



## **Report**

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

**from 28 March to 4 April 2017**

The Slovenian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2017) 28.

Strasbourg, 20 September 2017

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## EXECUTIVE SUMMARY

In the course of the 2017 periodic visit, the CPT's delegation reviewed the treatment of and legal safeguards offered to persons deprived of their liberty by the police. Particular attention was paid to the situation of persons held in prisons. The delegation also examined the situation of foreign nationals deprived of their liberty under aliens legislation and of forensic psychiatric patients.

The co-operation received by the delegation throughout the visit, from both the national authorities and staff at the establishments visited, was excellent.

### **Law enforcement agencies**

As regards ill-treatment by the police, the delegation only received a few isolated allegations of excessive use of force upon apprehension. Apart from that, the Committee was pleased to note that many detainees spoke positively of the professional conduct of police officers.

With a few exceptions, most persons interviewed by the delegation also indicated that they had been granted the fundamental safeguards against ill-treatment, namely the rights of detained persons to notify a close relative or another person of their detention and to have access to a lawyer and a doctor. The CPT is, however, concerned that persons who were not able to pay for a lawyer themselves, could not, as a rule, effectively benefit from the right of access to a lawyer from the very outset of their deprivation of liberty. *Ex officio* lawyers would only be appointed if such an appointment was considered to be "in the interests of justice" and if they were appointed, they would in practice only meet the detainee after police questioning, very briefly before the court hearing.

The CPT further notes that the possibility of the use of electrical discharge weapons by the police has recently been introduced into the Police Tasks and Powers Act and will be further regulated in the Rules on Police Powers. The Committee welcomes the fact that the new legal provisions include a number of safeguards such as the requirement for the weapons to be equipped with a video camera and the obligation that any person against whom the weapon has been used be subsequently examined by a doctor. However, the CPT also points out that the Slovenian authorities should ensure that additional safeguards are put in place, in particular the careful selection and training of the officials who may use electrical discharge weapons and the general rule that the criteria governing the use of such weapons - at least insofar as they are capable of discharging projectiles - should be directly inspired by those applicable to firearms.

### **Prisons establishments**

The CPT makes positive comments about developments as regards overcrowding in prisons and points out that in the establishments visited, its delegation did not observe any major overcrowding. A particular reference is made to the progress achieved in this respect at Ljubljana Prison. However, the CPT also notes that the official capacity in a number of prisons throughout the country was being exceeded.

Many prisoners interviewed by the CPT's delegation during the visit made positive comments about staff. No allegations whatsoever of ill-treatment of prisoners by staff were received at Ljubljana and Koper Prisons. At Maribor Prison, a few isolated allegations were received of prisoners being slapped, punched and kicked by prison officers. Further in this establishment, the delegation received a few allegations of disrespectful remarks by staff vis-à-vis inmates.

At Ljubljana Prison, staff reacted adequately to instances of inter-prisoner violence. At Maribor Prison, inter-prisoner violence appeared to be very rare; however, allegations were heard that in a few isolated cases, staff did not react at all when certain prisoners slapped and kicked other inmates in the corridor and, more generally, tried to dominate them. Instances of inter-prisoner violence in this establishment appeared to be almost exclusively linked with the existence of a black market of illicit substances, prescription medication and mobile phones. The Committee recommends that an effective strategy be devised and implemented to tackle trafficking in prohibited items. As part of this strategy, it should be ensured that medication is distributed exclusively by health-care staff and that its intake is properly supervised. Moreover, particular attention should be paid to the potential involvement of prison staff in the smuggling of illicit items into the prison and in their trafficking.

In both establishments visited, material conditions were on the whole acceptable in terms of cell space provided to inmates, state of repair and cleanliness, lighting, ventilation and cell equipment. However, at Maribor Prison, several smaller cells (7m<sup>2</sup>) in the remand section accommodated two prisoners and the CPT recommends that all prisoners should always be provided with at least 4m<sup>2</sup> of living space per person in a multiple-occupancy cell and, preferably, 7m<sup>2</sup>, in line with the Slovenian national standard.

As regards the regime and activities provided to prisoners, the situation varied among different categories of inmate. The situation of sentenced prisoners was relatively positive. The CPT also notes the efforts made to alleviate the situation of remand prisoners by placing them under a so-called “relaxed” regime. However, remand prisoners subject to the “ordinary” remand regime were locked in their cells for 20 to 22 hours a day, watching TV and reading being their only distractions. The CPT recommends that the Slovenian authorities continue their efforts to provide a satisfactory programme of activities to all prisoners, whether held on remand or sentenced.

Particular attention is paid in the report to the situation of prisoners held under the reinforced security regime at Maribor Prison. Regrettably, apart from two hours of outdoor exercise and access to a fitness room for one hour on working days, these inmates spent the vast majority of the day locked in their cells, with little to occupy their time, and the CPT recommends that the Slovenian authorities take decisive steps to review the programme of activities offered to these prisoners.

As for psychiatric and psychological care in prisons, it is a positive development that following the opening of the Forensic Unit of the Psychiatric Department of Maribor University Hospital, prisoners from both establishments visited who suffered from a psychiatric disorder and required hospital care were now rapidly transferred to this unit. However, a recommendation is made to ensure that a clinical psychologist is contracted (at least on a part-time basis) at Ljubljana and Maribor Prisons.

### **Foreign nationals held under aliens legislation**

The delegation received no allegations of ill-treatment by staff at Postojna Detention Centre for Foreigners. On the contrary, relations between staff and foreign nationals appeared to be friendly and relaxed.

Material conditions at the centre were found to be of a good standard. However, the Committee recommends that certain specific shortcomings be remedied.

The report is also critical of the fact that unaccompanied minors and families with children awaiting deportation are still regularly detained at the Postojna Centre for Foreigners. As regards unaccompanied minors, the Committee recommends that, given their particular vulnerability, they should always be provided with special care and accommodated in an open (or semi-open) specialised establishment for juveniles. The Committee further stresses that the accommodation of children accompanying their parent(s) in a detention centre can have a negative psychological effect on the child's development and well-being, particularly when the child is young. The placement of children with their parents in a detention centre should therefore only occur as a last resort, and if, in exceptional circumstances, such placement cannot be avoided, its duration should be as short as possible. In addition, every possible effort should be made to avoid separation of children from their parent(s).

Further, the CPT emphasises that the prohibition of torture and inhuman or degrading treatment entails the obligation not to send a person to a country if there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or other forms of ill-treatment (*refoulement*). In this context, the Committee has misgivings about the new Sections 10a and 10b of the Aliens Act which introduced the possibility for the Parliament to activate a "measure in response to mass migration" which would deny foreign nationals the possibility to apply for asylum, without an individual assessment of their case. An appeal against such a denial would not have a suspensive effect. Whilst acknowledging the Slovenian authorities' concerns about possibly once again having to cope with the same situation as that faced during the 2015/2016 migration influx, the Committee expresses its doubts as to whether foreign nationals under this measure would in practice be effectively protected against *refoulement* including "chain *refoulement*".

The report praises the high standard of health-care services provided at the centre as well as the generous access foreign nationals had to telephones and to the internet.

### **Forensic psychiatric patients**

At the Forensic Unit of the Psychiatric Department of Maribor University Hospital, the delegation received no allegations, and found no other indications, of ill-treatment of patients by staff. Instances of inter-patient violence appeared to be extremely rare and relations between patients were generally very relaxed.

Material conditions at the Forensic Unit were in most aspects of a very high standard. However, patients accommodated on ward F1 had to wear pyjamas and were only provided a metal spoon with which to eat. The CPT recommends that this practice be revised.

For several days after admission, patients on ward F1 were not granted any outdoor exercise. After this initial period and for patients accommodated on ward F2, outdoor exercise was usually only offered for 30 minutes and not necessarily every day. The CPT recommends that patients' access to outdoor exercise be significantly improved.

As regards the daily regime, it is positive that patients were not locked in their rooms during the day or at night and were free to move about their respective wards.

Psychiatric treatment provided to patients generally appeared to be appropriate and pharmacotherapy was supplemented by a range of therapeutic and recreational activities. That said, the offer of therapeutic activities for patients in the F1 ward was rather limited and the CPT recommends that patients on this ward be offered a broad range of therapeutic activities and be encouraged to participate in these activities.

The CPT expresses serious reservations as regards several aspects of the use of means of restraint. In particular, it appeared that fixation of patients to a bed was not always used as a matter of last resort and the measure was apparently not always terminated when the grounds for it had ceased to exist. Further, patients were usually strapped to a bed in full view of other patients and were systematically provided with an adult nappy or a bedpan to comply with the needs of nature. Moreover, no member of the health-care staff was constantly present in the patients' room and patients were not de-briefed by staff once the measure had been terminated.

The CPT sets out in detail the principles which should be respected when resort is had to means of restraint and recommends that the policy and practice at the Forensic Unit in Maribor and in all other psychiatric establishments in the country be brought into line with these requirements. The CPT also underlines that, in its view, the practice of putting patients in adult nappies or having them use a bedpan in view of other patients may amount to degrading treatment.

Concerning legal safeguards for forensic psychiatric patients, the CPT recommends that all patients subject to the security measure of compulsory psychiatric treatment and protection in a health-care institution be heard in person by the judge in the context of the six-monthly review of the security measure.

The imposition of the security measure entailed the obligation of patients to undergo certain treatment, as decided by the court, and there was no procedure in place for requesting their free and informed consent to the treatment. The CPT considers that psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment.

## I. INTRODUCTION

### A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a periodic visit to Slovenia from 24 March to 4 April 2017. It was the Committee’s fifth visit to Slovenia.<sup>1</sup>

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

- Antonius VAN KALMTHOUT (Head of delegation)
- Matthías HALLDÓRSSON
- Arta MANDRO
- Esther MAROGG
- Ivona TODOROVSKA
- Olivera VULIĆ.

They were supported by Petr HNÁTÍK and Almut SCHRÖDER of the CPT’s Secretariat and assisted by:

- Marta BIBER (interpreter)
- Helena BIFFIO ZORKO (interpreter)
- Branka BOŽIĆ (interpreter)
- Veronika PUŠNIK (interpreter)
- Adrijana STEFANČIČ (interpreter).

3. The list of establishments visited by the CPT’s delegation can be found in Appendix I.

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<sup>1</sup> The CPT has previously carried out four periodic visits (February 1995, September 2001, January/February 2006 and January/February 2012). The reports on these visits and the responses of the Slovenian authorities are available on the CPT’s website (<http://www.cpt.coe.int/en/states/svn.htm>).



4. The report on the visit was adopted by the CPT at its 93<sup>rd</sup> meeting, held from 3 to 7 July 2017, and transmitted to the Slovenian authorities on 13 July 2017. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Slovenian authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.

## **B. Consultations held by the delegation and co-operation encountered**

5. In the course of the visit, the delegation held consultations with Goran Klemenčič, Minister of Justice, Boštjan Šefic, State Secretary for the Interior, Sandra Tušar, State Secretary for Health, Jože Podržaj, Director General of the Prison Administration, and senior officials from the Ministries of the Interior, Justice and Health, as well as from the Ministry of Labour, Family, Social Affairs and Equal Opportunities.

The delegation also met Vlasta Nussdorfer, Ombudsperson, and Ivan Šelih, Deputy Ombudsman and Head of the National Preventive Mechanism (NPM) established under the Optional Protocol to the United Nations Convention against Torture (OPCAT), as well as other senior representatives of the Ombudsperson's Office and the NPM.

Meetings were also held with representatives of the UNHCR and members of non-governmental organisations active in areas of concern to the CPT.

The CPT appreciates that the Slovenian authorities decided to invite the Ombudsperson to attend the final meeting with the CPT's delegation, held in Ljubljana on 4 April 2017.

A list of the national authorities and organisations met by the delegation is set out in Appendix II to this report.

6. The co-operation received by the delegation throughout the visit, from both the national authorities and staff at the establishments visited, was excellent. The delegation enjoyed rapid access to all the establishments it wished to visit (including those which had not been notified in advance), was able to interview in private persons deprived of their liberty and was provided with the information it needed to accomplish its task. The initial problem encountered at Ljubljana Prison with accessing medical files, apparently because of a misinterpretation by the management of the Community Health Centre Ljubljana of the information provided by the authorities, was rapidly solved on the spot following the intervention of the CPT's liaison officers.

Further, the CPT would like to express its appreciation for the assistance provided before, during and after the visit by the CPT's liaison officers, Maja Velič and Daša Vidmar Mikšič, of the Ministry of Justice.

### C. National Preventive Mechanism

7. After Slovenia acceded to the OPCAT on 23 January 2007, the Human Rights Ombudsman was designated as the National Preventive Mechanism (NPM). The NPM is empowered to carry out visits to various places of deprivation of liberty at its own initiative and has the right to interview persons deprived of their liberty in private and to access all information concerning the treatment of such persons and their conditions of detention. The NPM's mandate further includes submitting proposals and observations concerning existing or draft legislation to the government.

8. The Committee welcomes the fact that the unit carrying out the tasks of the NPM is now a completely separate department within the Ombudsman's office, and has its own staff<sup>2</sup> and budget. This is a positive development.

In 2016, the NPM carried out 80 visits, mainly to prisons, police stations, secure wards in social welfare and psychiatric institutions, correctional centres for juveniles, as well as to the Centre for Foreigners. Selected non-governmental or other humanitarian organisations participate, in agreement with the Human Rights Ombudsman, in the performance of the tasks and competences of the NPM.<sup>3</sup> In practical terms, the groups carrying out monitoring visits are composed of one staff member of the NPM department and representatives of the selected organisations. When particular expertise is required, external experts (e.g. on psychiatry) may be recruited.

After each visit, the NPM draws up a report on its findings and makes recommendations to the management of the visited institutions as well as to other national authorities concerned. A summary of each report, together with any responses to it, as well as the NPM's annual report<sup>4</sup> are published on the Ombudsman's website.

The CPT would like to highlight that, according to the representatives of the NPM met by the delegation, their co-operation, in particular with the Ministry of the Interior and with the Prison Administration, was very good and that generally the large majority of their recommendations were either implemented or accepted (pending implementation) by the authorities concerned.<sup>5</sup>

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<sup>2</sup> Four full-time staff and one trainee were working at the NPM department at the time of the visit.

<sup>3</sup> The non-governmental organisations must be registered in Slovenia and other participating organisations must have obtained the status of humanitarian organisations in Slovenia, according to the declaration made by Slovenia in the Act of Ratification of the OPCAT. In 2017, the NPM co-operated with eight non-governmental organisations, selected by public tender.

<sup>4</sup> As part of the Ombudsman's annual report.

<sup>5</sup> Of the 674 recommendations made in 2016, 609 had either already been implemented or had been accepted and were pending implementation.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Law enforcement agencies

#### 1. Preliminary remarks

9. The legal provisions governing the detention of persons by the police are now set out in the new Police Tasks and Powers Act, adopted in 2013.<sup>6</sup> The Act includes, amongst other things, new provisions on detainees' right to food, access to drinking water and sanitary facilities, outdoor exercise and rest. For further details see also paragraphs 24, 27 and 28 below.

10. Persons suspected of having committed criminal offences<sup>7</sup> as well as persons who have to be handed over to foreign security authorities (or who have been taken over from them and need to be transferred to the competent authority)<sup>8</sup> may be detained for up to 48 hours.

The maximum time-limits for persons suspected of having committed administrative offences<sup>9</sup> and for persons who disrupt or threaten public order (or who violate a restraining order or a prohibition on attending sports events)<sup>10</sup> have been lowered to 12 hours (from 24 hours previously). Further, persons under the influence of alcohol or other substances may also be detained for up to 12 hours.<sup>11</sup> As regards the time-limits for the detention of foreign nationals who are illegally present in Slovenia, reference is made to paragraph 77 below.

The information gathered by the delegation suggested that the above-mentioned statutory time-limits were being observed in practice.

11. The CPT was also informed by the Slovenian authorities that the absolute numbers of detentions by the police had been reduced by almost a half since the CPT's last visit in 2012, reportedly mainly due to the abolition of compulsory detention in cases of driving under the influence of alcohol.<sup>12</sup>

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<sup>6</sup> This Act, together with the new Act on the Organisation and Work of the Police, replaced the previous Police Act.

<sup>7</sup> According to Section 157 (5) of the 1994 Code of Criminal Procedure (CCP). See also CPT (2008) 7, paragraph 7, and CPT/Inf (2002) 36, paragraph 9.

<sup>8</sup> Section 64 of the Police Tasks and Powers Act.

<sup>9</sup> See Sections 108 and 110 of the amended Administrative Offences (Misdemeanours) Act.

<sup>10</sup> Section 64 of the Police Tasks and Powers Act.

<sup>11</sup> See Section 109 (2) of the Administrative Offences (Misdemeanours) Act. See also CPT (2008) 7, paragraph 7, and CPT/Inf (2002) 36, paragraph 9.

<sup>12</sup> The absolute number of detentions per year had decreased from 9,798 in 2012 to 4,177 in 2016.

## 2. Ill-treatment

12. As was the case during the 2012 visit, hardly any person interviewed by the delegation complained about police ill-treatment. Only a few isolated allegations were received of excessive use of force upon apprehension. Apart from that, many detainees spoke of the professional conduct of police officers. In this context, the Committee welcomes the fact that the professional training of police officers had been considerably improved. The initial training had been upgraded to a two-year higher professional training, which included several human rights, professional ethics and social skills components.

## 3. Safeguards against ill-treatment

13. As regards the fundamental safeguards against ill-treatment (namely the rights of detained persons to notify a close relative or another person of their detention and to have access to a lawyer and a doctor), many persons interviewed by the delegation indicated that they had been granted these rights.

14. As was the case during the CPT's 2012 visit, the vast majority of detained persons met by the delegation confirmed that they had been in a position to exercise the right of notification of custody to a next-of-kin. However, some of them claimed that their next-of-kin had been notified only after a delay of a few hours. **The CPT trusts that the Slovenian authorities will remain vigilant in order to ensure that all detained persons effectively benefit from the right of notification of custody from the very outset of their deprivation of liberty.**

15. Most of the detainees interviewed by the delegation indicated that they had the possibility of access to a lawyer shortly after apprehension. However, a few persons alleged that they had been denied or delayed access to a lawyer while in police custody.

Further, it is regrettable that persons who were not able to pay for a lawyer themselves, could, as a rule, not benefit from the presence of a lawyer during police questioning. According to the provisions of the Law on Free Legal Aid and as confirmed by official interlocutors during the visit, an *ex officio* lawyer would generally only be appointed if such appointment was considered to be "in the interest of justice".<sup>13</sup> This was presumed to be the case when the person was either suspected of a serious crime or considered vulnerable.

Moreover, persons who had an *ex officio* lawyer appointed could usually only meet him/her very briefly before the court hearing and not during police questioning. A specific list of *ex officio* lawyers who could be consulted and used by detained persons was not available at the police stations visited<sup>14</sup> and police staff confirmed to the delegation that *ex officio* lawyers would in practice not meet detainees at the police stations.

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<sup>13</sup> See also Section 4 (4) of the Code of Criminal Procedure.

<sup>14</sup> The lists available were complete lists of all lawyers registered in the country without indication of their general availability as *ex officio* lawyers.

In the CPT's experience it is during the period immediately following the deprivation of liberty – and, a fortiori, during which the individual is subjected to police questioning under an investigation procedure – that the risk of intimidation and ill-treatment is at its greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during this period is a fundamental safeguard against ill-treatment. This safeguard should be available to all detained persons, irrespective of their financial situation.

**The Committee recommends that the Slovenian authorities take the necessary steps to ensure that, in practice, all detained persons effectively benefit from the right of access to a lawyer from the very outset of their deprivation of liberty, if necessary free of charge. A list of *ex officio* lawyers which detained persons can consult and use should be compiled for each police station in consultation with the Bar Association. Further, all *ex officio* lawyers should be reminded, through appropriate channels, of the importance of their role in preventing and, if necessary, reporting ill-treatment or intimidation by the police.**

16. The delegation gained the positive impression that persons deprived of their liberty were in practice granted access to a doctor upon their request.

However, some of the information material on the rights of detainees provided potentially misleading information on this right, as was already the case in 2012. While some of the information posters clearly indicated that detainees had the right of access to a doctor, the information brochure and the information leaflet for juveniles, as well other information posters at the police stations, only stated that (in addition to emergency medical care) detainees had “the right to a doctor of their own choice at their own cost” without mentioning the possibility that they could be seen by a doctor free of charge. The CPT reiterates its view that access to a doctor should not be made dependent on payment by the detained person.

After the issue was raised with the Slovenian authorities at the end of visit talks, the authorities announced in a letter dated 5 May 2017 that they intended to make sure that the “translated texts [of the brochure] are complemented appropriately”, whereas they believed that the right had been correctly indicated in “the poster”. The CPT must insist that the right of access to a doctor free of charge should not only be included in the translated texts of the brochure, but also in the brochure's *Slovenian* language version, as well as in any other information material on the right of access to a doctor, including all versions of information posters.

**The Committee trusts that all information material on the right of access to a doctor will be revised in the light of the above remarks and that, if necessary, the relevant legislation will be made more explicit on this point.**

17. As regards the specific situation of juveniles being questioned by the police, the delegation was informed that the juvenile's parents (or guardian or a representative of the competent social centre) were usually present. That said, the CPT is concerned that, according to police staff interviewed by the delegation, a lawyer was not always present during questioning of a juvenile.<sup>15</sup>

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<sup>15</sup> The delegation was informed that a lawyer „could“ be present during questioning of a juvenile just like during the questioning of an adult. The information leaflet for juveniles only stated that the police must delay any official acts, except from urgently necessary acts, until the arrival of the lawyer, but only for up to two hours.

Given the particular vulnerability of this age group, **the CPT recommends that the necessary measures be taken to guarantee that juveniles deprived of their liberty by the police are never subjected to police questioning or requested to make any statement or to sign any document concerning the offence(s) they are suspected of having committed without the presence of a lawyer and, in principle, a trusted adult person. This should also be reflected in the relevant legislation. Further, juveniles who are not able to pay for a lawyer should be entitled to free legal aid from a lawyer appointed by the Bar Association** (see paragraph 15).

18. The CPT's delegation was pleased to note that information materials explaining the rights of detained persons were available in 24 languages in all police establishments visited and that additional language versions could be produced when necessary.<sup>16</sup> In addition, a specific information sheet for detained juveniles was available in several languages.

The delegation also gained the positive impression that persons detained by the police were in the large majority of cases verbally informed of their rights upon apprehension and shortly afterwards given a copy of the respective information sheet in a language understandable to them. However, some persons interviewed by the delegation alleged that they had not been informed of their rights (or at least not of all of their rights). **The CPT trusts that the Slovenian authorities remain vigilant to ensure that all persons taken into police custody are fully informed, from the very outset of their deprivation of liberty, of all their rights.**

19. It is positive that persons deprived of their liberty by the police were requested to sign a detention protocol which contained information on their rights. The police also recorded, on a different document ("log-sheet"), whether or not the detainee had waived any of his rights. Unfortunately, this information was not confirmed by the detainee's signature. At the end of the visit, the delegation suggested that the Slovenian authorities include the information as to whether the detainee has availed himself of his rights or has waived them, in a document which is signed by the detainee. The CPT was pleased to note that, according to a letter dated 5 May 2017, the authorities plan to adjust the "log-sheet" accordingly.

20. The CPT further welcomes the fact that electronic (audio and/or video) recording equipment was not only available at interrogation rooms, but that it was used on a regular basis during police interviews in several of the police stations visited. **The Committee encourages the authorities to further promote the use of electronic equipment for recording police interviews as standard practice.**

21. It should further be positively noted that the custody records contained all the relevant information and were exemplary in all police stations visited.

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<sup>16</sup> According to the information received by police staff at the Ljubljana Moste Police Station, further language versions could be downloaded from the internal police database (intranet) and interpreters for other languages could be called in at short notice.

#### 4. Electrical discharge weapons and identification of police officers

22. The possibility of the use of electrical discharge weapons by the police has recently been introduced into the Police Tasks and Powers Act.<sup>17</sup> The Minister of the Interior is expected to further regulate the use of such devices in the Rules on Police Powers after having received a preliminary opinion by the Human Rights Ombudsman as provided for by law.<sup>18</sup>

The Committee welcomes the fact that the new legal provision includes a number of safeguards such as the requirement for the weapons to be equipped with a video camera and with an electronic data logging system for recording details of the deployment of the device. It is also positive that, according to the said provision, the person against whom the weapon has been used must be examined by a doctor subsequently.

However, according to the new provision in question, only the use of the device on vulnerable persons (namely children, visibly ill, elderly and frail persons, as well as persons who seem to have serious disabilities or who are believed to be pregnant) is explicitly made contingent on compliance with the preconditions for the application of firearms. In the CPT's view, at least when the electric discharge weapons used are capable of discharging projectiles, the criteria governing their use on any person should be directly inspired by those applicable to firearms. Moreover, the CPT believes that the use of electrical discharge weapons vis-à-vis particularly vulnerable persons should in any event be avoided.

The use of such devices on people who are delirious or intoxicated is another sensitive issue; persons in this state of mind may well not understand the significance of an advance warning that the weapon will be used and could instead become ever more agitated in such a situation.

In this context, the CPT also wishes to stress that the officials who may use electrical discharge weapons must be specifically selected – taking into account their resistance to stress and faculty of discernment – and suitably trained. An in-service training programme should be put in place together with regular testing. The training should, amongst other things, include information about when it is inappropriate, for medical reasons, to use these weapons, as well as training on emergency care (in the event of a fall, burns, wounds from the projectiles, cardiac disturbances, agitated delirium, etc.).

**The Committee trusts that the Slovenian authorities will ensure that the above-mentioned precepts, as well as the other safeguards advocated by the CPT in its 20<sup>th</sup> General Report,<sup>19</sup> will be reflected in the relevant legislation (including the Rules on Police Powers) and respected in practice.**

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<sup>17</sup> See Section 86a of the Police Tasks and Powers Act. The provision defines the device as “intended temporarily incapacitate a person by delivering [a] high voltage electrical charge”.

<sup>18</sup> Section 33 (2) of the Police Tasks and Powers Act.

<sup>19</sup> See <https://rm.coe.int/16806cce1c>.

23. The identification of police officers in the exercise of their duties (including apprehensions) is usually made possible through identification numbers worn on their uniforms.<sup>20</sup> Concerning high-risk operations, the CPT recommended in its report on the 2012 visit that also in the exceptional event that the wearing of face-concealing hoods by members of police special units may be justified, it should be ensured that subsequent identification of the officers concerned is always possible. The CPT welcomes that according to the Slovenian authorities' response to the 2012 report, members of the respective special units<sup>21</sup> wear identification numbers on their uniforms (and in some units also on their hoods) and police officers are obliged to provide their identity information in such a way as to enable the other person to memorise it or to write it down.<sup>22</sup>

The CPT's delegation was further pleased to be informed during their exchange with representatives of the Ministry of the Interior at the outset of the visit that police interventions where either officers or the detainee<sup>23</sup> use a face-concealing hood (or similar headgear) are being video-recorded. **The CPT would like to receive confirmation and further information of the introduction of this measure into the legislative framework as well as into practice.**

## 5. Conditions of detention

24. At the outset of the visit, the Slovenian authorities informed the CPT's delegation that new installations for access to drinking water had been fitted in more than 40 police detention cells, thus implementing the right of access to drinking water for detainees as stipulated in the new Police Tasks and Powers Act.<sup>24</sup> Reference was also made to on-going major refurbishment works aimed at gradually improving detention premises, in particular by removing possible ligature points. The CPT welcomes these developments.

25. The conditions of detention in the police stations visited were generally very good or even excellent. The cells were sufficient in size, well lit, clean and in a good state of repair.

However, some persons complained that the artificial lighting in the police cell was not (or even could not be) sufficiently dimmed at night although all police detention facilities were reportedly equipped with light-regulating switches. **The CPT recommends that artificial lighting in police detention cells is always appropriately dimmed at night-time.**

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<sup>20</sup> See Section 46 of the Decree on police uniforms, rank insignia and symbols.

<sup>21</sup> According to Section 22 of new Police Tasks and Powers Act, police officers may, in exceptional circumstances, use a "face-concealing balaclava" during a police operation which "requires his identity to be concealed".

<sup>22</sup> See the response of the Slovenian authorities CPT/Inf (2013) 17, page 3.

<sup>23</sup> Section 57 (8) of the new Police Tasks and Powers Act provides that "in order to prevent identification [...], police officers may, while implementing the measure of production, put on the person's head special protective headgear".

<sup>24</sup> See Section 71 (1).



26. At some police stations, persons could still be detained in detention cells without access to natural light. At Ljubljana Centre Police Station, for instance, the CPT's delegation was informed that the three detention cells in the basement without access to natural light were used for overnight stays (albeit very rarely) and generally for stays of a few up to 12 hours. However, the delegation gained the positive impression that generally the use of cells without access to natural light was being avoided.<sup>25</sup> **The CPT trusts that the authorities will ensure that police cells without access to natural light are not used for periods of custody lasting more than a few hours. Further, the Committee recommends that all police cells constructed in the future be provided with access to natural light.**

27. The new Police Tasks and Powers Act provides for the right of access to the open air for persons who spend more than 12 hours in a detention room.<sup>26</sup> According to the information gathered during the visit, access to the open air was in practice generally granted to persons detained in excess of 12 hours (and in some cases also for shorter stays) in the police stations visited. At police establishments which were not equipped with an outdoor yard for detainees, like Ljubljana Centre and Maribor I. police stations, police staff indicated that detainees would nevertheless be offered access to the open air (e.g. in the establishment's car park). **The CPT trusts that all newly built police stations will be equipped with an outdoor exercise yard.**

28. The CPT welcomes the fact that the new Police Tasks and Powers Act further guarantees detainees' rights of access to toilet facilities, to receive three meals per day (in case of detention of more than 12 hours), and to eight hours of uninterrupted rest per day.<sup>27</sup>

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<sup>25</sup> For instance, in March 2017, detainees had been held at the said cells at Ljubljana Centre Police Station on five occasions. Persons were reportedly only accommodated in these cells when none of the 30 places at Ljubljana Moste Detention Centre were available.

<sup>26</sup> Paragraph 2 of Section 71 provides that "a person who spends more than 12 hours in a detention room shall generally be allowed to move in the open air unless precluded by security considerations".

<sup>27</sup> Section 71 (1) and (3).

## **B. Prison establishments**

### **1. Preliminary remarks**

29. In several previous visit reports, the CPT has noted that overcrowding was an issue in the Slovenian prison system. It is a positive development that the upward trend in the overall prison population has stopped and that the figures show a slight decrease in the number of prisoners since the last visit (from 1421 in 2012 to 1382 in 2017), accompanied by a modest increase in the capacity of the prison estate (1309 places in 2012 as compared with 1339 in 2017). Despite that, according to the figures provided by the Slovenian authorities and as shown in the following paragraphs, the official capacity in a number of prisons throughout the country was being exceeded at the time of the 2017 visit. It should be noted, however, that the official capacity of the prison estate and individual prison establishments in the country was calculated on the basis of 7m<sup>2</sup> of living space per prisoner in a multiple-occupancy cell and 9m<sup>2</sup> in a single-occupancy cell.<sup>28</sup>

The CPT wishes to point out that in the establishments visited during the 2017 visit, its delegation did not observe any major overcrowding (see paragraphs 38 to 40). Most notably, the situation has significantly improved at Ljubljana Prison where the rate of overpopulation had been 50% in 2012, as compared to 10% in 2017.

30. According to various official interlocutors, these developments have mainly been achieved by replacement, in certain cases, of imprisonment by alternative sanctions (in particular community service), the abolition of imprisonment for fine defaulters, the introduction of plea bargaining and more even distribution of inmates among various prisons. Increasing the resort to alternative sanctions and the establishment of a fully-fledged probation service was said to be a priority for the Ministry of Justice.

**The CPT encourages the Slovenian authorities to build on the above-mentioned positive developments and continue their efforts to ensure that the aforementioned national standard for living space to be provided to prisoners is effectively implemented in practice.**

31. In the course of the 2017 visit, the CPT's delegation carried out fully-fledged visits to Ljubljana and Maribor Prisons. It also paid a targeted visit to Koper Prison where it focussed on the situation of recently arrived remand prisoners.

32. Ljubljana Prison<sup>29</sup> had previously been visited by the CPT on several occasions. At the time of the visit, the establishment was holding 144 adult male inmates (87 remand<sup>30</sup> and 57 sentenced prisoners), for an official capacity of 135 places. As a general rule, sentenced prisoners accommodated at Ljubljana Prison had received a prison sentence of one year or less.

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<sup>28</sup> However, in the past, the Slovenian authorities informed the CPT that this standard was a technical norm for the construction of new prison facilities and not a statutory entitlement of prisoners.

<sup>29</sup> The prison consists of the main unit in Ljubljana and two satellite sections, in Novo Mesto (capacity 35 places) and Ig (open unit, capacity of 27 places). These satellite sections were not visited by the delegation.

<sup>30</sup> Two of the remand prisoners had been temporarily transferred to the Forensic Psychiatric Unit of the Maribor University Hospital.

For several years now, there have been plans to replace the existing prison with a new, larger establishment in the vicinity of Ljubljana. According to the information provided by the authorities, the construction of the new establishment, which had been postponed several times in the past, should now start in 2018; it was planned that the new prison would come into operation by the end of 2022 and would hold male inmates.<sup>31</sup>

**The CPT would like to receive updated information on the progress achieved as regards the construction of a new prison in Ljubljana and on its expected capacity.**

33. Maribor Prison,<sup>32</sup> which had been visited by the CPT in 2001,<sup>33</sup> was holding 165 adult male inmates (127 sentenced prisoners, 34 remand prisoners, three prisoners sentenced to weekend imprisonment<sup>34</sup> and one prisoner temporarily transferred to the establishment because of a court hearing). The official capacity of the establishment was 146 places.

34. Koper Prison, previously visited by the CPT in 2006, had an official capacity of 110 places; at the time of the visit, it was accommodating 129 adult male inmates (49 on remand and 80 sentenced).<sup>35</sup>

## 2. Ill-treatment

35. It is positive that in all three establishments visited, many prisoners stated explicitly that they were treated correctly by staff and made positive comments about their professionalism and the respect they enjoyed among prisoners. Moreover, no allegations whatsoever of ill-treatment of prisoners by staff were received at *Ljubljana and Koper Prisons*.

36. At *Maribor Prison*, a few isolated allegations were received of prisoners being slapped, punched and kicked by prison officers. It should be noted that concerning one case, the delegation heard allegations, in interviews carried out separately with individual inmates, that the ill-treatment had taken place as a reprisal for a complaint lodged by the prisoner against a prison officer. Further, the delegation received a few allegations of disrespectful remarks by staff vis-à-vis inmates.

The CPT notes positively that at the end of the visit to this establishment, the management assured the CPT's delegation of their commitment to combat any form of ill-treatment of inmates by staff.

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<sup>31</sup> The initial plans that the new establishment would accommodate both male and female prisoners were recently abandoned; instead, Ig Prison for women should be enlarged from 103 to 140 places by 2022.

<sup>32</sup> The prison comprises the main unit in Maribor and two satellite sections, in Murska Sobota (capacity of 34 places) and Rogoza (open unit, capacity 36 places). These satellite sections were not visited by the delegation.

<sup>33</sup> For a more detailed description of Maribor Prison, see CPT/Inf(2002)36, paragraph 47.

<sup>34</sup> Pursuant to Section 12 of the Law on Enforcement of Criminal Sanctions (ZIKS), these prisoners continue to work or study and stay at home, with the exception of days off.

<sup>35</sup> For a more detailed description of Koper Prison, see CPT/Inf(2008)7, paragraph 60.

**Notwithstanding this, the CPT recommends that a clear message be delivered to staff working at Maribor Prison, and at other prison establishments in Slovenia, that all forms of ill-treatment, including verbal abuse and provocative behaviour vis-à-vis prisoners, as well as any kind of threats, intimidating action or reprisals against a prisoner who has lodged a complaint, or attempts to prevent complaints from reaching the relevant authorities/bodies, are not acceptable and will be punished accordingly.**

37. The findings of the visit indicate that at *Ljubljana Prison*, staff reacted adequately to instances of inter-prisoner violence.

At *Maribor Prison*, inter-prisoner violence appeared to be very rare. However, the delegation received credible allegations, in several interviews carried out separately, that in a few isolated cases, staff who witnessed the situation did not react at all when certain prisoners slapped and kicked other inmates in the corridor and, more generally, tried to dominate them. Allegations were also heard that prison officers showed complaints submitted by a prisoner to the inmate against whom the complaint was lodged.

The information gathered during the visit suggests that instances of inter-prisoner violence in this establishment were almost exclusively linked with the existence of a black market of illicit substances, prescription medication (in particular substitution therapy) and mobile phones and consequent debts incurred by certain inmates vis-à-vis others.

Several factors appeared to contribute to the existence of the black market. In particular, prescribed medication, including psychotropic substances, was distributed by prison officers rather than health-care staff, its intake was not properly supervised (see also paragraph 53) and prisoners were in possession of cash. A few allegations were also heard that certain members of prison staff were involved in the trafficking of illicit substances and mobile phones.

At the end of the visit to this prison, the management admitted that trafficking in illicit substances had increased in connection with the accommodation in the establishment of a particularly challenging prisoner who had tried to dominate other inmates and who had been involved in the trafficking of prohibited items; however, following his transfer back to Dob Prison, the situation was said to have improved.

The CPT wishes to emphasise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. The prison authorities must act in a proactive manner to prevent violence by inmates against other inmates and prison officers must be trained to exercise their authority in an appropriate manner. The lack of an appropriate reaction by prison staff can foster a climate in which inmates minded to ill-treat other inmates can quickly come to believe - with very good reason - that they can do so with impunity.

**The CPT recommends that an effective strategy be devised and implemented at Maribor Prison, and where necessary in other prisons in Slovenia, to tackle trafficking in prohibited items. In the Committee's view, the implementation of the recommendations made in paragraphs 53 should be part of the strategy. Moreover, particular attention should be paid to the potential involvement of prison staff in the smuggling of illicit items into the prison and in their trafficking. Consideration might also be given in this connection to replacing cash payments in prisons with introducing internal "bank" accounts for inmates and electronic payments.**

Further, the CPT recommends that the management and staff at Maribor Prison remain vigilant to any signs of intimidation and violence among prisoners and react immediately and adequately when confronted with instances of such behaviour. Moreover, the Committee recommends that the necessary steps be taken to ensure that complaints lodged by prisoners are always treated confidentially (see also paragraph 73).

### 3. Conditions of detention

#### a. material conditions

38. Ever since its first visit to *Ljubljana Prison* carried out in 1995, the CPT has observed that prisoners were accommodated in cramped conditions, although the situation appeared to be slightly improving over the years. It is noteworthy in this connection that in several judgments concerning the conditions of detention in this establishment, the European Court of Human Rights has found violations of Article 3 of the European Convention on Human Rights, on account in particular of the limited personal cell space, in some cases combined with limited out-of-cell time and high cell temperatures in the summer of 2009.<sup>36</sup>

As already mentioned in paragraph 29, the situation had improved since the CPT's last visit carried out in 2012. Cells measuring some 14 to 16m<sup>2</sup> (excluding the fully-partitioned sanitary annexe) which has previously accommodated up to six prisoners in the past, were now holding three or four inmates, respectively, and smaller cells measuring 6 to 7m<sup>2</sup> (excluding the fully-partitioned sanitary annexe) which had previously accommodated two inmates, were now being used for single occupancy.<sup>37</sup>

39. More generally, as was the case in the past, the cells seen by the CPT's delegation had adequate lighting (including access to natural light) and ventilation and were suitably furnished (beds/bunk-beds,<sup>38</sup> lockers, a table, stools/chairs); sanitary annexes (a toilet and a washbasin) were fully partitioned from the rest of the cell. All the premises visited by the delegation were in an adequate state of cleanliness and repair. Further, all cells seen by the delegation were now equipped with a call bell.

40. Despite its age,<sup>39</sup> *Maribor Prison* generally provided acceptable material conditions and the delegation was informed by the management of the improvements that had been made to the infrastructure in recent years, including the full partitioning of in-cell sanitary annexes.<sup>40</sup> In addition, some corridors had been whitewashed shortly before the CPT's visit.

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<sup>36</sup> See the *Mandić* and *Jović* group of cases (application number 5774/10).

<sup>37</sup> Material conditions were in principle equal for remand and sentenced prisoners. Remand prisoners were accommodated on the ground floor and the first floor and sentenced prisoners were held on the third floor. The second floor had one section for remand and one section for sentenced prisoners.

<sup>38</sup> Old metal (bunk-)beds seen by the delegation during the previous visits had been replaced by wooden beds.

<sup>39</sup> The prison was brought into service more than 100 years ago.

<sup>40</sup> Other maintenance works included the reconstruction of the boiler room and sewage system, ensuring hot and cold water supply to all cells, as well as replacement of windows in cells and of some furniture.

The cells seen by the delegation were in a reasonable state of repair and cleanliness and were adequately lit and ventilated, as well as suitably equipped ((bunk-)beds, tables, chairs, lockers, shelves). In some cells, the fully-partitioned sanitary annexes contained, in addition to a toilet and a washbasin, a shower. Inmates accommodated in other cells had access to communal showers at least twice a week.

The cells varied in size but generally provided sufficient living space for the number of inmates they were holding at the time of the visit. For example, cells measuring 7m<sup>2</sup> were used for single occupancy, cells measuring between 9 and 11m<sup>2</sup> were holding two inmates, cells of some 30m<sup>2</sup> had six inmates and a large cell measuring 52m<sup>2</sup> was occupied by eight prisoners.<sup>41</sup>

That said, several smaller cells (7m<sup>2</sup>) in the remand section were accommodating two inmates. The CPT notes the arguments advanced by the management of the prison that some remand prisoners prefer company. However, **the CPT recommends that other solutions be found to ensure that all prisoners are always provided with at least 4m<sup>2</sup> of living space per person in a multiple-occupancy cell and, preferably, 7m<sup>2</sup>, in line with the Slovenian national standard.**

b. regime

41. In the previous visit reports, the CPT had been critical of the regime of activities provided to remand prisoners at *Ljubljana Prison*; these inmates had spent up to 21 hours locked in their cells, with outdoor exercise and access to a fitness room being their only activities.

The CPT notes positively that at the time of the 2017 visit, the majority of remand prisoners were held under the so-called “relaxed” regime and benefitted from an open door policy for five and a half hours a day,<sup>42</sup> during which time they could associate with other inmates within their respective units. They were also offered outdoor exercise twice a day, each time for one and a half hours, and had access twice a week to a fitness room with some basic sports equipment.

However, only five remand prisoners worked (household duties) and there were virtually no other organised activities than those described above. Consequently, inmates subject to the “ordinary” remand regime were locked in their cells for 20 to 22 hours a day, watching TV and reading being their only distraction.

42. The situation was better as regards sentenced prisoners. Those held under the semi-open regime benefitted from an open door policy every day from 6 or 7 a.m. to 10 p.m., those in closed regime for some five and a half hours per day.<sup>43</sup> Of the 57 sentenced prisoners held in the establishment at the time of the visit, 37 had a job (household chores, gardening, wood/metal/assembly workshop) and efforts were being made to provide this category of prisoner with various courses and training activities (social reintegration after release, motivation training for substance abusers, prevention of violence, etc.). However, according to the information provided by the management of the prison, only some 30 inmates participated in these activities.

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<sup>41</sup> All the cell sizes in this paragraph are indicated, not counting the fully-partitioned sanitary annexes.

<sup>42</sup> From 7.30 a.m. to 11.30 a.m. and from 1 p.m. to 2.30 p.m.

<sup>43</sup> From 10 a.m. to 1.30 p.m. and from 4.30 p.m. to 6.15 p.m.

Sentenced prisoners had daily access to outdoor exercise (two hours for those who worked and four hours for those who did not) and had daily access to a fitness room.

43. At *Maribor Prison*, all remand prisoners were offered two hours of outdoor exercise a day and access to a fitness room for a two-hour session four to five times a week. Nine remand prisoners worked (metal workshop, kitchen) and an additional seven followed a Spanish language class. Those remand prisoners held under the so-called “relaxed” regime had the doors of their cells open between 7 a.m. and 2 p.m. and could associate with other remand prisoners within their unit.

However, there were hardly any organised activities offered to the majority of remand prisoners; the situation of inmates subject to the “ordinary” remand regime was thus as unsatisfactory as the situation of this category of inmate held at Ljubljana Prison (see above).

44. On a more positive note, the situation of sentenced prisoners was quite satisfactory; those held under the semi-open regime enjoyed open door policy from 7 a.m. to 8 p.m. and those subjected to the closed regime from 2.30 p.m. to 8 p.m. Outdoor exercise was offered for two hours a day. There were 82 sentenced prisoners (out of 127) working (metal/electroplating workshop, prison library, kitchen, laundry, cleaning),<sup>44</sup> seven were offered occupational therapy (painting, assembling mosaics) and one inmate was following school education. In addition, efforts were made to offer some social reintegration programmes, some of which included the participation of external partners.

45. In sum, the CPT notes the progress achieved but considers that there is still room for improvement, in particular as regards the regime of activities offered to remand prisoners in both establishments visited and sentenced prisoners at Ljubljana Prison. **The Committee recommends that the Slovenian authorities continue their efforts to provide a satisfactory programme of activities to all prisoners, whether held on remand or sentenced. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association.**

46. Outdoor exercise yards in both establishments visited were relatively spacious and equipped with some sports equipment (table tennis tables, basketball hoops, goals) and with benches, as well as shelters against inclement weather. These conditions were satisfactory.

#### **4. Prisoners held under the reinforced security regime**

47. During the visit, the CPT’s delegation examined the situation of prisoners held under the reinforced security regime. Pursuant to Section 98.a of the Law on Enforcement of Criminal Sanctions (ZIKS), prisoners may be placed under the reinforced security regime if they pose a risk of flight, if their behaviour seriously disturbs other inmates or staff or if they are under threat from others. Further, under Section 206(3) ZIKS, prisoners may be placed in a high-security department or a high-security regime if they represent a danger to other inmates.<sup>45</sup>

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<sup>44</sup> Of the overall number of inmates, four were unfit for work and one was retired.

<sup>45</sup> In addition, by virtue of Section 89 ZIKS, inmates in respect of whom a reasonable suspicion exists that they

At the time of the visit, at *Ljubljana Prison*, there were no prisoners under the reinforced security regime; however, the delegation reviewed the relevant registers and several personal files of inmates who had recently been subjected to this type of regime.

At *Maribor Prison*, seven prisoners were subjected to the regime of Section 98.a ZIKS (five at their own request as they had difficulties adapting to the prison regime and were prone to incurring debts in prison, and two because they disturbed others). All these inmates were accommodated in a separate section of the prison and had separate access to outdoor exercise, a fitness room, showers and the visiting facility. The material conditions provided to them generally did not differ from those described in paragraph 40 in respect of the general prison population.<sup>46</sup>

48. In the past,<sup>47</sup> the CPT repeatedly expressed its concerns as regards the regime of activities offered to inmates held under the reinforced security regime. Regrettably, the findings of the 2017 visit indicate that the shortcomings identified in the past in various prison establishments persist at Maribor Prison. Namely, apart from two hours of outdoor exercise and access to a fitness room for one hour on working days, these inmates spent the vast majority of the day locked in their cells, with little to occupy their time. None of these prisoners worked.

It is noteworthy in this context that several prisoners who were held under the “general” regime indicated to the CPT’s delegation that although they did not feel safe in the prison, they preferred not to ask for a transfer to the reinforced security regime due to the complete lack of activities and the impossibility to work. They also expressed their concerns that even in the reinforced security regime, they could be threatened during outdoor exercise or shower time by other inmates held under this regime.

Moreover, some of the inmates who were held under the reinforced security regime at the time of the visit stated that they often refused to take outdoor exercise because of threats from other inmates. Some custodial staff were said to be more sensitive and offered outdoor exercise in two groups to separate prisoners who had conflicts; usually, however, outdoor exercise was only offered once a day for all inmates subjected to the reinforced security regime.

As pointed out in the previous visit report, the CPT considers that prisoners held under the reinforced security regime should be provided with tailored programmes of purposeful activities of a varied nature (including work, education, association and targeted rehabilitation programmes). This programme should be drawn up and reviewed on the basis of an individualised needs/risk assessment by a multi-disciplinary team (involving, for example, a psychologist and an educator), in consultation with the inmates concerned. Interaction/association between the prisoners concerned should be the norm; conditions akin to solitary confinement should only be applied when they are absolutely necessary in order to deal with the prisoners concerned and for the shortest possible period.

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have committed a criminal offence while serving their prison sentence may be separated from other prisoners. No such cases were examined during the 2017 visit.

<sup>46</sup> At the time of the visit, one reinforced security regime inmate was accommodated in a single-occupancy cell (at his own request), the remaining six were accommodated three to a cell.

<sup>47</sup> See the report on the CPT’s 2012 visit to Slovenia (CPT/Inf(2013)16, paragraph 30) and the report on the 2001 visit (CPT/Inf(2002)36, paragraph 85).



**The CPT recommends that the Slovenian authorities take decisive steps to review the programme of activities offered to prisoners held under the reinforced security regime at Maribor Prison and, where applicable, also in other prisons in the country, in the light of the above considerations.**

**Further, the Committee recommends that inmates held under the reinforced security regime who are known or likely to have conflicts between themselves or are known or likely to be under threat by other inmates, be adequately protected. In particular, consideration should be given to offering them, within the reinforced security regime, separate access to outdoor exercise, the fitness room and showers.**

49. As regards procedural safeguards accompanying placement under the reinforced security regime, decisions under Section 98.a and 206 ZIKS were taken by the governor of the prison. The decisions under Section 98.a were valid for one month, those under Section 206 for up to three months (but the need for the continuation of the measure must be reviewed by the governor on a monthly basis); both regimes could be extended by the same time period for which they may be initially imposed. According to the information provided by staff in the two establishments visited, prisoners should be heard when the reinforced security regime is imposed or extended.

The information gathered during the visit indicates that these provisions were on the whole followed in practice and that the prisoners concerned received a written copy of the decision which also informed them of the possibility to lodge an appeal with the prison administration. However, a few allegations were heard at Maribor Prison that prisoners were not always heard either before the imposition of the regime or before the extension thereof.

**The CPT reiterates its recommendation that the Slovenian authorities take the necessary steps to ensure that every prisoner in respect of whom the imposition of a reinforced security regime or its extension is envisaged is given an opportunity to be heard on the matter by the decision-making authority before a formal decision is taken.**

50. Further, at Ljubljana Prison, neither the personal files of prisoners subjected to the regime under Section 206 ZIKS, nor any other document presented to the delegation, contained precise information regarding determination of the degree of isolation of the prisoner concerned from other prisoners, as required for this category of inmate by Section 103(4) of Rules on the implementation of prison sentences (PIKZ). **The CPT would like to receive the comments of the Slovenian authorities on this issue.**

## **5. Health-care services**

51. At the beginning of the visit, the Slovenian authorities informed the delegation that the 2013 Health Care Act guaranteed the same level of health care to prisoners as that provided in the community. In practice, every prison had a contract with a local health-care facility in its vicinity and medical doctors who provided health care in prison belonged to the public health network; the majority of nurses working in prisons were employed by the Ministry of Justice. Plans to transfer completely the responsibility for the provision of health care in prison to the Ministry of Health were under discussion. **In due course, the CPT would like to be informed of the outcome of these discussions.**

52. As regards staffing levels of health-care staff in the establishments visited, at *Ljubljana Prison*, there was a team of seven general practitioners contracted by the prison from the local health-care centre who held consultations three times a week from 8 a.m. to 1 p.m., i.e. for some 15 hours a week. They could also be called in outside consultation hours (including on weekends) in the case of need (e.g. to examine newly arrived prisoners). This attendance is lower than was recommended by the CPT in the past. However, the prison population in the establishment had dropped by almost 30% since the last visit and the CPT notes positively that no complaints were received from prisoners interviewed during the visit as regards access to somatic care, including outside specialist care. The attendance of general practitioners thus appeared to be sufficient for the needs of the *current* inmate population.

Two nurses were employed by the prison and were mainly responsible for administrative work and preparation and distribution of medication during working hours; there was also one nurse contracted from the local health-care centre who worked with the visiting doctors. All three nurses worked from 7 a.m. to 3 p.m. on working days and, twice a week, one or two nurses were also present from 3 p.m. to 7 p.m.

*Maribor Prison* contracted four general practitioners who held consultations on a rota basis four times a week (from 8 a.m. to 12 noon). Outside these hours (e.g. in the case of emergency or when a new prisoner arrived), prisoners were taken to the local health-care centre. There were also three nurses (two employed by the prison and one from the public health network) who worked from 7 a.m. to 3 p.m. on working days. No complaints were heard from the prisoners interviewed during the visit about access to medical care. The attendance of health-care staff appeared to be sufficient.

53. Outside the working hours of nurses, distribution of medication was carried out by custodial staff at Ljubljana Prison. At Maribor Prison, medication, including psychotropic medication and substitution therapy, was always distributed by prison officers; moreover, the findings of the visit indicate that the intake of medication by prisoners was not properly supervised by custodial staff.

Consequently, medication and its dosage were clearly visible to the custodial staff. Such a practice could compromise medical confidentiality requirements and does not contribute to the proper establishment of a doctor-patient relationship. Moreover, reference is made to the problem identified in paragraph 37.

For these reasons in particular, **medication should only be distributed by health-care staff.** Further, **the intake of all medication should be properly supervised.**

54. No nurse was present in either establishment in the evening and on weekend to provide first aid.

**The CPT calls upon the Slovenian authorities to implement its long-standing recommendation that someone qualified to provide first aid, preferably with a recognised nursing qualification, be present on the premises at all times (including at night and weekends) at Ljubljana and Maribor Prisons, as well as in other prison establishments in Slovenia.**

55. As regards psychiatric and psychological care, it is a positive development that following the opening of the Forensic Unit of the Psychiatric Department of Maribor University Hospital,<sup>48</sup> prisoners from both establishments visited who suffered from a psychiatric disorder and required hospital care were now rapidly transferred to this unit (see also paragraph 103).

*Maribor Prison* was visited once a week by a psychiatrist but there was no clinical psychologist.

*Ljubljana Prison* was visited by two psychiatrists twice a week (for some 10 hours in all) which appeared to be sufficient to meet the needs of the prisoners. However, five years previously, the contract with a clinical psychologist had been terminated for budgetary reasons and there was a total lack of psychological care, a problem brought to the attention of the CPT's delegation by both inmates and staff of the establishment.

**The CPT recommends that the Slovenian authorities take the necessary steps to ensure that a clinical psychologist (at least on a part-time basis) is contracted at Ljubljana and Maribor Prisons.**

56. Dental care was provided in both establishments by visiting dentists (six hours a week at Ljubljana and four at Maribor). However, **in both establishments, the delegation received a few complaints about long waiting times for an appointment with a dentist.**

57. Medical confidentiality was generally duly observed at Ljubljana and Maribor Prisons (see, however, paragraph 53). Namely, medical files (which were well-kept in both establishments)<sup>49</sup> were not accessible to non-medical staff and custodial staff were as a rule not present during medical examinations of prisoners. When requesting a medical consultation, prisoners were not obliged to indicate a reason. However, when a reason was given on the written form, it was visible to the staff collecting it (including custodial staff). **The CPT recommends that prisoners at Ljubljana and Maribor Prison be provided with envelopes in which they may place requests for medical consultations.**

58. In both establishments, all newly arrived prisoners were examined by health-care staff shortly after admission and the results were duly noted in their medical files. If prisoners presented injuries on admission, they were sent for further examination to a civil health-care facility. The same procedure was followed when a prisoner sustained injuries while in prison.

Upon individual risk assessment, prisoners were offered free-of-charge confidential testing for hepatitis B and C, as well as HIV testing, in a civil health-care facility.

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<sup>48</sup> The Forensic Psychiatric Unit was also visited during the 2017 visit; the findings of the visit are set out in section II.D of this report.

<sup>49</sup> Medical files were partly kept in electronic form, as in the outside community.

59. Prisoners with a history of drug abuse were offered a contract on admission in which they committed themselves to abstain from drug use and agreed to drug testing. At Maribor Prison, a separate drug-free unit was reserved for inmates who wished to live in a drug-free environment, including those who had completed a drug rehabilitation programme. Substitution therapy was available for opiate-dependent prisoners in both prisons visited.

60. At Ljubljana Prison, the CPT's delegation was informed that a new Protocol on suicide prevention had been applied in recent years, which had led to a significant decrease in the number of suicide attempts. The protocol was based on a multidisciplinary approach and one member of the treatment staff was acting as a coordinator for suicide prevention. Prisoners who were considered to be under a suicide risk, on the basis of an individual risk assessment, were put on a suicide watch list and subjected to individualised measures, such as daily interviews, frequent monitoring and increased supervision at night. At the time of the visit, there were six prisoners on the list.

The CPT welcomes the fact that certain inmates who had recently presented a risk of suicide had made positive comments about the care provided and measures taken by staff.

**The CPT would like to be informed whether the Protocol on suicide prevention is applied in all prison establishments in Slovenia and, if so, what the overall results of its implementation have been.**

## 6. Other issues

### a. prison staff

61. At the beginning of the visit, the Slovenian authorities informed the delegation that understaffing due to austerity measures continued to be a problem, although the situation had stabilised in comparison with 2012. Many prison officers reportedly did a lot of overtime work and the workload was said to be very high (despite the decrease in the prison population), in particular due to the frequency of transfers of inmates to outside specialist medical care. Overall, there were plans to employ some 40 additional prison staff; 27 recruitment procedures were already on-going at the time of the visit.

Concerning staffing levels at the establishments visited, *Ljubljana Prison* employed 88 prison officers (an additional 16 posts were vacant and 13 competitions were on-going),<sup>50</sup> one head of department for treatment, two educators, one social worker (an additional post of a social worker was vacant) and seven senior advisors working in the department for education.

At *Maribor Prison*, staff included 71 prison officers (an additional three posts were vacant),<sup>51</sup> one head of department for treatment, six educators and a social worker. Three posts of custodial officer and five posts in the treatment department were vacant.

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<sup>50</sup> In both establishments visited, custodial officers worked, as a general rule, in 12-hour shifts.

<sup>51</sup> In addition, there were 10 posts of prison officers who were allocated to the Forensic Psychiatric Unit in Maribor (see paragraph 112).

**The CPT encourages the Slovenian authorities to step up their efforts to fill vacant posts at Ljubljana and Maribor Prisons, as well as in other prison establishments in the country. More generally, the CPT would like to be informed of developments regarding the staffing situation in the prison system and the recruitment of additional prison staff.**

b. contact with the outside world

62. As was the case in the past, prisoners' visiting entitlement was satisfactory (one and a half hours per week for remand prisoners at Ljubljana Prison, half an hour twice a week for this category of inmate at Maribor Prison and two hours twice a week for sentenced prisoners in both establishments).

However, at Maribor Prison, sentenced prisoners held under the reinforced security regime (see paragraph 47) could only receive visits on working days during working hours. Several complaints were received by the delegation that this arrangement made it impossible for some persons to come for a visit. The CPT notes the argument advanced by staff that this category of inmate generally had a limited social network outside prison, only rarely requested to receive visits and, when they did so, they were allowed to meet their visitors also on weekends. Nevertheless, **the CPT recommends that sentenced prisoners held under the reinforced security regime at Maribor Prison be encouraged by staff to receive visits and be regularly given the opportunity to meet visitors outside working hours and on weekends.**

63. No improvement was observed during the 2017 visit as regards material conditions in the visiting facilities. Regrettably, as repeatedly pointed out by the CPT in the past, these facilities were insufficient for the number of prisoners held in the two establishments and offered virtually no privacy to inmates and their visitors. **The CPT calls upon the Slovenian authorities to implement its long-standing recommendation to increase the capacity and improve the layout of the visiting facilities at Ljubljana and Maribor Prisons.**

64. All prisoners had regular access to telephones located in the corridors of the accommodation units and, at Maribor, also in the outdoor yards. Further, they could receive parcels and send and receive letters. These arrangements were satisfactory.

c. discipline

65. Disciplinary sanctions that may be imposed on *sentenced prisoners* are provided for in Section 88 ZIKS; the most severe sanctions are solitary confinement of up to 21 days with the right to work or 14 days without that right.

As concerns *remand prisoners*, the only sanction that may be imposed for disciplinary offences is the prohibition or restrictions on visits and correspondence (Section 213.c(3) of the Code of Criminal Procedure). The sanction is imposed by a judge, following a proposal by the prison governor. As noted in the previous visit report, the CPT considers that disciplinary punishment of prisoners should never involve a total prohibition on family contact and that any restrictions on family contact should be imposed only where the offence relates to such contact.

**The CPT reiterates its recommendation that the rules governing disciplinary sanctions for remand prisoners be revised accordingly.**

66. As was the case during previous visits, the disciplinary procedure for *sentenced prisoners* was accompanied by appropriate safeguards, which appeared to be respected in practice. In particular, disciplinary punishments were imposed by the governor of the prison, prisoners were informed in writing about the charges against them, were heard in person and received a written copy of a decision which informed them of legal remedies.

As regards *remand prisoners*, the delegation was informed that an amendment to the Code of Criminal Procedure which guaranteed the right of remand prisoners to be heard in person by the judge imposing a disciplinary sanction was pending before Parliament. **The CPT would like to receive confirmation that remand prisoners now have the right to be heard in person by the judge in the context of disciplinary proceedings prior to the imposition of any sanction.**

67. In neither establishment visited was there a register of disciplinary punishments imposed on remand prisoners. Instead, disciplinary sanctions imposed by a judge were only recorded in the prisoner's personal file. In the CPT's view, the introduction of a separate register for sanctions merits consideration as it increases managerial overview and facilitates inspection by external bodies. **The CPT recommends that a register of disciplinary sanctions imposed on remand prisoners by a judge be introduced at Ljubljana Prison and, where applicable, also in other prisons in Slovenia.**

Further, the findings of the visit indicate that several months (e.g. nine months in five cases examined by the delegation) had often lapsed between the notification by the prison management to the court of a potential disciplinary offence committed by a remand prisoner and the issuing of a disciplinary decision.<sup>52</sup> The CPT must point out in this respect that imposing a disciplinary punishment several months after the alleged offence does not serve the need to maintain good order in the prison; disciplinary offences should be dealt with rapidly, through fair and transparent procedures. **The CPT recommends that the Slovenian authorities take the necessary steps to speed up the time to investigate and decide on a disciplinary offence. In principle, when it is deemed necessary to impose a disciplinary sanction on a prisoner, this should be done within days rather than months of the offence.**

68. In neither of the establishments visited was there a special disciplinary cell. Instead, prisoners undergoing disciplinary solitary confinement were placed in an ordinary single-occupancy cell.

69. Section 91(1) ZIKS stipulates that prisoners placed in solitary confinement must be visited daily by a health-care professional. This provision appeared to be respected in practice.

Further, at Ljubljana Prison, all inmates were medically examined *before* undergoing solitary confinement with a view to establishing whether their state of health enabled them to undergo the sanction. This practice was explicitly required by Article 72 of the internal Prison Rules and the doctor's assessment was recorded in the patient's medical file (albeit not on a special fit-for-punishment form).

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<sup>52</sup> In other cases, no reply from the court had been received more than a year after the notification submitted by the prison.

As pointed out by the CPT in previous visit reports,<sup>53</sup> medical practitioners working in prisons act as the treating doctors of prisoners, and ensuring that there is a positive doctor-patient relationship is a major factor in safeguarding the health and well-being of prisoners. Obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote that relationship. This point was recognised in the Committee of Ministers' Recommendation Rec(2006)2 on the revised European Prison Rules; indeed, the rule in the previous version of the Rules, stipulating that prison doctors must certify that a prisoner is fit to sustain the punishment of disciplinary confinement, has now been removed.

To avoid any possible perception on the part of the prisoners that health-care staff are involved in the imposition of the disciplinary sanction of solitary confinement and thus to preserve the doctor-patient relationship, **the CPT once again reiterates its recommendation that existing legal arrangements and practice concerning the role of prison doctors in relation to disciplinary matters be reviewed. Health-care staff should visit the prisoner immediately after his/her placement in solitary confinement (and thereafter, on a regular basis, at least once per day) and provide him/her with prompt medical assistance and treatment as required.**

d. handling of agitated or violent prisoners

70. Both establishments visited had a security cell (known as "*medicinka*" or "calming down cell") in which agitated or violent prisoners could be placed as a measure of last resort. The initial placement was for up to 12 hours and could be renewed, at 12-hour intervals, for a maximum of 72 hours. The decision to place an inmate in the security cell was taken by custodial staff and had to be brought immediately to the attention of the governor, the head of security and health-care staff (who visited the patient concerned shortly afterwards). The prisoner was under constant supervision by means of a CCTV-camera.

The examination of the relevant registers showed that the security cells were used only rarely<sup>54</sup> and usually for less than 12 hours.

71. Material conditions in the security cells were on the whole satisfactory in both establishments visited in terms of size (7.5m<sup>2</sup> at Ljubljana and 6m<sup>2</sup> at Maribor), state of repair, ventilation and lighting. However, the cells were not equipped with a call bell. **The CPT recommends that this shortcoming be remedied.**

72. According to the information provided by staff, prisoners placed in the security cell were *systematically* provided with special rip-proof clothing. **In the CPT's view, if a prisoner is placed in a security cell, he/she should be obliged to remove his/her clothes and to wear rip-proof clothing only if necessary (e.g. if there is a risk of self-harm or suicide).**

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<sup>53</sup> See, for example, the report on the visit carried out by the CPT in 2006 (CPT/Inf(2008)7, paragraph 84).

<sup>54</sup> For example, at Ljubljana Prison, the security cell was used twice in 2015, seven times in 2016 and once in the first few months of 2017; at Maribor Prison, the security cell had been used three times in the previous two years.

e. complaints and inspection procedures

73. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them, both within and outside the prison system, and be entitled to confidential access to an appropriate authority. In addition to addressing the individual case involved, the CPT considers that a careful analysis of complaints can be a useful tool in identifying issues to be addressed at a general level.

The examination of the existing procedures at Ljubljana and Maribor Prisons revealed several shortcomings. Firstly, there were no confidential complaints boxes available to prisoners. Instead, inmates placed their complaints/requests in open envelopes in boxes on the door of their cells; the complaints/requests were thus accessible to all staff. Reference must be made in this context to the allegations of reprisals and of prison staff showing the complaint to other inmates described in paragraphs 36 and 37.

Further, in both establishments, there was no register of complaints lodged by prisoners.

The CPT considers that prisoners ought to be able to make written complaints at any moment and place them in a locked complaints box located in each accommodation unit (to be opened only by specially designated persons). All written complaints should be registered centrally within a prison before being allocated to a particular service for investigation or follow up. In all cases, the investigation should be carried out expeditiously (with any delays justified) and prisoners should be informed in writing within clearly defined time periods of the action taken to address their concern or of the reasons for considering the complaint not justified. Information on the right to appeal should also be provided. In addition, statistics on the types of complaints made should be kept as an indicator to management of areas of discontent within the prison.

**The CPT recommends that the existing procedures and practice at Ljubljana and Maribor Prisons, as well as in other prison establishments in Slovenia, be reviewed in the light of these remarks.**

74. Both establishments visited were regularly visited by supervisory judges and prisoners could ask for private interviews. It would appear, however, that at Maribor Prison, the latter was not often the case and several inmates interviewed by the CPT's delegation stated that during their inspections, judges were usually accompanied by members of the prison staff. **The CPT considers that inspection bodies should not limit their activities to seeing prisoners who have expressly requested to meet them, but should take the initiative by visiting the establishments' detention areas, entering into contact with inmates and interviewing them in private.**

75. As regards the monitoring carried out by the NPM, reference is made to paragraphs 7 and 8.



f. information provided to prisoners

76. It is positive that a meeting was held with each newly admitted prisoner, during which information was provided, *inter alia*, on the rights and duties of inmates and the daily routine in the establishments. Prisoners were also given a written copy of the house rules and information sheets were on display in the accommodation units.

Further, the Slovenian authorities informed the delegation that prisoners were now able to contact the police by phone directly from prison in the case of complaints.

That said, as noted in the previous visit report, the house rules in both establishments still provided incomplete information, in particular as regards disciplinary procedures and sanctions and the possibility to lodge complaints with bodies outside the prison system. Moreover, there were differences in the scope of information provided to sentenced and remand prisoners. **The CPT reiterates its recommendation that further steps be taken to improve the provision of information on rights to all categories of inmate.** Reference is made, in this respect, to Rule 30.1 of the European Prison Rules.<sup>55</sup>

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<sup>55</sup> Rule 30.1 of the European Prison Rules reads as follows: “At admission, and as often as necessary afterwards all prisoners shall be informed in writing and orally in a language they understand of the regulations governing prison discipline and of their rights and duties in prison”.

## C. Foreign nationals held under aliens legislation

### 1. Preliminary remarks

77. The administrative detention<sup>56</sup> of foreign nationals “who reside illegally” in Slovenia is governed by the Aliens Act<sup>57</sup> while the detention of foreign nationals who have applied for international protection (asylum) is regulated in the International Protection Act.<sup>58</sup>

Foreign nationals who are illegally present in Slovenia and those whose identity is unknown may be detained by the police in a Centre for Foreigners for a maximum of six months. If it is not possible to deport the foreign national within this period, the police may under certain preconditions prolong the detention by an additional six months if it is realistic to expect that this will enable deportation.<sup>59</sup>

As regards asylum seekers, detention may be ordered, but generally for not more than three months with a possible extension of another month.<sup>60</sup> In practice, asylum seekers were usually accommodated in open asylum homes and resort to the detention of asylum seekers was in the recent past only made in exceptional cases.<sup>61</sup> This is positive.

In addition, the State Border Control Act<sup>62</sup> allows detention of foreign nationals at the border for a maximum of 48 hours.<sup>63</sup>

78. The delegation visited Postojna Detention Centre for Foreigners, the only detention facility in Slovenia for foreign nationals held under aliens legislation. The centre occupies the premises of a former military facility built in the 1980s in a rural setting some 50 km from Ljubljana and was previously visited by the CPT in 2001 and 2006.

Placed under the responsibility of the police, the centre in general accommodates mainly foreign nationals awaiting deportation (men, women and children including unaccompanied minors), but occasionally also asylum seekers and persons awaiting transfer to another country under the Dublin Regulations. On the day of the delegation's visit, 11 foreign nationals awaiting deportation (including two women and three unaccompanied minors) and two male asylum-seekers were being held at the centre for an official capacity<sup>64</sup> of 240 places.

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<sup>56</sup> Both the Aliens Act and the International Protection Act characterise immigration detention as “restriction of movement”.

<sup>57</sup> *Zakon o tujcih*. See Sections 76 seq. of the law.

<sup>58</sup> *Zakon o mednarodni zaščiti*. See Section 84 of the law.

<sup>59</sup> Section 79 (1) of the Aliens Act. After the expiry of the six-month period(s), the foreign national must be released.

<sup>60</sup> Section 84 (5) of the International Protection Act.

<sup>61</sup> In 2016, of the 1308 persons who had applied for asylum, 82 had been held in detention.

<sup>62</sup> *Zakon o nadzoru državne meje*.

<sup>63</sup> This type of detention is imposed when a person intends to cross or has already crossed the border and suspicion exists that he/she has done so unlawfully and detention is considered necessary for determining all relevant circumstances or when the person who has been refused entry into Slovenia because he/she did not fulfil the entry conditions cannot be immediately returned (Section 32 (1) of the State Border Control Act).

<sup>64</sup> The centre's initial capacity of 220 places had been raised during the migration influx of 2015/2016 to 240 places (see also paragraph 82). In case of need, an additional 90 places could be made available in an adjacent former hangar which had been equipped with container homes.

The average duration of detention at the centre was 14 days and within the last two years no foreign national had been held at the centre for more than six months. The foreign nationals who stayed at the centre at the time of the visit had been held there for periods of between one and 32 days.

79. The delegation was surprised to note that foreign nationals who had sufficient financial resources had in principle to pay for their stay at the centre, in accordance with Section 84 (1) of the Aliens Act and Section 45 of the House Rules.<sup>65</sup> **The CPT would welcome the observations of the Slovenian authorities regarding the appropriateness of requesting such payment.**

## 2. Ill-treatment

80. The delegation did not receive any allegations of ill-treatment by staff at the centre. On the contrary, relations between staff and foreign nationals appeared to be friendly and relaxed. Violence amongst foreign nationals reportedly occurred occasionally, but the delegation gained the impression that police officers reacted appropriately to such incidents (e.g. by accommodating the persons involved in separate units).

## 3. Conditions of detention

### a. material conditions

81. The foreign nationals were usually accommodated in one of four open units (two units for adult men, one for vulnerable persons – mainly women and families – and one for unaccompanied minors<sup>66</sup>). In addition, there was one closed “strict police supervision” unit which was rarely used (see paragraph 97).<sup>67</sup> The delegation was informed by the management that due to the centre’s low occupancy rate, unaccompanied minors had been recently accommodated together with vulnerable persons in order to allow for more association. This was reportedly always done with the minors’ consent. Nevertheless, the CPT’s wishes to reiterate its view that in order to minimise the risk of exploitation, minors should generally be accommodated separately from adults unrelated to them, unless it is considered to be in the child’s best interests not to do so.<sup>68</sup> **The Committee trusts that the centre’s management will bear this precept in mind whenever deciding on the accommodation modalities of unaccompanied minors.**

82. Material conditions at the centre were of a good standard. The building was in a good state of repair and all rooms had sufficient access to natural light, artificial lighting and ventilation. The CPT also notes positively that the “strict police supervision” unit (which had been found by the CPT’s delegation in 2006 to be in a dilapidated state) had been refurbished. All rooms were sufficient in size for the number of persons accommodated at the time of the visit.

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<sup>65</sup> Reportedly for every foreign national a daily fee of about 20 € was charged.

<sup>66</sup> The unit for unaccompanied minors could also be used to accommodate persons with physical disabilities as it was located on the ground floor and had facilities accessible for persons with reduced mobility.

<sup>67</sup> The separate accommodation for “women, families, children, unaccompanied minors, elderly persons and severely ill and other vulnerable persons” is stipulated in Section 76 (3) of the Aliens Act.

<sup>68</sup> See the 19th General Report on the CPT’s activities, paragraph 100.

That said, despite the currently very low number of persons held at the centre, the large majority of rooms in the open units (measuring between 14 and 21 m<sup>2</sup>) were crammed with 4 or even 5 mainly unused bunk beds, which had been placed there since the centre's capacity had been increased during the migration influx in 2015/2016 (see also footnote 64). Thus, rooms provided very little moving space. Moreover, if the centre was used at its full capacity, the rooms would be overcrowded (e.g. 8 persons in a room measuring 17.5 m<sup>2</sup>).

In this context, the delegation was pleased to be informed by the centre's management that comprehensive renovation works of the units for adult men were planned<sup>69</sup> and that in the meantime several of the unused bunk beds would be removed from the rooms. **The CPT would like to be informed about the progress made in this respect.**

83. It is regrettable that rooms did not have any lockable space where foreign nationals could safely store personal belongings and that some of them were not equipped with a table and/or with enough chairs for the number of persons accommodated in them. **Steps should be taken to remedy these shortcomings.**

84. Further, as already criticised after the CPT's visit in 2006, adult male foreign nationals at the centre were still obliged to wear uniform clothes<sup>70</sup> provided by the centre.<sup>71</sup> In the Committee's view, they should be offered the possibility to wear their own clothes (and, if necessary, to have these clothes washed). The authorities announced in a letter dated 5 May 2017 that they intended to "take" this view "into consideration". **The CPT trusts that all foreign nationals held at the centre will be allowed to wear their own clothes.**

b. regime

85. At the time of the visit, all foreign nationals were being held under an open regime. They could move around freely within their units during the daytime and had access to communal rooms equipped with tables and chairs, a television set and facilities for preparing coffee/tea. In addition, they could play table tennis and table football and use a library and a prayer/meditation room.

86. Foreign nationals had daily access to the open air in a asphalted inner yard (which did not offer any horizontal view) and occasionally, when tournaments were organised, could use a football/basketball ground outside the building. According to the Centre's daily schedule, access to the open air was granted for at least one hour per day. Nevertheless, a few persons interviewed by the delegation claimed that access to the yard was at times permitted for much less than one hour. In the CPT's view, all detained irregular migrants should in principle have free access to outdoor exercise throughout the day (i.e. considerably more than one hour per day). **The CPT trusts that these precepts will be implemented in practice. It further encourages the centre's management to allow for more frequent access to the less carceral sports ground outside the building.**

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<sup>69</sup> The first unit was planned to be fully renovated by the end of 2018.

<sup>70</sup> The uniform clothes consisted of a T-shirt or sweater and tracksuit trousers.

<sup>71</sup> This was explained by the necessity to wash the clothes centrally since no washing machines had been installed in the accommodation units. Exceptions to this rule could be made for minors and persons considered to be vulnerable.

87. Persons accommodated in the unit for vulnerable persons (mainly women and families), as well as unaccompanied minors, could also engage in a range of organised leisure activities, such as various handicrafts, painting and parlour and ball games, under the guidance of social workers. Further, a well-equipped playroom and an outdoor playground (with a slide, swings and a climbing frame) were available for smaller children and school-aged children could attend the local elementary school<sup>72</sup>. This is a welcome improvement.

The organised activities offered to foreign nationals accommodated in the units for adult men consisted mainly of access to an activity room for language or computer classes several times per week. Given the short duration of most foreign nationals' stay at the centre (14 days on average), this offer can generally be considered sufficient. However, **the CPT would like to point out that the longer the period for which persons are detained, the more developed should be the activities offered to them.**

#### 4. Detention of minors

88. According to the Aliens Act, unaccompanied minors and families with children shall be primarily accommodated in adequate institutions for the accommodation of children.<sup>73</sup> However, the CPT remains concerned by the fact that minors are still regularly detained at the Postojna Centre. According to the information provided by the police, 135 unaccompanied and 154 accompanied minors were detained at the centre in the course of 2016.

89. The Committee acknowledges the efforts made by the Slovenian Government in recent years to find alternative solutions for the accommodation of unaccompanied minors and welcomes the fact that those unaccompanied minors who applied for asylum are now accommodated in open facilities (in student homes in Postojna and Nova Gorica). That said, it is regrettable that no such solution has been found for unaccompanied minors and families with children, awaiting deportation.

At the time of the visit, three unaccompanied minors (aged 15, 16 and 17, two of them being brothers) were being held at the centre and were about to be voluntarily returned by plane back to their home country the same morning (where it was agreed that their parents would await them at the airport).

The CPT has misgivings about the very existence of the possibility to detain unaccompanied minors at the centre. The Committee concurs with the United Nations Committee on the Rights of the Child which considers that “[i]n application of article 37 of the Convention [on the Rights of the Child] and the principle of the best interest of the child, unaccompanied or separated children should not, as a general rule, be detained. Detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack thereof”.<sup>74</sup> Further, other Council of Europe bodies, such as the Parliamentary Assembly<sup>75</sup> and the Commissioner for Human Rights,<sup>76</sup> have stated that unaccompanied minors should not be detained.

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<sup>72</sup> The right to basic education of minor school children is also stipulated in Sections 75 (1) in conjunction with Section 76 (6) of the Aliens Act.

<sup>73</sup> Section 82 (3) of the Aliens Act. If this is not possible, the same provision allows for the placement of children and families with children at the [Postojna] Centre.

<sup>74</sup> Committee on the Rights of the Child, General Comment no. 6 (2005) on the Treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6, 1 September 2005, paragraph 61.

Given their particular vulnerability, **the CPT recommends that the necessary measures be taken to ensure that unaccompanied/separated minors are always provided with special care and accommodated in an open (or semi-open) establishment specialised for juveniles (e.g. a social welfare/educational institution for juveniles); the relevant legal provisions should be amended accordingly.**

Further, notwithstanding the efforts made by the management to accommodate the special needs of families with children (see paragraph 87), **the CPT considers that the accommodation of children accompanying their parent(s) in a detention centre can have a negative psychological effect on the child's development and well-being, particularly when the child is young. The placement of minors with their parents in a detention centre should only occur as a last resort, and if, in exceptional circumstances, such placement cannot be avoided, its duration should be as short as possible. Every possible effort should be made to avoid separation of children from their parent(s).**

## **5. Health-care services**

90. Access to health care at the centre was found to be very good. Health-care premises were of a high standard and equipped with all the necessary lifesaving and basic diagnostic equipment.

Full time health-care staff comprised four nurses, working in pairs in two shifts (7 a.m. to 3 p.m. and 2 p.m. to 10 p.m.) during weekdays, while on weekends, one nurse was present for eight hours. Further, three general practitioners and one psychiatrist visited the Centre as needed and access to general and specialist care (including dental and psychiatric care) appeared to be prompt. The delegation was also informed that staff present at night were generally trained to provide first aid.

91. Foreign nationals were subjected to medical admission screening by a nurse on the day of arrival and were usually shortly afterwards examined by a doctor.<sup>77</sup> In addition, screening for hepatitis B and C, HIV and tuberculosis was carried out following an individual assessment.

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<sup>75</sup> Parliamentary Assembly of the Council of Europe, Resolution 1707 (2010) on detention of asylum seekers and irregular migrants in Europe, 28 January 2010, paragraph 9.1.9, and Resolution 2020 (2014) on the alternatives to immigration detention of children, 3 October 2014, paragraph 3.

<sup>76</sup> Commissioner for Human Rights, Positions on the rights of minor migrants in an irregular situation, CommDH/Position Paper (2010)6, 25 June 2010.

<sup>77</sup> If any medical issue was identified during the screening, the person concerned was examined by a doctor at the latest the following day. Otherwise, the doctor would examine the person during his/her next visit to the centre a few days later.

## 6. Legal safeguards

92. It is positive that the detention orders examined by the delegation included comprehensive statements of the individual grounds for detention and detailed written information on the modalities to lodge an appeal.<sup>78</sup> The Committee also notes that amendments of the Aliens Act have introduced an obligatory *ex officio* review of the detention order within the first three months of detention. This review is carried out by the Ministry of the Interior for detention orders up to three months and in cases of detention beyond three months by the administrative court.<sup>79</sup>

However, the delegation has noted with regret that in the process of examining an appeal against the detention decision or during the *ex officio* review of such a decision, the foreign nationals concerned were very rarely heard in person<sup>80</sup> and that the relevant legal provisions did not include the obligation to hold such a hearing.<sup>81</sup> **The CPT recommends that the judicial review of the detention order always includes an obligatory hearing of the foreign national concerned. The relevant legal provisions should be amended accordingly.**

93. According to Section 78 (4) of the Aliens Act, foreign nationals detained under aliens legislation have the right of access to a lawyer. However, it is a matter of concern to the CPT that the law does not guarantee free legal aid for those who are not in a position to pay for a lawyer themselves.

In practice, free legal counselling was offered by the NGO “PIC”<sup>82</sup> who could reportedly only visit the centre when requested to do so by a foreign national. The delegation was informed by several interlocutors that despite the fact that foreign nationals were being informed about this possibility through information posters and leaflets, “PIC” was in practice very rarely called. Apparently, foreign nationals were generally not aware of the support such counselling could provide to them. The delegation was also informed that when counselling interviews nevertheless took place, interpretation was not always provided when necessary.

Further, it remained unclear whether “PIC” – in addition to counselling interviews – also provides free legal representation (through lawyers). **The CPT would like to be informed whether this is the case.**

**The Committee further recommends that regular access of legal counsellors to the centre be arranged (also without prior request by a foreign national). Steps should also be taken, including at legislative level, to ensure that all detained persons held under aliens legislation have an effective right of access to a lawyer for issues related to the detention, asylum and deportation. Those who are not in a position to pay for a lawyer themselves should benefit from an effective system of free legal aid. Further, appropriate interpretation should be provided for, whenever necessary.**

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<sup>78</sup> Section 78 (1) of the Aliens Act.

<sup>79</sup> Section 79a of the Aliens Act.

<sup>80</sup> Information received by the delegation during their meeting with the Ministry of the Interior at the outset of the visit.

<sup>81</sup> The only provision referring to an (optional) participation of the foreign national is Section 79a of the Aliens Act according to which during the *ex officio* review “representatives of the ministry may visit the alien at the Centre [and] conduct an interview with him” and “the Administrative Court may request the participation of the alien [...] at the main hearing.”

<sup>82</sup> *Pravno-informacijski center nevladnih organizacij.*

94. The prohibition of torture and inhuman or degrading treatment entails the obligation not to send a person to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or other forms of ill-treatment. This requires that foreign nationals have ready access to an asylum procedure which offers them a real opportunity to present their case and which guarantees an objective and independent analysis of the human rights situation in other countries. That procedure should involve an individual assessment of the risk of ill-treatment in the event of removal of the person concerned to the country of origin or a third country (*refoulement*) including through possible chain deportations (“chain *refoulement*”).<sup>83</sup>

95. In this connection, the CPT has concerns about the new Sections 10a and 10b of the Aliens Act, enacted by the Parliament in January 2017, which introduced the possibility for the Parliament to activate – under exceptional circumstances<sup>84</sup> and for a limited period of time – a “measure in response to mass migration”. It would appear that this provision would deny foreign nationals the possibility to apply for asylum under the International Protection Act without an individual assessment of the case.<sup>85</sup> The procedure does not foresee a hearing of the foreign national and an appeal against the denial would not have a suspensive effect.<sup>86</sup>

In a letter of 5 May 2017, the authorities outlined the key features and reasons for adopting the new provisions, which are considered as introducing a last-resort measure aimed at preventing a similar situation to the one faced by Slovenia in autumn 2015 and spring 2016 when about 500,000 migrants crossed the country.

The CPT acknowledges the immense challenge faced by Slovenia during the 2015/2016 migration influx and the authorities’ concerns of possibly having to cope again with a similar situation. Nevertheless, given the absence of systematic individual case assessments under the said measure and the lack of a suspensive effect of appeals against the denial of the possibility to apply for asylum, the CPT has concerns as to whether foreign nationals would in practice be effectively protected against *refoulement*, including chain *refoulement*. In addition, Section 10b can be considered as authorising collective expulsions which are prohibited under the European Convention on Human Rights.<sup>87</sup>

**The Committee would like to receive clarification from the Slovenian authorities on how the protection of foreign nationals against *refoulement*, including chain *refoulement* would be ensured in practice under the aforementioned measure.**

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<sup>83</sup> The prohibition of *refoulement* is expressly stipulated in Section 72 of the Aliens Act.

<sup>84</sup> In cases where “the Ministry of the Interior determines that the migration situation in the Republic of Slovenia has changed or could change to the point of jeopardising the public order and national security of the Republic of Slovenia, which could make functioning of the central state institutions and securing of its vital functions more difficult” (Section 10a of the Aliens Act). [Quotation from an unofficial translation.] The measure can be enacted with a simple majority.

<sup>85</sup> Section 10b stipulates amongst other things that if a foreign national who tries to enter Slovenia illegally at a border crossing, expresses the intention to apply for international protection/asylum (after the parliament has decided to activate the said measure) the police should establish the identity of the foreign national. Further, “notwithstanding the provisions of the international protection act, the police reject the intention [to apply for international protection/asylum] as inadmissible and direct/send the alien back to the country from which he entered, if in this neighbour EU member state there are no systemic shortcomings in relation to asylum procedures and reception conditions that could cause the danger of torture, inhuman or degrading treatment.” [Quotation from an unofficial translation, underlining added.] The same applies to a foreign national who has already entered illegally from a neighbouring EU member state and is found in the territory covered by the said measure. Exceptions are made for persons with serious health problems and their relatives as well as for unaccompanied minors.

<sup>86</sup> Section 10b (2).

<sup>87</sup> See Article 4 of Protocol 4 to the European Convention on Human Rights.



96. As regards safeguards for unaccompanied minors detained under aliens legislation, the delegation was informed by several interlocutors that guardians appointed to unaccompanied minors were usually not sufficiently trained and/or inexperienced in working with vulnerable – and possibly traumatised – minors. In addition, guardians would reportedly in practice generally not maintain regular personal contact with the minor.

Whilst recognising the difficulties the authorities might face in finding appropriate guardians, **the CPT recommends that owing to the special vulnerability of unaccompanied minors, steps should be taken to ensure that whenever they are deprived of their liberty, they are always assigned an appropriately trained and/or sufficiently experienced guardian (or legal representative) who effectively protects their rights and keeps them regularly informed about their legal situation. Review mechanisms should be introduced to monitor the ongoing quality of the guardianship.**

## 7. Other issues

97. As mentioned above, the police may place a foreign national under a closed “strict police supervision” regime in a special strict supervision unit.<sup>88</sup> According to the law,<sup>89</sup> such placement can be ordered when there are concrete indications that the foreigner concerned intends to avoid deportation, or as disciplinary measure (see below paragraph 100). Foreign nationals were also placed under the strict supervision regime in order to prevent self-harm or suicide.

The legal upper time-limit provided for placements under this regime was six months with a possible extension by another six months.<sup>90</sup> That said, in practice, placements under the strict supervision regime were rare and usually lasted no longer than 14 days (or up to 20 days for the prevention of self-harm and suicide).<sup>91</sup> No foreign nationals were held under this regime at the time of the visit.

Persons placed under the strict supervision regime were normally accommodated alone (or in pairs<sup>92</sup>) in one of the two rooms of the centre’s strict supervision unit. They had in principle to remain locked in their rooms, but were allowed to participate in the centre’s daily schedule<sup>93</sup> which meant that they took their meals in the dining hall and could participate in outdoor exercise and other activities (accompanied by prison officers).

98. When persons were placed in the strict supervision unit for the prevention of suicide or self-harm, a general practitioner and/or a psychiatrist was consulted before the placement decision was taken. During the placement, the person was regularly and directly supervised by staff under a special “surveillance regime”. Health-care staff were obliged to visit a person accommodated in the strict supervision unit daily.

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<sup>88</sup> Sections 77 to 79 of the Aliens Act.

<sup>89</sup> Section 77 (2) of the Aliens Act.

<sup>90</sup> Section 79 (1) of the Aliens Act.

<sup>91</sup> In 2016, five persons had been placed in the strict supervision unit for disciplinary reasons for periods of between one and 14 days while another six persons had been placed in this unit for preventive reasons (risk of self-harm or suicide) for periods of between one and 20 days. In addition, three persons had been placed for disciplinary reasons under the strict supervision regime in one of the wards for male foreigners.

<sup>92</sup> In practice it was rarely the case that two persons were placed under such a regime at the same time. Thus, persons were usually placed alone in one of the rooms.

<sup>93</sup> Section 44 of the Centre’s House Rules.

99. Furthermore, recourse to physical force and means of restraint was not excessive at the centre.<sup>94</sup> However, the delegation noted that no register on the use of force was kept at the establishment. **Steps should be taken to remedy this shortcoming.**

100. According to the law, disciplinary sanctions range from a warning to placement under the strict police supervision regime.<sup>95</sup> Unfortunately, the law does not provide for an upper time-limit for placements under the strict police supervision regime as a disciplinary measure, thus only the general time-limit of six months (with a possible extension of another six months) for placement under the strict police supervision regime would apply. That said, in practice, recourse to disciplinary sanctions, including placements under the strict supervision regime, was generally rare at the centre and the length of placements under the strict supervision regime did not appear to be excessive (see paragraph 97).<sup>96</sup>

The CPT is also concerned about the lack of legal provisions regarding the procedure of imposing disciplinary sanctions, including the foreign national's rights to be heard on the subject of the offence which he/she is alleged to have committed, and to appeal to a higher authority against any sanction imposed.<sup>97</sup> **The Committee recommends that such provisions be adopted. Further, a legal upper time-limit for placements under the strict police supervision regime as a disciplinary measure should be introduced.**

101. The delegation also noted that the centre's House Rules did not describe the possible disciplinary sanctions (nor a procedure for imposing them) in sufficient detail. Thus, foreign nationals were not informed of the disciplinary regulations in force. The Committee therefore welcomes the fact that the centre's management assured the delegation that the House Rules would be complemented accordingly and **would like to receive confirmation that this has been done. Once a formal disciplinary procedure has been established, the relevant information should also be included in the House Rules.**

102. Finally, it is positive that foreign nationals were allowed to make (and receive) phone calls in principle every day and free of charge if they could not pay for them. Other than during the CPT's visit in 2006, a sufficient number of telephones was now available. In addition, foreign nationals had regular access to the internet at least once a week<sup>98</sup> and could in practice receive visits of at least one hour per week.

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<sup>94</sup> In 2016, physical force had been used 24 times and in addition handcuffs had been applied 13 times and hand and ankle cuffs 8 times (for a total of 1,482 persons held at the centre).

<sup>95</sup> According to Section 76 c) of the Aliens Act. Other possible sanctions included the refusal of permission to leave the centre and the restriction of certain rights provided for by the House Rules, e.g. the permission to smoke cigarettes.

<sup>96</sup> In practice, the sanctions imposed at the centre were either a reprimand, or placement under the strict police supervision regime. As mentioned above, in 2016, five persons had been placed in the „strict police supervision“ unit for disciplinary reasons for periods of between one and 14 days.

<sup>97</sup> For further details see the CPT's factsheet on immigration detention, pages 6 and 7 under <https://rm.coe.int/16806fbf12>.

<sup>98</sup> According to the information received, foreigners could use a computer with internet access usually at least once or twice a week for 20 minutes to one hour.

## **D. Forensic Unit of the Psychiatric Department of the Maribor University Hospital**

### **1. Preliminary remarks**

103. The Psychiatric Department of the Maribor University Hospital was visited by the CPT in 2001 and 2012. The objective of the 2017 visit was to carry out a targeted visit to its Forensic Psychiatric Unit which had opened in June 2012, shortly after the CPT's previous visit to Slovenia.<sup>99</sup>

Prior to the opening of the Forensic Psychiatric Unit, forensic patients, including prisoners requiring psychiatric hospital care, had been accommodated in various psychiatric establishments together with civil psychiatric patients. The mixing of those two categories of patient had been of serious concern to many health-care professionals in the country, in particular due to the fact that it had not allowed for an adequate response to the specific needs of each category of patient. Moreover, the organisation of the transfer of prisoners with psychiatric disorders requiring hospital care had been a real challenge for psychiatrists in some prison establishments as civil psychiatric hospital facilities had been extremely reluctant to allow admission.<sup>100</sup>

The information gathered in the course of the 2017 visit from various interlocutors indicates that after the opening, albeit partial for the time being (see below), of the dedicated Forensic Psychiatric Unit in Maribor, the situation has significantly improved. All patients subjected to a security measure of compulsory psychiatric treatment and protection in a health institution (see also paragraph 122) are now held in this unit and the transfer of prisoners with psychiatric disorders requiring hospital care no longer poses a major difficulty (see paragraph 55). These are welcome developments.

104. At the time of the 2017 visit, three out of the planned four wards of the Forensic Psychiatric Unit were operational: high security intensive treatment ward F1 (capacity of 12 beds), high and medium security ward F2 (18 beds) and low security ward E1 (18 beds). There were altogether 33 patients (30 adult males and three adult females) of whom seven were remand prisoners, eight were sentenced prisoners and the remaining 18 were serving a security measure of compulsory psychiatric treatment and protection in a health institution. According to the management, the usual length of stay of prisoners was between one and two weeks. Patients serving the security measure could stay for the whole duration of the measure (i.e. up to five years – see paragraph 122).

The opening of ward E2, with a capacity of 18 beds, was expected by the end of 2018. The ward should accommodate patients suffering from mental and behavioural disorders due to psychoactive substance use. **In due course, the CPT would like to receive the confirmation that ward E2 has been opened.**

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<sup>99</sup> During the 2012 visit, the CPT's delegation only briefly visited the then existing physical premises of the Forensic Psychiatric Unit which was expected to open soon after the visit.

<sup>100</sup> See the CPT's report on the 2012 visit (CPT/Inf(2013)16, paragraph 53).

## 2. Ill-treatment

105. The CPT's delegation received no allegations, and found no other indications, of ill-treatment of patients by staff. On the contrary, a number of patients made positive remarks about various categories of staff working at the Forensic Psychiatric Unit.

The findings of the visit indicate that instances of inter-patient violence were extremely rare and that relations between patients were generally very relaxed.

## 3. Patients' living conditions

106. Material conditions at the Forensic Psychiatric Unit were in most aspects of a very high standard.

Patients' rooms varied in size and occupancy but all provided sufficient living space for the number of patients they were accommodating at the time of the visit (e.g. a room measuring 15m<sup>2</sup> accommodated three patients, a room measuring 16m<sup>2</sup> had two and a room of 25m<sup>2</sup> had four patients).<sup>101</sup> The rooms had very good access to natural light, artificial lighting and ventilation, and were adequately equipped (beds with full bedding, bedside tables, tables and chairs). All the rooms and other premises seen by the delegation were in an excellent state of repair and hygiene. It should also be noted that transparent plexiglas bars attached to windows for security reasons helped to ensure that a medical, rather than a custodial, atmosphere prevailed at the Forensic Psychiatric Unit.

Patients were provided with a lockable storage space (the keys were kept by nurses and, as confirmed by the patients, were given to the patients at their request) and were allowed to keep personal belongings in their rooms.

Communal areas on the wards were nicely decorated; however, some patients' rooms appeared somewhat impersonal and austere. **At the Forensic Psychiatric Unit in Maribor, long-term patients in particular should be encouraged by staff to personalise and decorate their rooms.**

107. A few rooms were equipped with a fully-partitioned sanitary annexe containing a toilet and a shower; the majority of patients had daily access to showers and used toilets which were accessible from the corridors. These facilities were no exception to the overall excellent state of repair and hygiene.

108. Patients on wards F2 and E1 could wear their own clothes throughout the day and were provided with plastic cutlery to eat their meals. However, those accommodated on ward F1 had to wear pyjamas (with the exception of the time spent outdoors (if this was granted at all – see paragraph 109)) and were only provided a metal spoon with which to eat.

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<sup>101</sup> At the time of the visit, five rooms were being used for single-occupancy.

According to staff, newly-arrived patients sometimes did not have their own clothes or the clothes were dirty and, due to capacity reasons, could not be washed at the Forensic Psychiatric Unit. In addition, it could not be excluded that this category of patient might self-harm with laces, a zipper, etc.

The CPT must stress in this respect that such practices are not conducive to the individualised treatment of patients, to strengthening their sense of self-esteem, to their psycho-social rehabilitation and to achieving the goal of the therapeutic process. Moreover, they may impinge upon inmates' sense of security and autonomy. **The CPT recommends that the above-mentioned practices be revised at the Forensic Psychiatric Unit in Maribor and, where relevant, also in other psychiatric establishments in Slovenia. If necessary, other arrangements should be found to meet hygienic and security concerns.**

109. Patients accommodated on ward E1 benefited from one hour of outdoor exercise every day, which they could take in the park surrounding the hospital.

However, for patients on wards F1 and F2, the situation was less positive. The information gathered during the visit indicates that during several days after admission, patients on ward F1 were not granted any outdoor exercise. After this initial period and for patients accommodated on ward F2, outdoor exercise was usually only offered for 30 minutes and not necessarily every day. Moreover, allegations were heard that after any incident on wards F1 and F2, access to outdoor exercise was prohibited, which was perceived by the patients as an unofficial collective punishment.

**The CPT recommends that measures be taken at the Forensic Psychiatric Unit in Maribor to significantly improve patients' access to outdoor exercise. The aim should be to ensure that all patients benefit from unrestricted access to outdoor exercise during the day unless treatment activities require them to be present on the ward. Further, under no circumstances should daily outdoor exercise be prohibited as an informal sanction.**

110. The secure outdoor exercise yard for patients from wards F1 and F2 was sufficiently spacious, equipped with benches and a table tennis table, and made pleasant with grass, shrubs and a water fountain. However, there was no shelter against inclement weather.<sup>102</sup> **The CPT recommends that this shortcoming be remedied.**

#### **4. Staff, regime and treatment**

111. The staff complement at the Forensic Psychiatric Unit consisted of two full-time psychiatrists (mainly responsible for the F1 and F2 wards) and a part-time psychiatrist (responsible for the E2 ward), as well as a clinical psychologist, a social worker, two full-time and one half-time occupational therapists, 14 senior nurses<sup>103</sup> and 37 nurses.<sup>104</sup> It was expected that one additional post of a psychiatrist would be allocated to the Unit in 2017 or 2018.

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<sup>102</sup> With the exception of a diagonal extension of a transparent wall surrounding the yard, which, however, can hardly be regarded as providing sufficient shelter against inclement weather.

<sup>103</sup> A nurse with a bachelor degree.

<sup>104</sup> Nurses worked in three shifts (7 a.m. to 3 p.m., 3 p.m. to 10 p.m. and 10 p.m. to 7 a.m.).

The security team which was provided by Maribor Prison comprised a head of the team and nine prison officers. All members of the team were specifically selected for working in the forensic psychiatric setting, had to have working experience as prison officers and were provided with training on health-care issues by Maribor University Hospital.<sup>105</sup>

112. As regards the daily regime, it is positive that patients were not locked in their rooms during the day or at night and were free to move about their respective wards. During the day, they had access to corridors and communal rooms which were equipped with tables, chairs, a table-tennis table and a television and where patients could associate, watch television and play board games.

113. Psychiatric treatment provided to patients generally appeared to be appropriate. The majority of patients were aware of the medication they were taking, new generation medication was available to patients, psychotropic medication appeared to be used in appropriate doses and the CPT's delegation did not observe any signs of overmedication of patients.

Pharmacotherapy was supplemented by a range of therapeutic and recreational activities, including individual and group therapeutic sessions with psychiatrists, psychologists and/or social workers, occupational therapy, sports activities and association sessions with other inmates supervised by staff.

However, the offer of organised activities to patients on ward F1 was in principle limited to 30 to 60 minutes of occupational therapy a day (but sessions were allegedly frequently cancelled) and one hour of association sessions with other inmates supervised by staff. Reference is also made in this context to paragraph 109. **The CPT recommends that patients held on ward F1 of the Forensic Psychiatric Unit in Maribor be offered a broad range of therapeutic activities. Further, efforts should be made by staff to engage as many patients from ward F1 as possible in these activities.**

114. Each patient was medically examined and thoroughly psychiatrically assessed upon admission and had an individual treatment plan drawn up by a multidisciplinary team.<sup>106</sup> Medical files contained detailed daily records on the patients' mental state and therapeutic progress.

However, patients were apparently not always involved in the drawing up and subsequent modification of their treatment plan and were thus not fully aware of its existence. **The CPT recommends that patients at the Forensic Psychiatric Unit in Maribor be involved in the drafting of their individual treatment plans and their subsequent modifications, and that they be informed of their therapeutic progress.**

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<sup>105</sup> Security staff worked in two shifts (7 a.m. to 7 p.m. and 7 p.m. to 7 a.m.).

<sup>106</sup> Pursuant to Section 18(1) of the newly adopted Rules on the implementation of the security measures of compulsory psychiatric treatment and custody in a medical institution and compulsory psychiatric treatment at liberty (25 April 2016), an individual treatment plan for each patient should be drawn up within seven days of admission.

## 5. Means of restraint

115. In the course of the visit, the delegation paid particular attention to the use of means of restraint and the extent to which the CPT's recommendations made on this subject in the report on the 2012 visit (in respect of the Psychiatric Department of the Maribor University Hospital) had been implemented in practice. Regrettably, the findings of the 2017 visit indicate that a number of the previously identified shortcomings persist and that several of the recommendations remain unimplemented.

116. The legal framework governing the use of means of restraint ("special protection measures") has been described in the previous visit report<sup>107</sup> and remains unchanged. It should be recalled that pursuant to Section 29 of the 2008 Mental Health Act, mechanical restraint (fixation with belts/straps)<sup>108</sup> may be applied when no other, less restrictive, means can be used in order to facilitate the treatment of the patient concerned or eliminate or control dangerous behaviour posing a threat to his/her life or that of others, gravely endangering his/her health or that of others, or causing serious damage to his/her property or that of others. The measure should be ordered or immediately brought to the attention of a doctor, should be recorded in the patient's medical file and may only last for as long as necessary but no longer than four hours. After this period of time, a doctor should review whether it is necessary to re-apply the measure. Restrained patients should be under constant supervision during the entire duration of the measure. Further, all instances of resort to means of restraint should be reported to the competent Ministry on a regular basis.

117. At the Forensic Psychiatric Unit, the application of means of restraint to a patient was ordered by a doctor or immediately brought to his/her attention. Patients were restrained by tying their wrists, ankles and torso to the bed frame using modern, soft padded straps with magnetic locks. Every resort to fixation was recorded in a comprehensive central register and the medical file of the patient concerned.

118. That said, the CPT has serious reservations in respect of several matters. In particular, as was the case in the past, it appeared that fixation of patients to a bed was not always used as a matter of last resort. In some cases, the threat patients presented appeared to be anticipated, rather than *imminent*, mechanical restraint was sometimes allegedly applied in reaction to minor instances of disobedient behaviour by patients or verbal arguments with staff (and was thus perceived by patients as a punishment) and the measure was apparently not always terminated when the grounds for it had ceased to exist.

Further, patients were usually strapped to a bed in one of the two multiple-occupancy observation rooms on ward F1, in full view of other patients<sup>109</sup> and were systematically provided with an adult nappy or a bedpan to comply with the needs of nature. Throughout the duration of the measure, restrained patients were supervised through a window from the adjacent nurses' room but no member of the health-care staff was constantly present in the patients' room. In addition, patients were not de-briefed by staff once the measure had been terminated.

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<sup>107</sup> CPT/Inf(2013)16, paragraph 94.

<sup>108</sup> Section 29 of the Mental Health Act also authorises seclusion of patients, for a maximum of 12 hours. Seclusion of patients, however, was not used at the Forensic Psychiatric Unit in Maribor.

<sup>109</sup> Fellow patients were only asked by staff to leave the room for the actual restraining of the patient.

Moreover, the information gathered during the visit clearly indicates (and it was not contested by staff) that shortly before the visit, several of the beds in the observation rooms on ward F1, in which patients regularly slept, were fitted with restraint belts. This arrangement was not only very uncomfortable for the patients but also, as many of them explicitly stated, was perceived as a threat and increased their anxiety at the time of admission and during their hospitalisation.

As for the length of mechanical restraint, in a number of cases, the application of restraint was extended for several consecutive four-hour periods, for a total of up to 17 hours, and patients were often restrained overnight.

119. At the end of the visit to the Forensic Psychiatric Unit, the CPT's delegation shared its concerns with the management of the facility. In reaction, the management stated that in 2013 and 2014, particular attention was paid to the training of staff in the "non-forensic" units of the Psychiatric Department of the Maribor University Hospital on de-escalation techniques as a means of avoiding resort to mechanical restraint. They acknowledged that in the forensic unit, mechanical restraint might be applied before attempts are made to de-escalate the situation but ensured the delegation about the commitment of the management to resolve the issue by providing specific training to the staff of the Unit. These efforts are to be welcomed.

120. As noted in the previous visit report, the CPT acknowledges that the restraint of violent psychiatric patients who represent a danger to themselves or others may exceptionally be necessary. However, patients should only be restrained as a measure of last resort to prevent imminent harm to themselves or others and restraints should always be used for the shortest possible time (usually minutes rather than hours). When the emergency situation resulting in the application of restraint ceases to exist, the patient should be released immediately. Means of restraint should never be used as punishment, for the mere convenience of staff, because of staff shortages or to replace proper care or treatment.

Patients should not be subjected to mechanical restraint in view of other patients (unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient); visits by other patients should only take place with the express consent of the restrained patient. Further, patients under restraint should be properly dressed and, as far as possible, be enabled to eat and drink autonomously and to comply with the needs of nature in a sanitary facility. Putting patients in adult nappies or having them use a bedpan in view of other patients may, in the CPT's view, amount to degrading treatment.

Every patient who is subjected to mechanical restraint should be subjected to continuous supervision – a qualified member of staff should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance.

Once the means of restraint have been removed, it is essential that a debriefing of the patient take place, to explain the reasons for the restraint, reduce the psychological trauma of the experience and restore the doctor-patient relationship. This also provides an opportunity for the patient, together with staff, to find alternative means to maintain control over him/herself, thereby possibly preventing future eruptions of violence and subsequent restraint.<sup>110</sup>

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<sup>110</sup> Reference is also made to document "Means of restraint in psychiatric establishments for adults (Revised CPT standards)", CPT/Inf(2017)6, available online at <https://rm.coe.int/16807001c3>.



Moreover, patients should not be made to sleep in beds fitted with restraint belts when there is no need for their use and restraint devices should be hidden from view.

**The CPT recommends that the policy and practice concerning the use of mechanical restraint at the Forensic Psychiatric Unit in Maribor and in all other psychiatric establishments in the country be brought into line with the above requirements. In particular, immediate steps should be taken to ensure that patients subject to means of restraint are able to access the toilet facilities when necessary.**

**Further, the management of the Forensic Psychiatric Unit in Maribor should be provided with all necessary support in their efforts to provide specific training to the staff of the Unit in de-escalation techniques.**

121. On a more positive note, the use of chemical restraint at the Forensic Psychiatric Unit, which was briefly examined by the CPT's delegation, was registered in patients' medical files and a central register. The medication seemed to be used in appropriate doses.

## **6. Safeguards**

122. The legal grounds for the imposition of the security measure of compulsory psychiatric treatment and protection in a health institution are set out in Section 70.a of the Criminal Code. The measure may be imposed by a criminal court, on the basis of a psychiatric expert opinion and for a maximum of five years, upon a person who has committed an unlawful act punishable by a prison sentence of one year or more in a state of "insanity" or in a state of substantially "diminished sanity" and if there is a risk that the person will commit a serious criminal offence and the risk can only be eliminated by placement in a forensic psychiatric ward.

It is a positive development that a review as to whether grounds for the continuation of the measure exist now takes place every six months, in line with the recommendation made by the CPT in the previous visit report.<sup>111</sup>

The measure must be discontinued and the patient discharged if treatment in a health institution is no longer necessary (and also upon expiry of the period for which the measure has been imposed).

123. The examination of patients' administrative files and the information gathered through interviews with patients indicate that the procedure for imposition and review of the measure was followed and the deadlines were respected. Patients had access to a lawyer throughout the procedures (including one appointed ex officio), received a copy of a reasoned decision and could appeal against it. In the context of the biannual review, an expert independent of the Forensic Psychiatric Unit was appointed by the court to assess the state of the patient.

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<sup>111</sup> Previously, the review took place once a year (see CPT/Inf(2013)16, paragraph 102).

However, the findings of the visit indicated that the court often did not hear the patient concerned in person in the context of the review of the measure; consequently, a number of the patients interviewed during the visit were not aware of any review taking place and only learned of it when they received a court decision on the continuation of the security measure.<sup>112</sup>

**The CPT recommends that the Slovenian authorities take the necessary steps – including at the legislative level – to ensure that all patients subject to the security measure of compulsory psychiatric treatment and protection in a health institution are heard in person by the judge in the context of the six-monthly review of the security measure.**

124. As noted above, the security measure of compulsory psychiatric treatment and protection in a health institution may be imposed for a maximum of five years.<sup>113</sup> Following the expiry of this period, forensic patients must be discharged from the forensic setting, regardless of their dangerousness, mental state and the opinion of their treating psychiatrist or an independent expert. However, they may be involuntarily placed by a civil court in a closed section of a civil psychiatric facility or a social care home if conditions for their involuntary placement under the Mental Health Act are met.<sup>114</sup>

Several interlocutors met by the CPT's delegation during the visit pointed out that there were currently no appropriate facilities for former forensic patients; in the non-forensic establishments, former forensic patients were mixed with civil psychiatric patients/social care home residents, which did not allow an adequate response to the distinct therapeutic needs of the different categories of patient/resident. Consequently, civil psychiatric facilities and social care homes were reluctant to accept former forensic patients.

**The CPT would like to receive the comments of the Slovenian authorities on this subject.**

125. As regards patients' consent to treatment, the delegation was informed that the imposition of the security measure of compulsory psychiatric treatment and protection in a health institution entails the obligation of patients to undergo certain treatment, as decided by the court. Therefore, patients under the security measure could not refuse psychiatric treatment and there was no procedure in place for requesting their free and informed consent to the treatment.

As noted already in the previous visit report,<sup>115</sup> the CPT considers that psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis, be it in the context of civil or criminal proceedings, should not preclude seeking informed consent to treatment. Every patient, whether voluntary or involuntary, should be informed about the intended treatment. Further, every patient capable of discernment should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.

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<sup>112</sup> Pursuant to Section 496(2) of the Code of Criminal Procedure, before taking a decision on the review of the measure, the court shall hear the patient *if necessary* and if the patient's condition so permits.

<sup>113</sup> In the past, the maximum duration of the measure was 10 years.

<sup>114</sup> Alternatively, if needed and if conditions are met, they may be subjected to an obligatory out-patient treatment.

<sup>115</sup> CPT/Inf(2013)16, paragraph 104.

The relevant legislation should require an external psychiatric opinion in any case where a patient does not agree with the treatment proposed by the establishment's doctors; further, patients should be able to appeal against a compulsory treatment decision to an independent outside authority and should be informed in writing of this right.

**The CPT recommends that the Slovenian authorities take appropriate steps to ensure that the above-mentioned precepts are effectively implemented at the Forensic Psychiatric Unit in Maribor. If necessary, the relevant legal provisions should be amended accordingly.**

126. Possibilities for patients' contact with the outside world were appropriate. Patients had in principle unrestricted access to pay phones located in the corridor on each ward and could receive daily visits in the communal rooms (for one hour on working days and for two hours on weekends).

127. As for the provision of information to patients, information leaflets were available to patients on all wards and the patients interviewed by the delegation appeared to be well acquainted with the internal rules and their rights.

128. All patients, whether under the security measure or prisoners, could contact a patient advocate with complaints and requests and the patients with whom the delegation spoke were aware of this possibility. However, it was brought to the delegation's attention that patient advocates may not interfere in the doctor-patient relationship and may thus not discuss with the patient concerned the treatment provided by the health-care staff. **The CPT would like to receive the comments of the Slovenian authorities on this issue.**

## **APPENDIX I**

### **List of the establishments visited by the CPT's delegation**

#### Establishments under the Ministry of the Interior

- Koper Police Station
- Ljubljana Centre Police Station
- Ljubljana – Moste Police Detention Centre
- Maribor I. Police Station
- Piran Police Detention Centre
  
- Postojna Detention Centre for Foreigners

#### Establishments under the Ministry of Justice

- Ljubljana Prison
- Maribor Prison

In addition, the delegation paid a targeted visit to Koper Prison in order to interview newly-arrived remand prisoners who had recently been in police custody.

#### Establishments under the Ministry of Health

- Forensic Unit of the Psychiatric Department of Maribor University Hospital.

**APPENDIX II**

**List of the national authorities, other bodies and organisations  
met by the CPT's delegation**

**A. National authorities**

**Ministry of Justice**

Goran Klemenčič	Minister of Justice
Peter Pavlin	Secretary, Directorate for Punitive Law and Human Rights
Robert Golobinek	Secretary, Directorate for Punitive Law and Human Rights
Darja Tadič	Senior Advisor, Directorate for Punitive Law and Human Rights
Jože Podržaj	Director General, Prison Administration of the Republic of Slovenia
Lucija Božikov	Secretary, Prison Administration of the Republic of Slovenia
Renata Derganc Cizelj	Secretary, Prison Administration of the Republic of Slovenia
Robert Friškovec	Secretary, Prison Administration of the Republic of Slovenia
Katja Rejec Longar	Director, Office for International Cooperation and Mutual Legal Assistance
Maja Velič	Senior Advisor, Office for International Cooperation and Mutual Legal Assistance
Daša Vidmar Mikšič	Senior Advisor, Office for International Cooperation and Mutual Legal Assistance

**Ministry of the Interior**

Boštjan Šefič	State Secretary
Matej Torkar	Head of Department, European Affairs and International Cooperation Service
Dominika Marolt Maver	Senior Official, Secretary, European Affairs and International Cooperation Service
Tatjana Bobnar	Deputy Director General, Senior Police Superintendent
Gregor Hudrič	Secretary, Head of Police Complaint Division

Robert Ferenc	Head of Police Power and Prevention Division, Service of the Director General of the Police
Damjan Krajnc	Senior Police Inspector in Police and Prevention Division, Service of the Director General of the Police
Petra Recek	Senior Criminal Police Inspector, Criminal Police Directorate, General Police Directorate
Janez Rupnik	Assistant Director, Uniformed Police Directorate
Jože Konec	Head of Aliens Centre, Police Superintendent, Uniformed Police Directorate, General Police Directorate

### **Ministry of Health**

Ana Medved	State Secretary
Sandra Tušar	State Secretary
Nadja Čobal	Secretary, Directorat for Health Care, Health Care development Division
Marta Ciraj	Secretary, European Affairs and International Relations Office

### **Ministry of Labour, Family, Social Affairs and Equal Opportunities**

Tanja Skornšek Pleš	Head of Division, Social Affairs Directorate
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### **B. Other bodies**

#### **Ombudsperson's Office**

Vlasta Nussdorfer	Human Rights Ombudsperson
Ivan Šelih	Deputy Ombudsman, Head of the NPM
Miha Horvat	Deputy Ombudsman
Robert Gačnik	NPM Member
Jure Markič	NPM Member

**C. International organisations**

National Office of the United Nations High Commissioner for Refugees (UNHCR)

**D. Non-governmental organisations**

Association Altra

Legal Information Centre for NGOs (PIC)

Peace Institute

Slovenian Association of Mental Health (ŠENT)