemented at the Vrapče Mental Hospital, as well as in other psychiatric institutions in Croatia", the Vrapče Hospital felt the need to express several observations regarding the above principles. Namely, since these principles are listed in this context, without expressing a less harsh opinion regarding the situation at the Vrapče Mental Hospital, there is the impression that none of the principles are followed at the Hospital. However, other parts of the CPT report, and the actual situation at the Hospital, show that this is not the case.

The above tenets/principles:

**Ad "Appropriate use of the means of restraint":**

We fully agree with the above principles and such instructions (in the form of "Guidelines") do exist at the Hospital. The Hospital administration has never encountered a case where a patient was restrained/strapped as a means of punishment! We do not deny that, in some cases, the immobilization period was prolonged to compensate for the lack of staff (as a side note, it is possible to conceive of a psychiatric situation which can never be compensated for by an adequate number of staff – namely, even the most saturated job systematization can prove to be insufficient in exceptional cases; however, these are exceptional cases and we are convinced that CPT did not insist on such circumstances in its recommendation!).

**Ad "The role of doctors in prescribing the means of restraint"**

At the Vrapče Mental Hospital, as it is stated in the Guidelines, only a doctor can order the use of the means restraint. An exception is the need for emergency action (which is the case in all other institutions as well), but the doctor is immediately informed and proceeds in line with professional, ethical and legal principles.

**Ad "Training of staff to use restraint":**

This principle has already been commented on within the response to a specific objection (section 2.6, fourth paragraph). The Vrapče Hospital will continue to give special attention to the training/education of staff to use the means of restraint, and it will dedicate particular effort to better understanding the problem of patients in agitated state and using other means when dealing with such patients.

**Ad "Duration of the use of means of restraint":**

The principle that restraint measures should be employed for as short a time as possible is taken into the account at the Vrapče Mental Hospital. We do not deny that occasionally the estimation of "the shortest possible time" might be erroneous – due to fear, caution, experience... Education and training (based on specific cases) of both staff and doctors will certainly continue in this regard. However, although it might not be "wise" to say so here, in this respect we should strive for the ideal, but it will never be reached (similar to the principle of discharging a potentially dangerous patients from the hospital!) – but the very awareness of the goal and striving to reduce the time of immobilization as much as possible bring great results in this respect. At the Vrapče Mental Hospital, a doctor must be informed and monitor each immobilization, and it is the doctor who makes the decision, after consulting the staff who have been with the patient all the time, to prolong or end the immobilization.

### **Ad "Exposure of restraint to other patients"**

We agree with the above principle, but are not able to implement it in current circumstances. We hope that this principle will be fully complied with at the Vrapče Mental Hospital in a few years (see last paragraph of section 2.6.) (despite individual opinions that the current practice is not the worst solution!).

### **Ad "Supervision of a mechanically restrained person":**

At the Vrapče Mental Hospital, the supervision of restrained patients is given particular attention and, as a rule (with some minor divergences), restrained patients are under constant supervision of medical staff and the staff are at their disposal all the time, both in terms of indications given by CPT (accompanying patients to the toilet, helping with food and drink...), and for psychotherapeutic reasons.

### **Ad "Recording the use of the means of restrained in a special register":**

Regarding the records of the use of the means of restraint – both physical and chemical – we reiterate (see section 2.6, second and sixth paragraphs) that each use of restraint at the Vrapče Mental Hospital is recorded – physical restraint on a special form, and psychopharmaceutical/chemical restraint on the temperature chart. Specifically, the facts mentioned by CPT are recorded. Our Guidelines for the use of the means of restraint state that the use of physical force should be registered. The Guidelines do not particularly specify how the administration of psychopharmaceuticals are to be recorded, but they are administered and recorded in line with the principles and algorithms for the administration of psychopharmaceuticals in agitated and aggressive patients, and the duration of administration and the medication dosage are stated in the "temperature chart". We underline that a year ago, a so-called "nurses' chart" has been introduced at the Hospital, which records the procedures of the use of the means of restraint, both physical and pharmaceutical. All this information is also entered into the so-called "report book" kept by the medium-level medical staff (nurses and medical technicians), and oral reports are given to the staff which takes over the next shift. Every day, during the so-called "morning meeting", which is attended by doctors, psychologists, social workers and the ward's head nurse, information from the nurses' "report book" are read and discussed and a plan on further procedure with the patients which had to be restrained is devised.

### **Ad "Informing the patient after removing the means of restraint":**

At the Vrapče Mental Hospital, adequate procedure with the patient after removing the means of restraint is particularly insisted upon. The staff is trained, and efforts are made to provide further education, on the need to discuss with the patient all the circumstances of his/her restraint. In addition to the staff who took part in the restraint – doctor on call, medical staff on the shift – the patient and his/her psychiatrist, but also the other members of the team during the regular treatment process, discuss the problem in detail.

Hence, the recommended principles, on which CPT advises the Croatian authorities to undertake steps to ensure that they are implemented at the Vrapče Mental Hospital (as well as in other psychiatric institutions in Croatia) are already being implemented at the Vrapče Mental Hospital. We can discuss the need for improving the implementation of these principles since, both in general and at the Vrapče Mental Hospital, their implementation is not complete or perfect, but one cannot suggest that they are not implemented at all!

While apologizing that the above statement in some way contradicts the CPT report, we must remark that we do so in order to preserve the Hospital's dignity! By preserving the Hospital's dignity, we also maintain the dignity of the patients treated here. And our task is, while treating the patients, to protect their dignity, worth and human rights as much as possible. It is their right to receive treatment at a hospital which also respects its own dignity, insists on it and which, in part by taking such a stance, works to protect the dignity of its patients!

## **2.7. Ad "Protective measures":**

Paragraph 122 states that the legal framework, regarding involuntary commitment of psychiatric patients, remains the same as in 2003 when CPT first visited the Vrapče Mental Hospital. This statement is correct and the Hospital's administration would not need to comment on it. However, since the initiative to adopt the Act on the Protection of Persons with Mental Disorders (*Zakon o zaštiti osoba s duševnim smetnjama – ZZODS*) came from this Hospital, since the discussions on the draft for this Act and its proposal took place at the Vrapče Hospital and also since its implementation and evaluation were carried out at the Vrapče Hospital (at our initiative, and not at anybody's request), on which we also published a book (*Zakon o zaštiti osoba s duševnim smetnjama – ideje, norme, implementacija, evalvacija – "Act on the Protection of Persons with Mental Disorders – Ideas, Standards, Implementation, Evaluation"*, eds. M. Goreta and V. Jukić, Zagreb, 2000), after which proposals for modifications and amendments to ZZODS followed (of which some proposals for modifications and amendments to ZZODS have been adopted, while others are still to be discussed and possibly adopted), we feel it is necessary to briefly comment the connotations of this statement. (We are aware of the fact that the Vrapče Hospital, in view of its role in the adoption of ZZODS and compliance with it, must be subjected to scrutiny – "because if something is wrong at Vrapče, what can we expect from other Croatian psychiatric institutions!?!"). We therefore take the above statement as a critical remark! Although we have a number of objections regarding some legal solutions, and particularly regarding their implementation, we do not believe that the actual legal concept of forced hospitalization deserves any significant criticism!

### **2.7.1. "Involuntary hospitalization"**

Further in the report, under the same paragraph 122, there is a statement by CPT according to which "the repeated visit to the Vrapče Mental Hospital confirmed that the concerns expressed by the delegation in its report from the 2003 visit regarding involuntary commitment are still valid". It is stated that the percentage of involuntarily committed patients is low (2.3% in 2006 and 5% in 2003), compared to the international practice. The Committee expressed particular concern about the fact that, out of 2436 patients committed to the Hospital without their consent or against their will (under coercion), "for only 195 of them, the court later ordered involuntary admission". It is stated that "the majority of patients committed without their consent" were later, without court order "placed on locked wards, without court order for involuntary commitment".

The Vrapče Mental Hospital comments and explains the above facts in the following way:

ZZODS stipulates (Article 25 of the Act) that a doctor who commits a person against his/her will (based on Article 23 or 24 of ZZODS) must start the diagnostic and therapeutic procedures and, based on these procedures, within 72 hours, establish whether there are reasons for forced detention under Article 22 of ZZODS (Article 22 (1) "Person with serious mental disturbances who, due to the mental disturbance, severely and directly threatens his/her own life or health or safety, or the lives or health or safety of other persons can be committed to a psychiatric institution without his/her consent, under the procedure for forced detention and forced commitment prescribed by this Act"). It is therefore obvious that, out of the total number of 2,436 patients who were brought to the Vrapče Hospital against their will, 195 (or about 8%), during admission (which, according to the cited Article of the Act, lasts for 72 hours!?), persisted in refusing treatment, and conditions under Article 22 of ZZODS were met, and so they underwent the procedure, and the competent County Court in Zagreb brought the decision that they should be committed to the Hospital against their will. Other involuntarily committed patients were either discharged within the legal period, as they no longer exhibited symptoms which would directly threaten their lives, health or safety, or the lives, health or safety of others (these patients are/were mostly alcohol-intoxicated!), or they agreed to be hospitalized!

The question raised here is whether it is possible that a person consents to hospitalization and treatment in a psychiatric institution and that this consent is related to the fact that the person was "subsequently committed to a locked ward". Implying that an affirmative answer to this both rhetorical and practical question is dubious to say the least, CPT asked for a comment of the fact that a part of patients who agree to treatment and for whom, at least, the court did not order forced commitment and treatment, are accommodated in locked wards. In our affirmative response to this question, which is of practical relevance for the Hospital, and of merely rhetorical nature for those not working with serious mental patients, we emphasize that a significant number of serious mental patients are in such a state that they cannot control all their actions – such as those which could endanger their interest in being treated (e.g. regularly taking medication on their own, duly returning to the hospital ward from occupational, recreational and relaxation leaves from the ward...), or their inability to control agitation and aggressive and self-aggressive behavior, but are able to give their consent to treatment (informed consent to treatment primarily depends on the cognitive sphere of personality, while behavior which requires control, which control might include seclusion, depends on other levels of personality...). Further elaboration of these statements would require a lot of time and space, and we therefore conclude this comment with the claim that, according to our experience and the results of our research, the majority of psychiatric patients committed against their will change their decisions and give their consent to hospitalization and treatment within 72 hours<sup>1</sup>. We would also like to add the information that every patient, treated in a closed ward, as well as those in an open ward, who decides to give up treatment, and the conditions for his/her detention under Article 22 of ZZODS have not been met, is discharged from the Hospital. And if the conditions under Article 22 have been met, and the patient refuses to stay voluntarily (in a closed ward), we forward a notification regarding this patient to the court which, according to the same procedure, implements the forced commitment (or discharge).

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<sup>1</sup> We do not wish to compare ourselves with some European and American mental hospitals where patients are under much stricter control than those on "locked wards", with courts ordering the measure of forced hospitalization and treatment for just about the same percent of them – less than 5%<sup>1</sup>

### **2.7.2. Ad "Involuntary hospitalization, treatment without consent"**

123. CPT states that "it has become obvious that involuntary hospitalization is still assimilated into treatment without consent". The Hospital's administration does not completely understand this statement, particularly in the context that follows. We are therefore afraid that commenting on this statement could be a departure from the subject, which is not our intention.

We have already stated in a way (section 2.6, seventh paragraph) that Croatian law (ZZODS) does not regulate forced treatment or treatment without consent in particular. According to it (and those who interpret it, and it is interpreted by the same people who wrote and adopted it!), it is understood that a person hospitalized in psychiatric institution will also be treated, since hospitalization, as it has already been said, is not an end in itself. The reason for hospitalization is the need for treatment which cannot be carried out any other way. This is implicitly regulated by Article 3, Paragraph 10; Article 12, Paragraph 1 and Article 21, Paragraph 1 of ZZODS<sup>2</sup>. Therefore, according to the Act, and according to our professional opinion, a person who does not want to or will not be treated (except by force, if the court orders forced hospitalization) does not belong in a hospital. A hospital is an institution where diagnostic procedures and treatment take place. If there is no need for treatment, there is no need for hospitalization either (unless the court decided otherwise).

### **2.7.3. Ad "Informed consent form"**

The following statement in the same paragraph (123) ("medical staff explained that the hospital used to have a form on informed consent to treatment, but they stopped using it since it was considered to be 'an unnecessary complication in the course of admission'") is obviously a result of serious misunderstanding (!?!). None of the Hospital staff, except an uninformed and unauthorized person (and unfortunately, there are such persons!) could have said this, because it is simply not true! The hospital did not "stop using the form on informed consent to treatment" because it was considered to be "an unnecessary complication in the course of admission". What could this be about, or how this misunderstanding occurred? Our view is as follows:

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Article 3, Paragraph 10. "Medical procedure is a form of treatment, diagnostic procedure, admission and commitment to a psychiatric institution for diagnostic procedure and treatment, inclusion into educational programs carried out at the psychiatric institution, conduction of research in the area of protection and improvement of health of persons with mental disorders"

Article 12, Paragraph 1. "When treatment of a person with mental disorder must be carried out in a psychiatric institution, it shall be provided and carried out in an appropriate institution in the town of the person's residence, and if the person has no residence, in the town of the person's temporary residence, and if the person has no temporary residence, in the town where the person was found, and if this town has no psychiatric institution, in the town nearest to the person's residence, temporary residence or the place where the person was found".

Article 21, Paragraph 1. "A person with mental disorder who is capable of understanding the purpose and the consequences of commitment to the psychiatric institution and who, based on this, can make a free decision can, at the his/her request or request by a third party, be committed to a psychiatric institution. Oral consent of the person to commitment to a psychiatric institution must be entered into medical documentation".

In the first version of ZZODS, until it was modified and amended in 1999 (Official Gazette 128/99), every patient hospitalized in a psychiatric institution had to confirm his/her consent by a written document (and the psychiatrist also confirmed that the patient was capable of giving consent)<sup>3</sup>. In line with these provisions, the Hospital created the informed consent form which was used as long as this legal provision existed. After modifications and amendments to ZZODS from 1999, this form is no longer used, since there is no legal basis for it. Therefore, the use of the informed consent form was not discontinued because it was considered to be "an unnecessary complication in the course of admission", but because the modifications to the Act made it illegitimate<sup>4</sup>.

The Hospital fully agrees with the CPT statement that psychiatric patients should, in principle (but not that they should be), put in the position to give their free consent to treatment. We reiterate that in Croatia, according to our law and our practice, every voluntary visit to a psychiatrist and requesting psychiatric help implies the request of treatment! Consent to treatment, whether implicit or explicit, is required on any psychiatric examination and prescribing therapy. We have already considered the relationship between forced hospitalization and forced treatment, which is the only divergence from this fundamental principle, so we will not repeat it here. Agreeing with the CPT positions and recommendations with respect to requiring the consent to treatment, which will certainly be incorporated into our daily work with psychiatric patients, and although the following cannot apply to the Vrapče Mental Hospital, considering the Hospital's importance in implementing professional, legal and ethical tenets in the entire area of psychiatry in Croatia (we emphasize that virtually all Croatian psychiatric residents undergo education at the Vrapče Hospital in the course of residency!), the question of the treatment of psychiatric patients in the community and according to the principles of psychiatry in the community arises.<sup>5</sup>

The Vrapče Psychiatric Hospital fully accepts the recommendations (all the more so, as it has already implemented them, more or less successfully) to provide all the patients with complete information on their condition, on the treatment prescribed (paragraph 123) and that doctors should always ask for the patient's consent to treatment, namely, that the patients are given relevant information during and after treatment.

3

Legal solutions for the consent to psychiatric hospitalization after (written in regular typeface) and before (written in parentheses and in italics) modifications and amendments to ZZODS in 1999 are listed here:

Article 8, Paragraph 1 (applicable) "A person with mental disorder who can understand the nature, consequences and risks of the proposed medical treatment and who, based on this, can make a decision and express his/her will **can be examined or subjected to medical treatment only with the person's oral consent** if there are reasons for such examination or medical treatment. (Article 8, Paragraph 1 – after modifications and amendments to the Act, null and void: "A person with mental disorder *who can understand the nature, consequences and risks of the proposed medical treatment and who, based on this, can make a decision and express his/her will can be examined or subjected to medical treatment only with the person's written consent*")

Article 8, Paragraph 2 "A person's ability to give consent is established by a doctor of medicine or a psychiatrist at the time when the person makes the decision. The examination by which the ability to give consent is established is allowed in all the cases when the person does not show direct refusal of such examination. In the case of refusal of the examination to establish the capability to give consent, the examination can be performed against the person's will only if the conditions under Article 22 of the Act have been met. **Oral consent of the person under Paragraph 1 of this Article is entered into medical documentation.** The person under Paragraph 1 of this Article can require that a person of his/her confidence be present during the process of giving consent" (Article 8, Paragraph 2 – after modifications and amendments to the Act, null and void: "A person's ability to give consent is established by a doctor of medicine or a psychiatrist at the time when the person makes the decision, and shall issue a written certificate to that effect. This certificate is appended to medical documentation. The person under Paragraph 1 of this Article can require that a person of his/her confidence be present during the process of giving consent".)

Article 21, Paragraph 1: "A person with mental disorder who can understand the nature, consequences and risks of commitment to a psychiatric institution **can, with his/her oral consent, at his/her own request or the request of a third party, be committed to a psychiatric institution.** Oral consent of this person must be entered into medical documentation." (Article 21, Paragraph 2 – after modifications and amendments to the Act, null and void: "A person with mental disorder *who can understand the nature, consequences and risks of commitment to a psychiatric institution can, with his/her written consent, at his/her own request or the request of a third party, be committed to a psychiatric institution. The consent is given in the presence of the head of the ward or a psychiatrist authorized for this purpose by the head of the ward or the psychiatrist on call, who must, at the time of giving consent, establish the ability of the person with mental disorder to give consent and issue a written certificate on this, which shall be attached to the medical documentation.*")

4

As a side note, many, if not the majority of the patients who came to the Hospital voluntarily and requested to be hospitalized, were dissatisfied with the fact that they had to sign this form. Many had paranoid reactions to it, and in many it also increased their paranoia!

5

According to the principles of psychiatry in the community, each psychiatric patient should have a "case manager" who is, among else, in charge of checking whether the patient takes medication, or if the patient refuses medication, the case manager should make all effort to persuade the patient to accept medication again. Is this a case of interfering with the patient's free will? We respond that it is not, because a person is free if, among else, s/he is free from his/her pathological experiences, and not overwhelmed by psychopathological phenomena which impede his/her free choice among different options...



### **Ad "Personal hearing of forensic patients by a judge/court"**

The Vrapče Hospital fully supports the CPT recommendation and, to the best of its ability, already works to ensure that each patient, in the context of renewing the detention order, is visited by a judge.

### **Ad "Patient information"**

In Paragraph 125, CPT comments on the Vrapče Mental Hospital brochure intended to inform the patients on the Hospital and its structure and staff, but primarily on the rights and legal status of the hospitalized patients. It is stated that, in addition to the information contained in the brochure, its contents should be expanded "to include information on the institution's program and the rights of patients (regarding legal assistance, overview of accommodation, consent to treatment and possibilities of lodging a complaint)". Therefore, CPT recommends that such a brochure be prepared and that every patients receives a copy when admitted to the Hospital.

Although we believe that all relevant information that CPT says the brochure should contain are already included in our brochure, which all patients have been receiving when admitted to the Hospital for several years already, and it is also available to others who, in any way and for any reason, come to the Hospital, the Hospital's administration and the Expert Council will analyze the contents of the existing brochure and supplement it with the suggested necessary information, but also with other information which we may find relevant when writing the new brochure<sup>6</sup>.

### **Ad "Special room for family visits to forensic patients "**

In paragraph 126, "CPT calls on the Croatian authorities to set up appropriate facilities where (forensic) patients could see their families". The Hospital's administration hopes that the Croatian authorities will soon start the construction of the new Center for Forensic Psychiatry within the Vrapče Mental Hospital, which is planned to include special rooms where patients will receive visits. Immediately after the Hospital's administration had received this report, it undertook steps and provided an area for forensic patients' meetings with their families (they have at their disposal a large room on the first floor where educational and sociotherapy activities usually take place).

### **Ad "Telephone privileges"**

The Hospital's administration is surprised by the information that patients are denied telephone privileges (?). Our patients have the right, which they exercise, to receive telephone calls, but also to call whomever they want. Complaints by some of the patients that they have been denied the possibility to call someone could, according to the information obtained from the Hospital's staff, primarily social workers who are by their profession obliged to help patients maintain connection with their families and friends, only refer to cases when patients, mostly for psychopathological reasons, insisted on constant telephone calls. There are such cases, and such calls can also disturb the people being called. When a social worker considers that such telephone calls are counterproductive, they are limited to a realistic number.

We reiterate that patients at our Hospital can receive and make telephone calls and thus communicate with anyone by telephone.

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The Hospital's administration must however express regret that, CPT did not commend (and commendation would be encouraging!) the policy of informing the patients, both orally during all therapeutic procedures, and particularly through the brochure which contains basic information about the Hospital and excerpts from the Act related to our patients' legal position, their rights and obligations, all the more so as, although CPT might not be aware of this, it is the first, and I believe the only brochure providing information to patients in any of the psychiatric institutions in Croatia...

## **Ad "State Commission for the Protection of Rights of Mental Patients"**

In Paragraph 127, CPT states the importance of regular visits to psychiatric institutions by independent external bodies and, since there are no such visits, it calls on the Croatian authorities to develop a system of regular visits to psychiatric institutions. In this context, it is stressed that the State Commission for the Protection of Rights of Mental Patients has not yet resumed its activities. The administration and the staff of the Vrapče Mental Hospital have no particular comments regarding these statements, but merely wish to express their support to the CPT appeals. The Vrapče Hospital will provide the working conditions for such external bodies, just as it did for the CPT members on their visit to the Hospital, as it believes that their advice can help the Hospital to do even more for the benefit of its patients.

### **2.8. Ad "Recommendations"**

#### **2.8.1. Ad "Additional visit to the Vrapče Mental Hospital "**

The Hospital's administration fully supports the recommendation to the Croatian authorities to "find a solution for the future premises of the Forensic Psychiatry Ward as a matter of priority" (the construction of the Center for Forensic Psychiatry). The Hospital will investigate the possibilities to improve the patients' living standard in current conditions and provide patients with more space in bedrooms, so that they can have nightstands.

Together with the head of the Forensic Psychiatry Ward and other psychiatrists on this Ward, as well as other staff, the Hospital's administration will

- prepare (where it has not yet been done) individual treatment plans for each patient
- work on developing a broader range of therapeutical, rehabilitational and recreational activities offered to patients
- work on employing the necessary experts to work in forensics (if not immediately, then after moving to the new building!).

The Vrapče Hospital, hoping for assistance from the government authorities, will make every effort to build a fence in the western part of the hospital grounds, where sports grounds are located, which would protect the patients from the closed wards during their recreation outdoors. In the meantime, the number of those who are not allowed outdoor recreation will be reduced as much as possible.

The Hospital's administration will insist on individualizing the daily clothes of hospitalized patients, thereby boosting their self-respect which is of utmost importance for their rehabilitation.

#### **2.8.2. Ad "Means of restraint"**

The Vrapče Mental Hospital accepts the CPT recommendations to the Croatian authorities to undertake steps to ensure the implementation of the above principles (paragraph 120) regarding the use of the means of restraint at the Vrapče Hospital. These recommendations will be fulfilled in line with the said principles which we have listed in our comments (section 2.6).

### **2.8.3. Ad "Protective measures"**

The doctors working at the Vrapče Mental Hospital will receive instructions to inform the patients on all procedures. Patients, as well as their representatives, will receive regular information through a brochure which will be supplemented by the suggested information.

The Vrapče Hospital will suggest to the competent court that, when renewing the procedure for detention of forensic patients, the patients are present during court hearing.

#### **2.9.1. Ad "Comment on providing an area where forensic patients could see their families"**

Forensic patients at the Vrapče Mental Hospital have so far been accommodated in undeniably inappropriate facilities. These facilities so far had no designated room where patients could see their families. Now, the Hospital has accepted the recommendation and provided a room on the first floor of the present ward building (large room for educational and sociotherapy activities). Special rooms for meetings of patients and their relatives are to be included in the newly planned Center for Forensic Psychiatry, which will be built in the near future (?).

#### **2.9.2 Ad "Comment on the recommendation that the Hospital should be visited by independent bodies "**

So far, the practice of members of independent bodies visiting psychiatric hospitals or patients receiving treatment at psychiatric institutions has not been established in Croatia. The government authorities will in the near future set up a new State Commission for the Protection of Rights of Mental Patients, whose tasks will include visits to such institutions. Such control measures will improve the circumstances in which mental patients live and receive treatment.

### **3. "Requests for Information"**

#### **3.1. Ad "Comment on the observation on accommodation of patients in closed wards "**

Croatian authorities have requested and received the comment and proposals for the solution to the problem of accommodation of patients in closed wards without court order for involuntary hospitalization from the administration of the Vrapče Mental Hospital. The administration explained this fact in the same way as it was explained in the statement and the comment to CPT (section 2.4.1, second and third paragraph). Croatian authorities will analyze this comment and this explanation in cooperation with Croatian professional psychiatric associations and legal experts. Thus, information will be collected based on which modifications and amendments to legal provisions which would regulate this matter will be initiated. Prior to that, administrations of the Vrapče Mental Hospital, as well as all other psychiatric institutions will be invited to remove any observed unlawful practices. This will be monitored by the competent government authorities, but also by non-governmental organizations...

### **3.2. Ad "Comment on the denial of telephone privileges"**

The Croatian authorities, after performing a check, have fully accepted the explanation given by the administration of the Vrapče Mental Hospital in its statement and commentary. Therefore, the Croatian authorities have not observed that the patients accommodated in closed psychiatric wards of the Vrapče Mental Hospital are denied the possibility to call their families or institutions.

Sincerely yours,  
MINISTER, Darko Milinović, M.D., M.S.

**Response of the Croatian Authorities to  
the request for information in  
paragraph 50 of the report**



**REPUBLIC OF CROATIA**

*MINISTRY OF JUSTICE*

**PRISON ADMINISTRATION**

**Head Office**

REF. NO: 910-08/07-01/31  
REG.NO. 514-08-01-01-02/2-08-27  
Zagreb, 10, March 2008

**MINISTRY OF INTERNAL AFFAIRS  
MINISTER'S OFFICE**

**Subject:** The 3<sup>rd</sup> periodic visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to Republic of Croatia, 4 to 14 May 2007 – requested information and the case file referred to under Par. 50 of the Report

Dear Madams and Sirs,

Further to the request for information highlighted in this subject, we forward all available information and the copy of respective case file related to the part of the CPT Report stated under Paragraph 50 as follows:

**Institutions within authority of the Ministry of Justice**

Paragraph 50 of the Report

Information:

On 15 January 2007 at about 22,50, A, the custodial officer in Rijeka Prison conducted separation of female remand prisoner X from room number 18 and her temporary transfer in room number 1. The separation was conducted in presence of custodial officers B, C and D. The procedure of separation was carried out because X, although strongly advised otherwise, continuously yelled, used abusive language, threatened to smash inventory in room and to harm her. Another female remand prisoner was accommodated in the same room with X at the time. In situations when security measure of separation from other persons deprived of liberty is implemented and the person is accommodated in a specially secured room cleared of dangerous objects, it is regular to conduct a thorough search of person who will be separated. Given the fact that in the respective time no female custodial officer was working and in order to prevent possibility of possessing prohibited items, X had been given prison clothes to change. At the time when separation was carried out, X refused to write any statement regarding circumstances of her behaviour, and yet asked to do so later on. In this statement she apologized to custodial officers for her behaving badly and claimed that abusive language she used was intended to remand prisoner in adjacent room and not to custodial officers. The remand prisoner Y who was in the room number 18 with X also gave statement claiming that abusive language X has used was meant for remand prisoner in room next door and that she did not know anything else.

Custodial officers B and D stated that professional conduct of all officers involved and including officer A was proper, in compliance with rules and without use of coercion. They explicitly claimed that nobody used abusive language in communication with X, insulted her, hit or threatened her in any way, and that she changed in prison clothes in room number 1, in absence of custodial officers.

The following day and that was 16 January 2007 in morning hours, remand prisoner X returned to room 18 and at about 8.30 a.m. she filed a written complaint regarding conduct of custodial officer A. In this complaint she claimed to have been insulted, kicked, slapped in her face and dragged by hair by custodial officer A the previous night when she had been separated and relocated in room number 1. She also stated that that officer hit her head against coffee machine and that when she was in room number 1, he undressed her T-shirt in presence of other officers and ordered her to put on prison clothes, as well as threatened her to make it worse for her should she speak up.

Just after registering that complaint, X was interviewed and minutes of her statement taken. She confirmed all allegations related to custodial officer A thereof.

Following the interview, prison doctor examined X. The medical examination established presence of hematoma measuring 5 x 4 cm on the outer side of left thigh area which appeared consistent with fresh trauma, and a visible scratch measuring 2 cm above right sacroiliac area.

On 19 January 2007 a full report regarding this incident was sent to District Court in Rijeka having jurisdiction over ongoing criminal procedure against X. The Head Office of Prison Administration reported circumstances of this event to Municipal State Attorney's Office in Rijeka on 28, February 2007 to enable deciding upon criminal proceedings against custodial officer A following reasonable suspicion that he excessively used his authorities.

Further to written request of Head Office of Prison Administration for information regarding criminal proceedings against custodial officer A, dated 4 March 2008, the Municipal State Attorney's Office in Rijeka provided a respective report on 8 March.

We would also like to apologize for delay in forwarding requested information caused by unforeseeable circumstances.

Yours respectfully,

**Ivan Damjanović**

**DEPUTY MINISTER**

Attachment: The case files of X's complaint.



**REPUBLIC OF CROATIA**

**MUNICIPAL STATE ATTORNEY'S OFFICE IN  
RIJEKA**

Number: KR-DO-214/07-VI  
Rijeka, 5 March 2008  
JJK/SM

**MINISTRY OF JUSTICE  
Prison Administration  
Head Office in Zagreb**

Your ref. no: 910-08/07-01/31  
Reg. No: 514-08-01-01-02/2-08-16

**SUBJECT :** The 3<sup>rd</sup> periodic visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to Republic of Croatia- report

Further to your requests dated on 4 March 2008 and related to case files of Municipal State Attorney's Office in Rijeka registered under number .... , we provide the following information:

Head Office of Prison Administration forwarded the complaint and its attachments filed by remand prisoner X to Municipal State Attorney's Office in Rijeka where it was registered on 5 March 2007. The complaint contains allegations on conduct of a custodial officer.

Following analysis of the complaint and other documentation, the Office requested further official records from Rijeka Prison in order to establish existence of possible criminal offence and criminal responsibility. The additional request was related to documents not enclosed to file at the time and included official notes and report made by custodial officer A on 15 January 2007, as well as description of injuries established during medical examination conducted by Z, MD on 16 January 2007. We also requested those injuries to be described on Croatian language. That information was delivered on 25 April 2007.

The gathered information was carefully analysed and it was established that there was no fact-findings for reasonable suspicion required to initiate criminal proceeding against custodial officer A. We enclose the official note stating this opinion. We also communicated established facts to X in written form. Ms. X did not file criminal complaint against A and the Municipal State Attorney's Office did not pass any official decision thereof.

**DEPUTY OF MUNICIPAL  
STATE ATTORNEY**

Jasna Jurković-Kralj