



CPT/Inf (2007) 15

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

**from 1 to 9 December 2003**

The Croatian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2007) 16.

Strasbourg, 1 March 2007



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Copy of the letter transmitting the CPT's report

Strasbourg, 30 July 2004

Dear Mr Brnetić,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Government of Croatia drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Croatia from 1 to 9 December 2003. The report was adopted by the CPT at its 54<sup>th</sup> meeting, held from 28 June to 2 July 2004.

I would like to draw your attention to paragraph 180 of the report, in which the CPT requests the Croatian authorities to provide **within six months** a response setting out the measures taken upon its visit report and, **within three months**, information in respect of one specific matter.

The CPT would ask, in the event of the response being forwarded in Croatian, that it be accompanied by an English or French translation. It would also be most helpful if the authorities of Croatia could provide a copy of the response in a computer-readable form.

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

Yours sincerely,

Silvia CASALE  
President of the European Committee for the  
Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

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## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Croatia from 1 to 9 December 2003. The visit formed part of the CPT's programme of periodic visits for 2003, and was the second periodic visit to Croatia to be carried out by the Committee.<sup>1</sup>

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

- Renate KICKER, Head of delegation
- Mario FELICE
- Anhelita KAMENSKA
- Andres LEHTMETS
- Esteban MESTRE-DELGADO
- Ole Vedel RASMUSSEN.

They were supported by Fabrice KELLENS, Head of Unit, and Edo KORLIJAN of the CPT's Secretariat, and assisted by:

- Clive MEUX, Consultant forensic psychiatrist, Oxford, United Kingdom (expert)
- Vera ANDRASSY (interpreter)
- Mirko BRODNJAK (interpreter)
- Ivana DULČIĆ (interpreter)
- Nataša MANČE (interpreter)
- Sonja PLEJIĆ (interpreter).

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<sup>1</sup> The first periodic visit to Croatia took place from 20 to 30 September 1998. The visit report and the responses of the Croatian authorities were published in April 2001 (documents CPT/Inf (2001) 4 and 5).

**B. Establishments visited**

3. The delegation visited the following places:

**Establishments under the authority of the Ministry of the Interior**

Split Police Administration

- Police Station No.1, Split \*
- Trogir Police Station

Zagreb Police Administration

- Črnomerec Police Station \*
- Immigration Police, Zagreb International Airport
- Unit for detention, escort and security, Đorđićeva Street 4 \*
- Ježevo Detention Centre for Illegal Immigrants

**Establishments under the authority of the Ministry of Justice**

- Lepoglava State Prison\*
- Osijek County Prison
- Split County Prison \*
- Temporary holding cells, Zagreb County Court

**Establishments under the authority of the Ministry of Health**

- Vrapče Psychiatric Hospital

**Establishments under the authority of the Ministry of Labour and Social Welfare**

- Nuštar Social Care Home for the Mentally Ill.

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\* Follow-up visit.

**C. Consultations held by the delegation**

4. The delegation held consultations with the national authorities and with representatives of international organisations active in areas covered by the CPT's mandate.

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

**D. Co-operation between the CPT and the Croatian authorities**

5. In the course of the visit, the delegation held discussions with Ingrid ANTIČEVIĆ-MARINOVIĆ, Minister of Justice, Andro VLAHUŠIĆ, Minister of Health, Nino ŽGANEC, Vice-Minister of Labour and Social Welfare, Josip HEHET, Director General of Prison Administration, and Milan PEMPER, Deputy Director General of the Police, as well as with senior officials from the Ministries of Justice, Health, Interior, and Labour and Social Welfare.

The CPT wishes to express its appreciation for the assistance provided before, during and after the visit, by the CPT's liaison officer Damir BRNETIĆ from the Ministry of the Interior.

6. The co-operation received by the delegation in the establishments visited was, on the whole, good, and even excellent, in the health and social welfare establishments. However, difficulties relating to co-operation were encountered in Split County Prison and, to a lesser extent, in Lepoglava State Prison and Ježevo Detention Centre for Illegal Immigrants.

In Split County Prison, the delegation received, on several occasions, information from custodial staff which was manifestly incorrect; more specifically, members of the delegation received false information in respect of the use, for detention/punishment purposes, of the isolation cells and the atomic shelter at the establishment.<sup>2</sup> Such an attitude is clearly not consistent with the principle of co-operation laid down in Article 3 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

As regards Lepoglava State Prison and Ježevo Detention Centre for Illegal Immigrants, the delegation was very concerned to note that some prisoners who spoke with the members of the delegation were subsequently asked by custodial staff about matters raised by the members of the delegation during interviews. Such an approach is not in line with the principle enshrined in Article 8, paragraph 3, of the Convention that interviews with persons deprived of their liberty are of a confidential nature. The delegation therefore requested the express assurance from the authorities that the prisoners concerned would not face any repercussions.

The authorities provided such an assurance in their letter of 12 February 2004 (cf. paragraph 7 below).

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<sup>2</sup> However, it should be noted that, in contrast to his staff, the Prison Governor provided accurate information to the delegation.

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

7. At the end of the visit, on 9 December 2003, the CPT's delegation held final talks with the Croatian authorities, in order to acquaint them with the main facts found during the visit. On this occasion, the delegation made two immediate observations, in pursuance of Article 8, paragraph 5, of the Convention, requesting the Croatian authorities to conduct thorough and independent investigations into allegations of physical ill-treatment of inmates by custodial staff at Lepoglava State Prison and Split County Prison (cf. paragraphs 68 - 72 below). In her letter of 19 December 2003 transmitting the statement made by the Head of delegation at the final talks, the CPT's President requested the Croatian authorities to communicate the results of these investigations by 20 February 2004 at the latest.

By letters dated 12 February, 13 April and 7 May 2004, the Croatian authorities informed the CPT of the measures taken in response to the above-mentioned observations. These responses will be assessed later in the report.

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

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

#### 1. Police establishments

##### a. preliminary remarks

8. The legal framework as regards the treatment of criminal suspects in Croatia has remained basically unchanged since the visit in 1998 and police custody is still, in principle, of short duration.

An apprehended person must be brought before an investigating judge within a maximum of 24 hours (Article 100 of the Code of Criminal Procedure (CCP)). Article 101, paragraph 2, of the CCP stipulates that the investigating judge may order the detention of the apprehended person for up to 48 hours, when he considers that there is a reasonable suspicion that the arrested person has committed the offence of which he is suspected, provided there are grounds for ordering the detention as referred to in Article 102, paragraph 1, of the CCP. As a rule, persons detained beyond the period of 24 hours were held in a county prison.

9. There are also other legal bases for detention by the police.

Deprivation of liberty under the Misdemeanour Act (Article 146) may last no longer than eight days (24 hours in the case of a minor). The same Article stipulates that detention in a misdemeanour case may be ordered or extended, even after the adoption of a decision ordering imprisonment, in the case of a misdemeanour against public law and order or domestic violence, if it may be expected that the person concerned will continue committing the misdemeanour. Such detention may last until the commencement of the prison sentence and at the most 15 days.

Article 147 of the same Act prescribes detention of persons under the influence of intoxicating substances, stipulating that a person found while committing such a misdemeanour may be detained at the order of the judge or police until the effects of the intoxicating substances cease (or at most up to 12 hours if there is a risk that he would continue committing the misdemeanour).

10. In December 2000, the new Police Act ("Narodne novine" N° 129/2000) was adopted by the Parliament, entering into force in early 2001.

If there is a suspicion that a person has on him, or in his car, objects which could serve as evidence in criminal proceedings, police officers are authorised to detain this person without a court's decision, for up to six hours (Article 49, Police Act).

Similarly, police officers are authorised to detain, for up to six hours, a person whom they consider able to provide information relevant for the clarification of an event (Article 50, *ibid*).

11. Finally, the Law on prevention of disturbances at sport competitions ("Narodne Novine" N° 117/2003) authorises police officers to apprehend spectators violating public order requirements who are under the influence of alcohol or drugs (Article 25). Police officers may hold such spectators for up to two hours within the sport facility. However, the premises used should have sanitary facilities and be appropriate for a *prolonged stay of persons*<sup>3</sup> (Article 27, *ibid*).

b. torture and other forms of ill-treatment

12. As had been the case in 1998, the majority of the persons interviewed by the delegation during the 2003 visit indicated that they had not been ill-treated by the police. However, the delegation did receive several allegations of deliberate physical ill-treatment by police officers of persons in their custody. Some of the allegations concerned ill-treatment at the time of or immediately following apprehension, whereas others related to ill-treatment during police questioning and, more particularly, during interrogation by officers of the criminal police. The ill-treatment alleged mainly consisted of kicks, slaps, punches, and blows with batons. In some cases, the ill-treatment alleged - blows with batons on the soles of the feet, a practice known as "falaka", and asphyxiation by the placing of a plastic bag over the detainee's head - was of such a severity that it could be considered to amount to torture.

Most of the allegations received pre-dated the delegation's visit by at least several months and any marks which might have been caused by the kinds of ill-treatment alleged would almost certainly have healed in the meantime.

The delegation also received a number of allegations of verbal abuse by police officers, including threats and other forms of psychological pressure. It would appear that nationals of other former Yugoslav republics and members of the national minorities in Croatia were particularly targeted in this context.

13. The number of allegations of deliberate physical ill-treatment of persons in police custody received by the CPT's delegation was certainly lower than during the 1998 visit. Nevertheless, police ill-treatment still represents a problem in Croatia, a fact which was not contested by senior officials at the Ministry of the Interior.

In the light of the above, **the CPT must recommend once again that senior police officers remind their subordinates, through appropriate means and at regular intervals, that ill-treatment, including verbal abuse, is not acceptable and will be the subject of severe sanctions. It is particularly important that such a reminder be given to officers of the criminal police. Police officers in Croatia should also be reminded that no more force than is strictly necessary is to be used when apprehending a person.**

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<sup>3</sup> Emphasis added.

14. In the interests of the prevention of torture and other forms of ill-treatment, the CPT recommended in its report on the 1998 visit that the Croatian authorities give a very high priority to professional training for police officers of all ranks and categories, and that an aptitude for interpersonal communication become a major factor in the process of their recruitment.

The information gathered during the 2003 visit clearly indicates that further efforts are required in this area. More specifically, the Croatian police curricula must integrate human rights concepts into practical professional training for handling high-risk situations, such as the apprehension and interrogation of suspects; as the CPT has emphasised in the past, this will prove more effective than separate courses on human rights. **The CPT reiterates its recommendation that a high priority be given to police training (cf. also paragraph 17 of the report on the 1998 visit).**

15. Naturally, another effective means of preventing ill-treatment by police officers lies in the diligent examination by the competent authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect. Conversely, if those authorities do not take effective action upon complaints referred to them, law enforcement officials minded to ill-treat persons in police custody will quickly come to believe that they can do so with impunity.

In this context, **the CPT requests the Croatian authorities to supply the following information in respect of 2003 and the first half of 2004:**

- **the number of complaints of ill-treatment lodged against police officers and the number of criminal/disciplinary proceedings which were initiated as a result;**
- **a detailed account of the specific criminal/disciplinary sanctions imposed following complaints of ill-treatment.**

**The CPT also reiterates the request already made in the report on the 1998 visit for detailed information on police complaints and disciplinary procedures, including as regards the procedural safeguards aimed at ensuring their objectivity.**

16. In their interim report (CPT/Inf (2001) 5, page 19), the Croatian authorities informed the CPT that the Police School, in co-operation with the Ministry of the Interior, especially with the Police Sector and the Internal Control Office, was carrying out a research project entitled "Use of means of coercion by the Police". The research was expected to be completed in three years.

**The CPT would like to receive a copy of the results of that research and an account of measures taken by the authorities in the light of those results.**

c. safeguards against ill-treatment

i. *introduction*

17. As already pointed out in paragraph 24 of the report on the 1998 visit, three fundamental rights should apply from the outset of a person's deprivation of liberty (the right of those concerned to inform a close relative or another third party of their choice of their situation, the right of access to a lawyer, and the right of access to a doctor). Furthermore, persons taken into police custody should be expressly informed, without delay and in a language they understand, of all their rights, including those referred to above.

These safeguards should apply not only to persons detained by the police in connection with a criminal or administrative offence, but also to persons detained under aliens legislation, and to persons who are obliged to remain with the police for other reasons (e.g. as a witness or for identification purposes or for "informative talks" - see paragraphs 22 - 23 below).

The information gathered in the course of the 2003 visit clearly indicates that there remains considerable room for improvement in this area.

ii. *notification of custody*

18. In the report on the 1998 visit, the CPT expressed its misgivings concerning the degree of latitude offered to police officers by the Code of Criminal Procedure to notify the family of an apprehended person within 24 hours of the apprehension; it considered that the right to have one's custody notified to one's family should, in principle, apply as from the very outset of custody. The Committee acknowledged that the exercise of this right could be made subject to exceptions, designed to protect the interests of justice; however, it stressed that any such exceptions should be clearly defined.

In their interim response (CPT/Inf (2001) 5, page 20), the Croatian authorities indicated that "by-law regulations will contain clarifications regarding immediate notification of the family and notification postponed up to twenty-four hours in exceptional cases if demanded by the circumstances that will also be exactly described". However, during its visit in 2003, the CPT's delegation was unable to find any evidence of such provisions. To sum up, the legal situation remained the same as that observed in 1998.

19. As regards current practice, the CPT's delegation met a certain number of persons, including juveniles, recently detained by the police, who claimed that their right to inform a relative or a third party of their situation had not been granted from the outset of their deprivation of liberty. It would appear that this right often became effective only during the first formal questioning by an investigator.

**The CPT therefore reiterates its recommendation that steps be taken to ensure that all persons deprived of their liberty by the police, for whatever reason, are granted the right to notify a close relative or a third party of their choice of their situation, as from the outset of their deprivation of liberty.**

**Any possibility exceptionally to delay the exercise of this right should be clearly circumscribed by law and made the subject of appropriate safeguards.**

*iii. access to a lawyer*

20. According to the CCP, persons apprehended by the police have the right of immediate access to a lawyer. Despite this favourable legal framework, the CPT found during the 1998 visit that in practice it was the exception rather than the rule for apprehended persons to have access to a lawyer during the initial period of police custody prior to being brought before an investigating judge. In a letter subsequently sent to the regional police authorities, the Croatian authorities stated that a detained person should be allowed "to meet with an attorney *immediately after detention upon his/her request*"<sup>4</sup>. However, the facts found during the 2003 visit indicate that the situation in this regard remains unsatisfactory.

21. From the information gathered, it appears that, in many cases, the right of access to a lawyer only becomes effective some time after apprehension and, more specifically, only after a confession relating to a particular criminal offence has been obtained from the person apprehended. The CPT is particularly concerned where specific provisions applicable to juveniles are not respected; certain juveniles met by the delegation alleged that they had been denied access to a lawyer even though they had specifically requested one.

22. In the report on its 1998 visit, the CPT also expressed concern about the position of persons summoned to a police station for an "informative talk". It recommended that the authorities take steps to ensure that any persons under a legal obligation to attend a police station have the right of access to a lawyer and are informed without delay of that right.

In their follow-up report (CPT/Inf (2001) 5, page 58), the authorities stated that access to a lawyer is guaranteed to "... a person subdued to any measure or act in view of deprivation of freedom...the normative situation will be clarified by the elaborated by-law that is to be finalised and enacted". However, the information gathered during the 2003 visit indicates that there has not been any significant change in this respect. No evidence of the above-mentioned by-law was found and the official invitation form addressed to a person invited for an "informative talk" still makes no reference to the right of access to a lawyer. Although a number of police officers met indicated that "nothing prevented the person concerned to come accompanied by his/her lawyer", the present situation is clearly not satisfactory.

23. **The CPT calls upon the Croatian authorities to take effective steps without further delay to ensure that the right of access to a lawyer is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty. This right should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend - and stay at - a police establishment. In this respect, the form used for inviting persons to "informative talks" should make express mention of the right of access to a lawyer enjoyed by such persons.**

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<sup>4</sup> Emphasis added.

**As regards juveniles, a lawyer should always be called when they are deprived of their liberty by the police and they should not be required to make any statement or sign any document related to an offence of which they are suspected without the lawyer being present.**

24. For the right of access to a lawyer to be fully effective in practice, appropriate provision should be made for persons who are not in a position to pay for one. Such a system does exist in Croatia, but its implementation left something to be desired. In many cases, lawyers appointed *ex officio* had no contacts with the detained person until the first court hearing. It would appear that low fees for such services had a discouraging effect in this respect. **The CPT recommends that the system of legal aid to detained persons be reviewed, in order to ensure its effectiveness throughout the procedure, including at the initial stage of police custody.**

*iv. access to a doctor*

25. The CPT considers that a person taken into police custody should have the right of access to a doctor, including, if they so wish, the right to be examined by a doctor of their own choice, in addition to any medical examination carried out by a doctor called upon by the police authorities.

26. At the time of the first CPT's visit to Croatia in 1998, the national legislation did not contain formal provisions on the right of persons in police custody to have access to a doctor, and the Committee recommended that specific legal provisions be adopted on this subject (paragraph 33, CPT/Inf (2001) 4). The authorities replied that "all recommendations regarding the right of the arrested person to doctor have been accepted" (CPT/Inf (2001) 5, page 21).

27. Legislation has recently been adopted in this area. For instance, Article 31 of the newly adopted Regulations on the manner of conducting police duties (Narodne Novine N° 81/2003) stipulate that "the police officer has to offer immediately first aid and to organise medical assistance to persons visibly injured after the use of means of restraint, and may do that even if there are no visible injuries. The medical assistance must be organised if the person against whom these means were applied requests it". Further, the recently adopted Code of Police Ethics stipulates that "when acting towards a person *whose state of health requires medical care*,<sup>5</sup> the police officer will call the medical staff regardless of the behaviour of the injured person. He will abide by the instructions of the medical staff concerning further actions".

The CPT welcomes these provisions. However, it rapidly became clear during the 2003 visit that the situation regarding access to a doctor remained, in practice, unchanged. Such access was still entirely at the discretion of police officers. In the CPT's view, it should not be for police officers to filter requests made by a detained person to see a doctor.

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<sup>5</sup> Emphasis added.

28. In the light of the above, **the CPT calls upon the Croatian authorities to take immediate steps to ensure that the right of access to a doctor for persons held in police custody is formally granted by law and fully implemented in practice (cf. also paragraph 33 of the report on the 1998 visit).**

v. *information on rights*

29. Despite the firm commitment given by the Croatian authorities in their response to the report on the 1998 visit ("the recommendation regarding elaboration of a multilingual form explaining the rights of every person deprived of freedom has been accepted...", page 22, CPT/Inf (2001) 4), no forms setting out the rights of detained persons were available at the police establishments visited.

**The CPT reiterates its recommendation that a form setting out the rights of persons in police custody in a straightforward manner be systematically given to them at the very outset of their deprivation of liberty. This form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights.**

vi. *conduct of police interviews*

30. As already indicated (cf. paragraph 12 above), some of the allegations of physical ill-treatment received related to the stage of police questioning and, more particularly, of interrogation by officers of the criminal police. Further, the CPT's delegation heard numerous allegations to the effect that interrogation could last for many hours without any break.

In this respect, the CPT must stress that the questioning of criminal suspects is a specialist task which calls for specific training if it is to be performed in a satisfactory manner (cf. also paragraph 14). First and foremost, the precise aim of such questioning should be made clear; it is to obtain accurate and reliable information in order to discover the truth about matters under investigation, not to obtain a confession from someone already presumed, in the eyes of the interviewing officers, to be guilty. In addition to the provision of appropriate training, ensuring the adherence by law enforcement officials to the above-mentioned aim will be greatly facilitated by the drawing-up of a code of conduct for the questioning of criminal suspects, as recommended by the CPT in paragraph 37 of the report on the 1998 visit.

In their interim response to the report on the 1998 visit, the Croatian authorities stated that "... beside the already mentioned by-laws, a Code of Police Ethics is also being prepared ..." (page 21, CPT/Inf (2001) 5). Nevertheless, both the Police Act and the Code of Police Ethics<sup>6</sup> are silent on this issue.

31. The information gathered during the 2003 visit clearly illustrates the need for the authorities to be proactive in this area. The drawing-up of a code of conduct would undoubtedly contribute to the prevention of ill-treatment during interrogation. **The CPT therefore recommends that a code of conduct for police questioning be drawn up without any further delay.**

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<sup>6</sup> Published the Official Gazette of the Ministry of the Interior in December 2001.

*vii. custody records*

32. In all the establishments visited, a variety of registers were kept. With the notable exception of Trogir Police Station, the majority of them were poorly maintained, often lacked much of the information they were supposed to record and, on occasion, contained contradictory information. **The CPT recommends that immediate steps be taken to ensure that any detention in a police establishment is properly recorded.**

Further, the Committee **invites the Croatian authorities to examine the possibility of introducing in all police detention facilities a single and comprehensive custody record for each person detained. Such a document should record all aspects of the person's custody and all the action taken in connection with it ( time and reason(s) for the arrest; when the person arrived at the police station; when informed of rights; signs of injury, health problems, mental disorder, etc; when offered food, when interrogated; contacts with and/or visits by next of kin, lawyer, doctor or consular official; when transferred; when brought before a judge; when remanded in custody or released, etc.). Further, the detainee's lawyer should have access to the custody record.**

*viii. inspection procedures*

33. In Croatia, the prosecuting/judicial authorities, as well as the Office of the Ombudsman, are empowered to visit places where persons are detained by the police. However, as in 1998, the information gathered during the 2003 visit indicated that such visits were not a common occurrence.

**The CPT would like to receive comprehensive information on the frequency of visits by the above-mentioned bodies to police facilities in 2003 and, as appropriate, on the action taken following those visits.**

d. conditions of detention

34. In their interim report (CPT/Inf (2001) 5, page 22), the Croatian authorities stated that "chiefs of police of all police administration were instructed to ... check all premises for retention and especially to eliminate all failures regarding security and health conditions"). However, from the facts found during the 2003 visit, it is clear that material conditions of detention in many police establishments still leave a lot to be desired.

35. As in 1998, it was not uncommon for criminal suspects to be kept on police premises for up to 24 hours - and, on occasion, even longer - under inadequate conditions. The persons concerned, including juveniles, were frequently held for many hours (and sometimes even overnight) in offices, corridors or waiting rooms, without being offered either appropriate facilities for rest and sleeping or food. In addition, allegations were once again received that criminal suspects had been handcuffed to radiators or other items of furniture for periods of hours.

**The CPT calls upon the Croatian authorities to review arrangements for the holding of criminal suspects on police premises. Such persons should be offered food at appropriate intervals (which implies that budgetary means must exist for providing food to persons not in a position to pay for it themselves), including at least one full meal (i.e. something more substantial than a sandwich) every day. Suspects held overnight should be accommodated in a designated holding facility and provided with a clean mattress and clean blankets. Further, appropriate steps should be taken to ensure that criminal suspects held on police premises are not kept handcuffed to radiators or items of furniture for extended periods.**

36. Specific comments are required as regards two of the police stations visited in 2003.

In **Črnomerec Police Station in Zagreb**, the delegation observed a makeshift facility, measuring approximately 5m<sup>2</sup>, placed within the hall of the reception area, where up to 8 inmates might be placed overnight. The only equipment available was a wooden bench on which detainees could sit and/or sleep. No blankets or mattresses were provided for an overnight stay and access to natural light was very poor. Such a facility does not offer persons detained by the police adequate conditions for an overnight stay; **the CPT recommends that it is no longer used for this purpose.**

**Trogir Police Station** had three metal barred cage-like cubicles, each measuring 3m<sup>2</sup> (2,3 m x 1,3 m), which were often used to accommodate up to three persons, usually in order to sober up. These cells were only equipped with a wooden bench, 33 cm wide, were in a poor state of repair and cleanliness and inadequately heated, and had mediocre access to natural light. Further, the cubicles were located far away from the police officers' desks. As such, these detention facilities were totally inappropriate for accommodating persons under the influence of alcohol; **the CPT recommends that alternative holding facilities be found for such persons.**

Further, **conditions in the cubicles should be improved in the light of the above remarks and, in view of their very limited size, they should only be used as temporary holding facilities (i.e. for detention periods of no more than two to three hours); they should never be used as overnight accommodation.** Moreover, **the situation of persons detained in the cubicles should be closely monitored.**

37. During its 1998 visit, **the Unit for detention, escort and security in Đorđićeva Street 4, Zagreb**, was under renovation. The delegation which carried out the 2003 visit was pleased to note the quality of the work already carried out, and additional improvements had been planned for the beginning of 2004. The only negative feature remaining was the bright neon lighting in the cells, which was not dimmed during the night; **the CPT trusts that this shortcoming will be remedied.**

38. Immigration Police at **Zagreb International Airport** did not possess any detention facilities. Consequently, foreign nationals refused entry and due to be returned shortly, were confined in the airport transit lounge, if necessary overnight. This arrangement is obviously not satisfactory; however, the delegation was informed that a separate facility was to be set up for persons detained at the airport. **The Committee would like to receive details concerning the new facility (e.g. capacity, material conditions, possibilities for outdoor exercise, etc.).**

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39. The delegation was also informed that, at the time of the visit, no specific procedure was in place at the airport to deal with asylum requests. In the context of the entry into force of the new Law on Asylum ("Narodne novine" N° 103/2003) (cf. paragraph 41), **the CPT would like to receive information on the practical measures taken by the Croatian authorities to ensure its full implementation at Zagreb International Airport (as well as any other air, land or sea points of entry on Croatian territory).**

## 2. Ježevo Detention Centre for Illegal Immigrants

### a. preliminary remarks

40. For the first time in Croatia, the CPT's delegation visited an establishment which holds foreign nationals awaiting the enforcement of a removal order. Ježevo Detention Centre for Illegal Immigrants is located some 50 kilometres east of Zagreb and consisted of several temporary containers and nearby rooms under refurbishment. With an official capacity of 274 places, the Centre was accommodating 95 foreign nationals (including 16 women) at the time of the visit, mostly from East European, African and Asian countries. Several foreign nationals had stayed at the establishment for prolonged periods (up to two years); some of them were nationals of other former Yugoslav republics, who had become stateless in the aftermath of the events concerning the break-up of the Socialist Federative Republic of Yugoslavia.

41. At the time of the 2003 visit, the legal framework in respect of foreigners was in a state of flux. The Law on Foreigners ("Narodne novine" N° 109/2003) had been adopted in July 2003 and was due to enter into force on 1 January 2004 (i.e. only a few weeks after the visit); as for the Law on Asylum<sup>7</sup>, it was due to enter into force on 1 July 2004. Therefore, the 1991 Law on Movement and Stay of Foreigners, although obsolete, was still the main legal instrument regulating asylum, including access to the territory and freedom of movement.

All foreign nationals found in the border area or in the country without travel documents were considered illegal immigrants. The police would therefore present them to the nearest misdemeanour court, where they would be charged and fined for illegal entry. Those foreigners who could not pay their fines were detained for up to 7 days and, afterwards, transferred to the Ježevo Centre pending their deportation. If they applied for asylum, they would still remain in the Centre during the proceedings. Due to the lack of proper asylum legislation/procedures at the time of the visit, it would appear that not a single refugee status had yet been granted.

42. Article 57, paragraph 2, of the new Asylum Law provides for an exception to the principle of *non-refoulement*: "The prohibition of the forced removal of a foreigner is not applicable to a foreigner for whom there is a reasonable doubt that he might endanger the public order or national security or if he is sentenced for a serious criminal offence".

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<sup>7</sup> Article 40 stipulates that detention of an asylum seeker may last up to 3 months, and it could be exceptionally extended for additional month. An applicant may appeal those decisions of the Ministry of the Interior.

In this connection, the CPT wishes to stress that it would be in violation of the obligations flowing from the European Convention on Human Rights for any person to be returned to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or ill-treatment.

**The CPT would like to receive confirmation that the prohibition of any such return is being complied with under current legislation and practice.**

b. ill-treatment

43. No allegations of physical ill-treatment by police officers working on day-shifts were heard at the Centre. However, several allegations of verbal abuse, occasionally of a racist nature, were received. This said, the information gathered by the delegation indicated that staff/detainee relations were rather relaxed during the day.

By contrast, the delegation heard allegations of physical ill-treatment of several foreign nationals by police officers<sup>8</sup> working on night-shifts in mid-November 2003. The detainees concerned alleged that they had been beaten (hit with batons or slapped in the face) when they refused to return to their sleeping quarters after outdoor exercise. These allegations were supported by medical evidence (8 foreigners had been medically examined on 14 November 2003 and the relevant medical data addressed to the Director of the Centre). The delegation was later informed that the November 2003 incident was being investigated by the Internal Affairs Department of the Zagreb Police Administration.

44. In a letter of 13 April 2004, the authorities informed the Committee "that a criminal investigation was conducted by the Ministry of the Interior competent bodies and that the inmates' allegations have not been proven". The authorities also stated that they "have undertaken the necessary activities in trying to find the truth, but have not been able to confirm the allegations" and that they "have notified this to the competent Municipal General Attorney's Office so that they can undertake the measures under their competence".

**45. The CPT recommends that police officers at Ježevo Detention Centre be given the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions. Further, it would like to be informed of any measures subsequently taken by the Municipal General Attorney's Office as regards the November 2003 incident.**

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<sup>8</sup> They were members of a special response team of the Croatian Police Force.

c. conditions of detention

46. Material conditions of detention at the Centre left something to be desired. Inmates were held in prefabricated facilities (five containers for men, two for women), which consisted of dormitories ("sleeping areas") and common/dining rooms. The dormitories measured 30 m<sup>2</sup> and contained 22 beds. Such an occupancy rate is far too high, even if the rooms concerned were only used for sleeping purposes. Moreover, the dormitories were sparsely furnished, their state of hygiene left something to be desired, and no personal lockable space was provided. Further, although the sanitary facilities used during the day were satisfactory, those in use after 10.00 p.m. were in a deplorable state of cleanliness.

The dormitory doors were unlocked during the day (from 6.00 a.m. to 10.00 p.m.) and inmates spent most of their time in two large, airy and well-lit common rooms/dining halls. However, the CPT is concerned that inmates, some of whom had been held for up to two years at the Centre, were not offered a proper programme of activities. They whiled away the day reading (mostly outdated) magazines, watching TV (only one set, broken at the time of the visit, was available) or playing cards, with nothing else to occupy their time.

Rules in force at the Centre granted inmates at most one hour of outdoor exercise per day. However, the outdoor exercise area was an unattractive facility (a cage-like shelter of insufficient size for the number of foreigners detained, the only view being of the neighbouring noisy highway). Not surprisingly, many detainees declined to take outdoor exercise in such conditions. In this context, the delegation noted the presence of a football pitch adjoining the Centre; however, its perimeter was not secured and, for this reason, inmates were not allowed to use it.

**The CPT recommends that material conditions at Ježevo Detention Centre be improved, in the light of the above remarks. Further, steps should be taken as a matter of urgency to provide a better range of activities for foreign nationals held at the Centre; the longer the period for which persons are detained, the more developed should be the activities which are offered to them. Moreover, detainees at the Centre should benefit from proper outdoor exercise facilities, enabling them to exert themselves physically.**

47. The CPT's delegation was also informed that the refurbished upper storey (which consisted only of dormitories) should become fully operational shortly after its visit. The delegation visited the dormitories and was struck by the plans of the authorities to provide 150 places<sup>9</sup> in an area measuring only 270 m<sup>2</sup>. In the CPT's opinion, doubling the official capacity of the Centre should necessarily imply a revision of the arrangements as regards the daily regime offered to detainees. **The Committee would like to receive detailed information on the material conditions of stay (including the arrangements taken as regards access to toilets at night) after the increase in capacity of the Centre, the daily activities, the outdoor exercise facilities, etc.**

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<sup>9</sup> On the basis of 4 m<sup>2</sup> per individual inmate, this surface would allow accommodation for only 67 inmates.

d. health care

48. The health care staff at the establishment consisted of a doctor and a nurse, who were present from 8 a.m. to 3 p.m. on working days. Two psychologists provided psychosocial care on working days, and were on call at week-ends. Such a staffing level can be considered as adequate for the number of persons held at the time of the visit; however, **the nursing staff resources should be significantly reinforced whenever the Centre operates closer to its official capacity.**

49. The CPT was concerned to note that newly arrived foreign nationals were not seen by a member of the medical team on arrival. Such screening is essential to ensure that any injuries are recorded in good time, as well as in terms of preventive medicine (for example, to stop the spread of transmissible diseases). **The CPT recommends that steps be taken immediately to ensure that all new arrivals at Ježevo are systematically medically screened by a doctor, or a fully qualified nurse reporting to a doctor, within 24 hours of their arrival at the establishment.**

50. Health care provision at the establishment was seriously compromised by the lack of proper medical equipment and medication. Medical equipment at the establishment was inadequate (by way of example, staff did not have the equipment necessary to perform basic examinations at general practitioner's level, such as height and weight measuring instruments, urine test sets, etc.). The delegation also had serious concerns about the inadequate supply of medication. Although some medicines were provided by donations from pharmaceutical companies and the UNHCR, the staff faced serious problems in this respect.

**The CPT recommends that the Croatian authorities take appropriate steps to provide basic medical sets at the Ježevo Centre.**

**The CPT also recommends that the Croatian authorities ensure that all inmates are guaranteed the provision of treatment (including medication) required by their state of health. Sufficient funds should be allocated to the Centre to enable treatment (including medication) to be provided free of charge to those foreign nationals who do not have the necessary financial means to pay for it themselves.**

51. The delegation also received numerous complaints by detainees concerning the food at the Centre; they alleged both a lack of quantity and variety. **The CPT would like to receive the comments of the authorities on this subject.**

e. discipline

52. Ježevo Detention Centre did not have its own disciplinary regulations. However, the CPT's delegation heard allegations to the effect that various sanctions were applied in practice (such as isolation, or bans on visits).

This situation, with arbitrary application of informal sanctions, lends itself to abuse. In the CPT's view, it is in the interests of both inmates and staff that clear disciplinary procedures be formally established and applied in practice; any grey areas involve the risk of an unofficial (and uncontrolled) system developing. Disciplinary procedures should provide persons concerned with a right to be heard on the subject of the offences allegedly committed, and to appeal to a higher authority against any sanctions imposed.

**The CPT recommends that formal disciplinary regulations be introduced at Ježevo Detention Centre for Illegal Immigrants, taking into account the above remarks.**

f. staff

53. Staff working in centres accommodating immigration detainees have a particularly onerous task. Firstly, there will inevitably be communication difficulties caused by language barriers. Secondly, many detained persons will find the fact that they have been deprived of their liberty when they are not suspected of any criminal offence difficult to accept. Thirdly, there is a risk of tension between detainees of different nationalities or ethnic groups.

Consequently, the CPT places a premium upon the supervisory staff in such centres being carefully selected and receiving appropriate training. As well as possessing well-developed qualities in the field of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills. Further, they should be trained to recognise possible symptoms of stress reactions displayed by detained persons (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action.

54. Police officers assigned to the Ježevo Detention centre did not receive any specific training before taking up their duties. Further, only very few staff members possessed a reliable command of a foreign language, a situation which created communication difficulties. It is also noteworthy that despite the presence of 16 female detainees, no female police officers were assigned to work in the Centre. Moreover, the establishment experienced problems with insufficient staffing levels at week-ends (affecting in particular possibilities for detainees to benefit from outdoor exercise).

55. The CPT has taken note of the information provided by the Croatian authorities in their letter of 13 April 2004, namely that "the staff - police officers, psychological and health experts, as well as others, will be provided with special training for better dealing with the Centre population". The CPT welcomes this measure and **would like to receive detailed information on the specific training being provided.** Further, **the CPT recommends that an appropriate number of female police officers be assigned to the Centre and that additional staff be present on site during week-ends.**

56. The delegation noted that after the November 2003 incident (cf. paragraphs 43 and 44) custodial duties at night were performed by members of the Special Response Team, a situation which had led to a significant rise of tension between detainees and staff. In light of the above, **the CPT recommends that custodial duties at night again be performed by regular police officers.**

57. The delegation also noted that police officers were carrying both their firearms and batons in a visible manner, while performing their custodial duties within the Centre. In the CPT's opinion, to carry a firearm when working in direct contact with detainees potentially places both detainees and staff at risk. Further, to carry batons in a visible manner is clearly not conducive to the development of positive staff-inmate relations (cf. also paragraph 78). **The CPT recommends that measures be taken to avoid such practices in the future.**

g. fundamental safeguards

58. Immigration detainees (whether asylum seekers or not) should - in the same way as other categories of persons deprived of their liberty - be entitled, as from the outset of their detention, to inform a person of their choice of their situation and to have access to a lawyer and a medical doctor. Further, they should be expressly informed, without delay and in a language they understand, of all their rights and of the procedures applicable to them.

59. The delegation noted that upon arrival at the Centre, inmates were given a copy of the internal rules, which were also explained to them orally. Further, the rules were displayed on notice boards in the corridors. Notwithstanding these positive measures, the delegation heard numerous complaints from inmates concerning the lack of information from the immigration authorities about the inmates' legal situation and rights (including their right of access to a lawyer, the current stage of the procedure concerning them, the likely length of their detention, etc.). One of them indicated to the members of the delegation: "no one speaks to us". Not surprisingly, inmates often found the legal proceedings to which they were subjected extremely difficult to understand.

**The CPT recommends that foreign nationals held at the Centre be systematically provided with a document explaining the procedures applicable to them and setting out their rights. This document should be available in the languages most commonly spoken by those concerned and, if necessary, recourse should be had to the services of interpreters.**

In addition, **each detainee should be regularly updated on issues concerning his/her future.**

h. contact with the outside world

60. Foreign nationals held at the Centre experienced significant difficulties in maintaining contact with the outside world.

61. Numerous complaints were heard to the effect that visits were rarely authorized, and that they almost never took place at week-ends, due to insufficient staffing. Apparently, only inmates with relatives in Croatia could apply for a home visit or a week-end stay. Further, visits took place in corridors or other inappropriate areas.

**The CPT recommends that the Croatian authorities review the existing arrangements at Ježevo, with a view to increasing significantly the current visiting entitlements. Further, steps should be taken to provide suitable facilities for visits.**

62. At Ježevo, there was only one pay phone for almost a hundred detainees, which inevitably led to long queues. **The Committee invites the authorities to install additional pay phones and to explore the possibility of offering assistance to detainees who do not have the means to purchase a phone card.**

In addition, mobile phones were systematically confiscated by the authorities. The CPT wishes to recall that the immigration detainees concerned were neither convicted nor suspected of a criminal offence. Bearing this in mind, as well as the already mentioned difficulties in making phone calls, **the CPT invites the Croatian authorities to reconsider their policy of systematically confiscating mobile phones.**

## **B. Establishments under the authority of the Ministry of Justice**

### **1. Preliminary remarks**

63. As was the case in 1998, the prison system in Croatia consists of penitentiary institutions (*kazneni zavodi*) for persons sentenced to terms longer than six months, and county prisons (*okružni zatvori*) for persons serving shorter sentences and remand prisoners. Penitentiary institutions might be closed, semi-open and open, while prisons are always closed. However, both types could have closed, semi-open and open units (Law on the Execution of Sentences “Narodne Novine” N° 190/2003 (LES), Article 22).

The CPT's delegation visited one penitentiary institution, Lepoglava State Prison, and the county prisons in Split and Osijek; the visit to the latter establishment was brief and focussed on interviewing recently admitted remand prisoners.

64. A general description of **Lepoglava State Prison** and **Split County Prison** was provided in the report on the 1998 visit (cf. CPT/Inf (2001) 4, paragraphs 49 and 50); no significant changes have occurred in the meantime.

At the time of the 2003 visit, **Lepoglava State Prison** was accommodating 574 male prisoners, all sentenced, while 64 prisoners were hospitalised, on prison leave or had escaped. Five hundred inmates were housed in the closed part, and 74 were in semi-open units. As B Wing had been under renovation since April 2003, some 160 prisoners had been transferred from there and placed elsewhere in the establishment, creating serious overcrowding. Lepoglava remains the only high-security prison in Croatia.

As had been the case in 1998, **Split County Prison** was operating above its formal capacity (now 136 inmates). It was accommodating 162 prisoners (138 on remand and 24 sentenced), including nine women. Some 80% of the inmates were drug addicts, according to the management of the establishment.

**Osijek County Prison** is located near the centre of Osijek, the regional capital of Eastern Slavonia. It consists of a two-storey block situated opposite the local court buildings. With an official capacity of 130, at the time of the visit it was accommodating exactly that number of prisoners (53 of them on remand), including five women. Remand prisoners were held on the first floor, and sentenced inmates on the ground floor.

65. The legislative framework in respect of the prison system in Croatia has undergone significant changes in recent times, following the entry into force in 2000 of the new Law on the Execution of Sentences. Its provisions will be discussed under different sections of this report.

The basic rules governing imprisonment on remand remained as described in the report on the 1998 visit (cf. CPT/Inf (2001) 4, paragraph 48; however, see paragraph 112 below).

66. At the outset, the CPT must underline that the overcrowding observed at Lepoglava State Prison and Split County Prison is of serious concern to the Committee. The authorities informed the delegation of their need for approximately 300 additional prison places. It would appear that they were considering the investment of significant funds in prison construction and reconstruction. However, in the CPT's view, spending ever-increasing amounts of money on the prison estate alone will not necessarily provide a definitive solution. Current law and practice in relation to custody pending trial and sentencing, including the range of non-custodial sentences available, must also be reviewed. This is precisely the approach advocated in Committee of Ministers Recommendation N° R (99) 22 on prison overcrowding and prison population inflation. **The CPT trusts that the principles set out in that important text will be fully taken into account by the Croatian authorities.**

In this context, the CPT's delegation was informed that alternative measures, such as community service or conditional release with supervision, were pronounced only in 2,7 % of criminal cases, and solely in relation to adult prisoners.<sup>10</sup> The delegation was informed that courts were reluctant to pronounce these measures, as their practical application was not sufficiently regulated. The Ministries of Justice and the Interior were apparently on the point of adopting specific regulations on the implementation of one of these measures (house arrest). **The CPT would like to receive further information on this issue.**

## 2. Ill-treatment

67. The CPT's delegation received a certain number of allegations of physical ill-treatment of prisoners by staff within the three establishments visited, as well as in respect of other prison establishments, including Zagreb Prison Hospital. The allegations included kicks, punches and blows with batons. That said, most of the allegations pre-dated the delegation's visit by at least several weeks.

The delegation also heard a number of allegations of verbal abuse in all three establishments visited. Once again, it would appear that nationals of other former Yugoslav republics and members of the national minorities in Croatia were particularly vulnerable in this context (cf. paragraphs 12 and 88).

68. The CPT's delegation heard several credible allegations of physical ill-treatment (including kicking and hitting with batons) of prisoners by staff at **Lepoglava State Prison**, the most recent case dating from 8 November 2003.

The allegations in that case included the severe beating of a prisoner by several prison officers, after an incident. The ill-treatment alleged included blows with batons on the whole body, including the head, chest and soles of the feet. These allegations were supported by medical evidence; the relevant medical file mentioned the presence of marks on 28 different locations on the prisoner's body, consistent with his allegations. At the time of the CPT's visit, the authorities were aware of this incident, as confirmed by the disciplinary proceedings set in motion.

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<sup>10</sup> For instance, a court may, with the consent of the person, replace a sentence of up to 6 months with a community service lasting 10-60 days.

69. As already indicated (cf. paragraph 7 above), the CPT's delegation made an immediate observation, in pursuance of Article 8, paragraph 5, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and requested the Croatian authorities to conduct a thorough and independent inquiry into this incident and to inform the Committee of the results of this inquiry by 20 February 2004 at the latest.

70. In their letter of 12 February 2004, the Croatian authorities informed the CPT that, following the case of ill-treatment of 8 November 2003 at Lepoglava State Prison, "... apart from initiating disciplinary proceedings against the prison officer concerned, the Director of the Prison also pressed the criminal charges before the Municipal General Attorney's Office, based on reasonable suspicion that the prison officer concerned had committed a criminal offence of ill-treatment, expressly prohibited by Article 127 of the Criminal Code". The authorities forwarded a copy of those charges to the Committee on 7 May 2004.

Similarly, the Prison Administration authorities also reminded the Director of Lepoglava State Prison of "his obligation to warn and to remind prison officers what kind of manner of communication with prisoners is acceptable, under the threat of their disciplinary responsibility".

The CPT is grateful to the Croatian authorities for the effective action taken in response to the immediate observation made by its delegation in relation to this incident. **It would like to be informed of the outcome of the above criminal charges.**

71. The delegation also received several credible allegations of deliberate physical ill-treatment of inmates by custodial staff at **Split County Prison**. Some of the allegations referred to ill-treatment inflicted on 14 April 2003, when several inmates were confined within the establishment's atomic shelter for various periods of time, apparently as a punishment for an attempted mutiny. The cells of six inmates were said to have been raided at night and it was alleged that the inmates were beaten by hooded prison officers, using batons, fists and feet. The inmates were subsequently said to have been tied to an iron bar in the atomic shelter and beaten again with batons. These allegations were not contested by the prison management and, additionally, were supported by medical evidence. As already indicated (cf. paragraph 7 above), the CPT's delegation made an immediate observation in pursuance of Article 8, paragraph 5, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and requested the authorities to carry out a thorough and independent investigation into this episode, and to communicate its results to the delegation by 20 February 2004 at the latest.

In addition, the delegation called upon the authorities to immediately stop using the atomic shelter for detention/punishment purposes. The mere placement of a detainee there, even for a short period of time, could well be considered as inhuman, bearing in mind the complete absence of natural light and ventilation.

72. In respect of the case of alleged ill-treatment at Split County Prison, by the same letter of 12 February 2004 the authorities stated that "the management of Split County Prison informed the Prison Administration of this case and transmitted an elaboration on the planned mutiny, and of activities carried out to prevent it. Prison staff then used the means of coercion (rubber baton) in respect of six inmates. We considered that the rubber baton was used lawfully, as its use stopped when the resistance had been overcome, and the prison officers did not use fists and feet to this effect. However, six inmates had to be isolated, and due to the overcrowding of the prison, they were accommodated for 15 hours in the atomic shelter. Despite the continuing overcrowding, we have forbidden the use of the atomic shelter for any accommodation of prisoners in the future".

In their additional response, submitted to the CPT on 7 May 2004, the Croatian authorities made it clear that "no additional inquiry was initiated neither by the Central Office of the Prison Administration nor by the Ombudsman's Office in relation to the sole case of utilisation of the atomic shelter at Split Prison. Hence, after the Split Prison Management informed that, due to the overcrowding, it was obliged to segregate *seven prisoners*<sup>11</sup> into the atomic shelter in order to ensure order and security, the use of atomic shelter for any placement of inmates was prohibited".

The CPT welcomes the fact that the use of the atomic shelter for detention/punishment purposes has now been prohibited. However, the reaction of the authorities to the immediate observation made by the delegation cannot be considered as satisfactory, as the delegation's initial request for a thorough and independent investigation has still not been met by the authorities.

**The CPT calls upon the Croatian authorities to carry out a thorough and independent inquiry into the allegations of ill-treatment of inmates by prison staff at Split County Prison in April 2003 and to inform the Committee of its results within three months.**

73. In the course of its visit to the remand section of **Osijek County Prison**, the CPT's delegation heard allegations of ill-treatment of detainees by prison officers; in particular, it heard of an episode during which staff had reportedly hit two detainees, one of whom had subsequently been handcuffed, totally naked, to fixtures and furniture for approximately five hours ("to cool off"). This fact was confirmed by other inmates walking in the corridor who saw him, naked and handcuffed in a cell, the door of which had been left open.

74. In their letter of 12 February 2004, the Croatian authorities informed the CPT that "during the cell search [at Osijek County Prison], one prisoner had been found with the unauthorised object-cooker with unprotected electrical heaters - and that he had refused to be strip-searched; thus, the prison officer took off his [the inmate's] clothes from the upper part of his body. He was then isolated in another cell, and handcuffed to a bed, as he was actively resisting. The inmate was then searched<sup>12</sup>, and his clothes were given back to him after the inspection, and he returned to his cell after having calmed down. The inmate concerned did not have any grievances about the treatment by the prison staff and did not lodge any complaints either to the Prison Governor or to the President of the court in charge of the treatment of prisoners".

The CPT takes note of this information. Although it recognises that prison staff will, on occasion, have to use force to control violent and/or recalcitrant prisoners and exceptionally may even need to resort to instruments of physical restraint, **the force used should be no more than is strictly necessary**.

**Moreover, to tie violent and/or recalcitrant prisoners to radiators or other items of furniture "to cool off" is totally inappropriate. Disciplinary sanctions should result from relevant existing disciplinary procedures and not take the form of an unofficial punishment.**

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<sup>11</sup> Emphasis added. Note should be taken that in their previous letter the authorities mentioned six inmates.

<sup>12</sup> As far as the delegation is aware, the search revealed the presence of drugs in the cell.

75. More generally, it must be pointed out that the information gathered during the 2003 visit as regards the treatment of prisoners by custodial staff represents a disturbing departure from the situation found in 1998 (cf. CPT/Inf (2001) 4, paragraphs 51 - 53). **The CPT recommends that the Croatian authorities deliver the clear message to prison officers in establishments throughout the country that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions.**

76. As already stated in the report on the 1998 visit, the best possible guarantee against the ill-treatment of prisoners is properly recruited and trained prison officers, who know how to adopt the appropriate attitude in their relations with inmates. The CPT therefore recommended that the Croatian authorities give high priority to the development of prison staff training, both initial and ongoing.

The Croatian authorities subsequently informed the Committee of different activities carried out in order to achieve higher standards. In their follow-up response to the CPT's report (CPT/Inf (2001) 5, page 61), they stated that "in October 1999, a Training Centre for the Croatian Prison System Personnel was established in the prison of Lipovica [...] With the establishment of the Centre and through continuing training of prison employees, in particular for communicating with prisoners, one of the main tasks of prison employees will be fulfilled, i.e. the development and promotion of their positive relations to prisoners. The curriculum taught in the Centre is based on generally accepted standards of positive communication with convicted persons and the respect for the prisoner's personality".

However, the number of prison officers who actually attended the training appeared to be low, the authorities indicating that "the first generation of 39 newly-employed security officials have completed their training. The training of a new group of 36 employees is under way".

77. In their letter of 12 February 2004, the Croatian authorities repeated their readiness to address the phenomenon of ill-treatment by developing further the training of prison staff. The Head of the Prison Administration informed the CPT that this institution "will continue organising training of prison staff in order to enable their communication with the prisoners, thus preventing ill-treatment and illegal use of means of coercion".

The above measures are certainly a step in the right direction. However, **in view of the severity, frequency and variety of allegations of ill-treatment, it is essential that the Croatian authorities remain particularly proactive in this area. Concerted efforts are needed to further enhance the possibilities of training for prison staff.**

78. The CPT also wishes to raise in this context the general issue of the carrying of weapons in detention facilities. At **Zagreb County Court Temporary Holding Cells**, the member of the Judicial Police on duty within the cell area carried a pistol, potentially placing detainees and staff at risk (cf. also paragraph 57 above). The delegation also noted that throughout other establishments visited - **Osijek and Split County Prisons**, as well as **Lepoglava State Prison** - staff were carrying batons in a visible manner. This is clearly not conducive to the development of positive staff-inmate relations. During the talks at the end of the visit, the CPT's delegation requested the Croatian authorities to stop these practices.

In their letter of 12 February 2004, the Croatian authorities informed the CPT that they "...have given a written order to all prison establishments prohibiting the prison staff to carry firearms while in direct contact with a prisoner, and to carry a rubber baton when they are on duty in uniform. We would also like to stress that we are currently purchasing new prison uniforms for staff, whose trousers would have a pocket where the rubber baton is to be placed". The CPT welcomes these measures.

### 3. Material conditions

79. In the report on its 1998 visit, the CPT noted that material conditions in the renovated D Wing at **Lepoglava State Prison** were quite satisfactory. In contrast, conditions of detention were very poor in the two unrenovated wings, B and E. Consequently, the CPT recommended that the renovation of these wings, including installation of in-cell sanitation following the model of D wing, be treated as a matter of high priority.

In their response (CPT/Inf (2001) 5, page 62), the Croatian authorities informed the Committee that "the completion of the adaptation of the prison in Lepoglava is one of the priorities of the prison system in Croatia. The state budget of the Republic of Croatia has secured the funds for that purpose and the implementation will depend on the progress of the money inflow".

In the meantime, a prisoner accommodated in Wing B addressed the European Court of Human Rights, claiming that his conditions of stay amounted to inhuman or degrading treatment, prohibited by Article 3 of the European Convention of Human Rights<sup>13</sup>. The case was settled before the Court, and Croatia agreed to renovate B Wing by September 2003.

The CPT's 2003 visit took place when renovation works in E Wing had been completed and those in B Wing were in the final stages. **The Committee would like to receive confirmation that the renovated B Wing is now fully operational.**

80. The CPT's delegation could observe the high quality of the renovation work carried out in B and E Wings. Cells were suitably equipped (bunk beds, table and chairs) and had a fully partitioned sanitary annex. However, a cell measuring some 11.5m<sup>2</sup> (sanitary annex included) was intended to accommodate four prisoners, and cells measuring some 6 m<sup>2</sup> (including the sanitary annex) were planned to accommodate two prisoners. In the CPT's opinion, such occupancy rates are unacceptable; moreover, they are contrary to the requirements of the recently-adopted Regulations on the standards of accommodation and feeding of prisoners, which stipulate that each prisoner in Croatia should enjoy at least 4m<sup>2</sup> (and 10m<sup>3</sup>) of living space.

**The CPT recommends that steps be taken to ensure that the standard of at least 4 m<sup>2</sup> living space per prisoner in multi-occupancy cells is respected throughout Lepoglava Prison. No more than two prisoners should be accommodated in the 11.5m<sup>2</sup> cells; as for the 6m<sup>2</sup> cells, they should only be used for single occupancy.**

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<sup>13</sup> In his 2002 report, the Ombudsman concluded that "the conditions of stay of prisoners in this penitentiary are mostly very difficult, and in a significant number of cases, we may say inhuman" (pages 102-103).

81. The Croatian authorities informed the CPT that "overcrowding is a consequence of insufficient capacity in high-security prisons. Once the ongoing renovation of prison accommodation in Glina is completed, the material conditions at Lepoglava will be improved, and overcrowding ended. It is also planned to build a new high-security prison in Dalmatia". **The CPT trusts that the completion of these projects will be given a high priority.**

82. **Split County Prison** also remained overcrowded, despite the fact that some 16 new places had been provided in the basement of the establishment in July 2003. Further, the delegation observed that the sanitary annexes were still not fully partitioned, despite the recommendation made by the Committee on this subject. **The CPT reiterates the recommendations made on these issues in the report on the 1998 visit (CPT/Inf (2001) 4, paragraph 84).**

The CPT was informed by the Croatian authorities (cf. their letter of 12 February 2004), that they will "increase the standards of the accommodation by constructing another floor [in Split County Prison] as soon as financial means become available". This possibility was already announced by the authorities in their follow-up response to the report on the 1998 visit and, with the announced construction of a high-security prison in Dalmatia, should solve the problem of overcrowding currently affecting the establishment. **The CPT trusts that this project will be implemented without further delay (including the increase in parallel of the facilities available for out-of-cell activities).**

83. Following the 1998 visit, the CPT recommended that the Croatian authorities explore the possibility of removing the metal window screens at Zagreb and Split County Prisons (CPT/Inf (2001) 4, paragraphs 82 and 84). The response of the authorities indicated that "another solution not restricting access to natural light" would be implemented. However, the delegation which carried out the 2003 visit found that no action had been taken on this matter at Split County Prison.

The CPT fully accepts that specific security measures designed to prevent the risk of collusion and/or criminal activities may well be required in respect of certain prisoners. However, the imposition of measures of this kind should be the exception rather than the rule. This implies that the relevant authorities must examine the case of each prisoner in order to ascertain whether specific security measures are really justified in his/her case. Further, even when such measures are required, they should never involve depriving the prisoners concerned of natural light and fresh air. The latter are basic elements of life which every prisoner is entitled to enjoy; moreover, the absence of these elements generates conditions favourable to the spread of diseases.

Removing devices blocking the windows of prisoner accommodation (and fitting, in those exceptional cases where this is necessary, alternative security devices of an appropriate design) should not involve considerable investment and, at the same time, would be of great benefit for all concerned.

**The CPT recommends that the metal window screens at Split County Prison (as well as at any other establishment where such devices are to be found) be removed without further delay. It also wishes to be informed of any alternative measures introduced by the Croatian authorities in this respect.**

84. Conditions in the eighteen cells on the first floor of **Osijek County Prison** were on the whole adequate. A typical cell measured some 8.5m<sup>2</sup> and the fittings included a wardrobe and a TV set; further, each cell had a separate partitioned sanitary facility with a toilet and washbasin. Artificial lighting as well as access to natural light and ventilation (cells had large windows) was good, as was the heating. However, the cells were designed to accommodate two prisoners; consequently, the amount of living space per prisoner was modest. **It would be preferable for cells of such a size to be used for single occupancy.**

The delegation noted that the cells had no call system. The risk of a prisoner in need not being provided with assistance would be significantly reduced if such a system were to be installed (and kept in good working order). **The CPT therefore recommends that all cells and dormitories be fitted with a call system.**

#### 4. Activities

85. At the time of the visit to Lepoglava State Prison, some 319 of the 574 inmates were employed, which is an improvement as compared to the situation observed in 1998 (when some 300 of the 660 prisoners were engaged in various work activities). Work was not obligatory; it depended mainly on the prisoners' motivation and the prison authorities were seeking to provide incentives (i.e. more visits) for prisoners to engage in work.

The delegation was satisfied to learn of the positive developments regarding the leisure time activities offered to inmates, such as art and music, drama plays, etc. Results were less favourable as regards education; as in 1998, despite the ample educational facilities, only a small number of prisoners (53) attended the school. The CPT welcomes the measures taken by the Croatian authorities to improve the regime offered to inmates at Lepoglava State Prison; **it trusts that these measures will be pursued, in particular as regards educational activities.**

86. The conditions of detention observed in the unit for "increased supervision" at **Lepoglava State Prison** during the 1998 visit were of particular concern to the CPT (cf. CPT/Inf (2001) 4, paragraphs 65-68). At the time of the 2003 visit, the unit was undergoing structural renovation.

The Croatian authorities have implemented the majority of the CPT's recommendations regarding placement in such a unit and the periodic review of this measure (cf. CPT/Inf (2001) 4, paragraphs 67-68). The CPT's delegation received a copy of the March 2000 Regulations on amendment of House Rules, indicating the categories of inmates who could be placed in the unit for increased supervision and confirming that specialised and trained officers would be assigned to the unit. The delegation was also informed that the staff-inmate ratio would be much higher than for the ordinary prison population. Persons placed in the unit would participate in all of its regime activities and, upon the expiry of one month of placement in the Unit, the Treatment Service would discuss the effectiveness of the measure and act accordingly.

**The CPT would like to receive detailed information on the regime which will be implemented in the increased supervision unit, once the unit has entered into service.**

87. Despite the CPT's recommendation after the 1998 visit to radically improve the regime for remand prisoners at **Split County Prison** (cf. CPT/Inf (2001) 4, paragraphs 87-90), the situation had not changed significantly by the time of the 2003 visit (although prisoners could now borrow books from libraries, both within and outside the prison, and a modestly-equipped gym was also available). The CPT's concerns in this regard were shared by the Directorate for the Execution of Sentences, which stated that the current situation was due to the provision of the Code of Criminal Procedure stipulating that it is for the competent Court to approve any programme of activities for remand prisoners. In contrast, most of the 23 sentenced prisoners at the establishment had employment (cleaning duties, maintenance, kitchen, and barber).

The CPT recognises that the provision of organised activities in remand prisons, where there is likely to be a high turnover of inmates<sup>14</sup>, poses particular challenges. It will be very difficult to set up individualised programmes for such prisoners; however, it is not acceptable to leave prisoners to their own devices for months at a time. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association.

**The CPT calls upon the Croatian authorities to take all necessary steps to improve the regime activities for remand prisoners at Split County Prison (and in county prisons throughout Croatia), in accordance with the above remarks.**

## **5. D1 Section of Lepoglava State Prison**

88. The main function of Unit D1 is to accommodate prisoners who constitute a particular security risk as a result of their role during the recent armed conflict. Most of them were of Serbian origin<sup>15</sup>, and had been sentenced for crimes related to their participation in paramilitary forces fighting against Croatia. The vast majority of these prisoners had been sentenced to long periods of imprisonment (usually, from 10 to 20 years).

For obvious security reasons, the daily life of these prisoners was organised in such a way that they never met prisoners from other units. This said, this rule was not fully implemented, as Unit D2, accommodating prisoners of Croatian nationality sentenced for crimes in relation to the armed conflict, was located just above Unit D1 and communication was possible through grilles in the ceiling between the two units. The delegation observed for itself that Croat prisoners from Unit D2 very often insulted (or even spat on) prisoners from Unit D1, one floor beneath. Such a situation is clearly unacceptable. The CPT was therefore very pleased to learn that prisoners from Unit D1 were to be transferred to their former unit (Unit B4, which had been totally renovated) on 20 December 2003.

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<sup>14</sup> The yearly turnover at Split County Prison numbered approximately 1,500 inmates.

<sup>15</sup> They were mostly nationals of Serbia and Montenegro or from the Republika Srpska entity of Bosnia and Herzegovina.

89. At the time of the visit, 48 prisoners were held in Unit D1, respectively in eleven cells<sup>16</sup> and two TV rooms (which had to be transformed into dormitories as a result of the lack of sufficient space in the Unit<sup>17</sup>). Apart from the serious overcrowding, the material conditions in Unit D1 were globally satisfactory and do not require specific comments.

The delegation also visited Unit B4, still under renovation. The cells measured some 11.5m<sup>2</sup> (fully partitioned sanitary annex included) or some 6 m<sup>2</sup> (fully partitioned sanitary annex included). They were well equipped and renovated; however, the delegation was informed that such cells would accommodate respectively up to four prisoners (in two bunk beds) or up to two prisoners (in one bunk bed). Such an occupancy rate is, in principle, too high and not in line with the CPT (or even the national) standards (cf. paragraph 80 above). That said, the authorities assured the delegation that the prisoners in this particular unit would benefit from an open door regime (i.e. they would be allowed to leave their cells and move around the unit for more than 12 hours a day, every day). **Bearing this in mind, the accommodation of up to three prisoners (but certainly not four) in the 11.5 m<sup>2</sup> cells might be considered as acceptable. Similarly, the 6 m<sup>2</sup> cells might accommodate up to two prisoners, although single occupancy would certainly be preferable.**

90. The regime and the rules (in particular as regards discipline, contacts with the outside world, etc.) applicable in the unit were identical to those applied in other parts of the prison. It is noteworthy that some 24 prisoners (out of 48) had work. The prisoners also benefited from more frequent visits of family members than the other prisoners at Lepoglava, through tailored ICRC visit programme.

91. The delegation noted that the most important issue for the prisoners in question was their detention far away from their families/countries of origin. In this context, the delegation was informed that an initial agreement concerning the transfer of prisoners was almost concluded between the Governments of Croatia and Serbia and Montenegro (then Federal Republic of Yugoslavia) in April 2001<sup>18</sup>, but was postponed. **The CPT invites the Croatian authorities to resume the discussions on this issue.**

## 6. Health care

92. With respect to health care at **Lepoglava State Prison**, the CPT's delegation was impressed by the dedication of the medical staff and noted several improvements since the CPT's 1998 visit. Staffing levels had been significantly increased and, in particular, a full-time doctor was now employed. However, the situation was still not fully satisfactory, as the doctor could only see approximately half of the inmates who requested a medical consultation on a given date. Inmates not seen by the doctor on that day had to register for another consultation, a situation which inevitably caused long cumulative delays (in particular as regards non-working prisoners). At the end-of-visit talks, the CPT's delegation recommended that the authorities reinforce the presence of doctors at the establishment at the earliest opportunity.

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<sup>16</sup> Eight cells equipped with 4 beds, three cells with 3 beds, two TV rooms with, respectively, 6 and 7 beds.

<sup>17</sup> The official capacity of Unit D1 was 44 beds; however, the Prison Management considered that the maximum "tolerated" capacity could extend to 62 places.

<sup>18</sup> Both States are parties to the European Convention for the Transfer of Sentenced Prisoners of the Council of Europe.

The CPT notes with satisfaction the information provided by the authorities in their letter of 12 February 2004, according to which "a second doctor had in the meantime been employed at Lepoglava".

93. The system of visiting specialists is now functioning well. Access to them is also facilitated by a letterbox where prisoners can fill out a form requesting to see a visiting specialist. The psychiatric input at the establishment is broadly satisfactory as regards the arrangements for the assessment and treatment of mentally disordered prisoners; the psychiatrists are examining inmates twice per week and liaise as appropriate with the Prison Hospital in Zagreb. Some 71 drug addicts also attended different programmes aimed at overcoming their addiction, while 36 inmates were involved in post-traumatic-stress-disorder (PTSD) programme. The provision of medication was also satisfactory.

The CPT also welcomes the fact that, in accordance with a recommendation made after the 1998 visit, a nurse is now present in the establishment on a 24-hour basis. However, a second nurse should be present in the medical facility during the day, as the other nurse will be fully occupied distributing medication, organising transfers to outside hospitals and supervising the 17-bed infirmary. The CPT took note of the fact that "another medical technician would be employed at Lepoglava before the summer of 2004". **It would like to receive confirmation that this medical technician will have nursing qualifications and will ensure daytime cover in the medical facility.**

94. Health care at **Osijek County Prison** was provided by a doctor, who was present three times a week for 2-3 hours, and a medical orderly. The medical orderly was mainly involved in distribution of medication (it should be noted that approximately 40% of inmates were receiving some kind of medication, very often psychotropic). The orderly would open a medical file for a specific prisoner only if the doctor considered that the prisoner concerned was in a need of continued treatment. Further, the medical orderly indicated that the medical screening of newly-arrived prisoners was carried out only if they complained about their state of health. Many allegations were heard that prisoners experienced long delays in gaining access to a doctor, and that on occasion they resorted to a hunger strike in order to achieve such access.

**The CPT recommends that the authorities significantly increase the hours of attendance by a doctor at Osijek County Prison; there should be at least the equivalent of a half-time post. Further, a medical file should be compiled for each patient, containing diagnostic information as well as an ongoing record of the patient's medical history and of any special examinations he has undergone. In the event of a transfer, this file should be forwarded to the doctors in the receiving establishment.**

**As far as the initial screening of newly arrived prisoners is concerned, the recommendation made in paragraph 49 applies here with equal force.**

95. The CPT is pleased to note that health care staff levels at **Split County Prison** have increased, in accordance with its recommendations (cf. CPT/Inf (2001) 4, paragraph 98). The establishment now has one full-time doctor and three full-time nurses. However, nursing cover at the time of the visit was seriously compromised by the fact that two nurses were on extended sick leave and no health care staff were present during nights/week-ends (when any urgent cases were taken directly to the local emergencies).

**The CPT recommends that urgent measures be taken to compensate for the absence of the two nurses on extended sick leave. Further, it invites the authorities to ensure adequate nursing coverage during nights/week-ends (e.g. through the introduction of a nurse on call).**

96. The establishment also benefited from the presence of two psychologists (working in the Treatment Department) and two defectologists<sup>19</sup> (who were, however, conducting social work). Further, a psychiatrist visited the prison twice a week (for four hours each time) and a drug therapist from a county addiction centre visited the prison every week.

As was the case in 1998, prisoners still had difficulties with access to dental treatment, because of time-consuming escorts, the fact that each visit to a dentist had to be approved by the judge (as did any other outside visit) and, finally, the cost, which was billed to the inmate. **The CPT reiterates its recommendation that steps be taken to ensure that prisoners at Split County Prison have effective access to proper dental care.**

97. The CPT's delegation observed that medical confidentiality was respected as regards medical files at **Lepoglava State Prison**, which were locked and available only to health care staff. This was not the case at **Split County Prison**, where medical files were not appropriately and securely stored. In addition, in both establishments, prison officers were systematically present in the room during medical examinations.

In the CPT's view, medical confidentiality should be respected in a prison setting in the same manner as in the community at large; all medical examinations should take place out of the hearing and - unless the doctor concerned expressly requests otherwise in a given case - out of the sight of prison officers. At the end of its visit on 9 December 2003, the CPT's delegation recommended that the Croatian authorities take appropriate measures to ensure that medical confidentiality is respected throughout the prison system.

In their letter of 12 February 2004, the Croatian authorities informed the CPT that "the Director of Lepoglava State Prison had been warned that a prison officer may be present at a medical examination of a prisoner only at the express request of a doctor; the doctor is obliged to record this fact in the prisoner's medical file". In respect of the inappropriate storage of medical files at Split County Prison, the authorities have undertaken to "provide the appropriate filing cabinets, as a matter of urgency".

The CPT welcomes the above-mentioned steps taken by the Croatian authorities. **It recommends that similar steps be taken to ensure respect for medical confidentiality throughout the prison system.**

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<sup>19</sup> Defectology is an approach to the study and treatment of persons with disabilities. It draws on knowledge from medicine, pedagogy and psychology.

98. The delegation received a number of complaints to the effect that medical examinations were of a superficial nature, and it observed itself that medical notes and files were very succinct in all three establishments visited. Medical screening of newly-arrived prisoners, although generally carried out within twenty-four hours, or within seventy-two hours at weekends, was also of a superficial nature. The recording of injuries, observed either on arrival or during the prisoner's stay in prison, was equally inadequate. In one case, the doctor noted in the medical file that a particular inmate "came with injuries", but no more details or description of injuries were provided.

99. At the end-of-visit talks, the CPT's delegation reiterated its previous recommendation on this subject, namely that records drawn up by doctors examining newly-arrived prisoners - as well as those involved in a violent episode in the prison (including inter-prisoner violence) - contain:

- (i) a full account of statements made by the prisoner concerned relevant to the medical examination, including any allegations of ill-treatment made by him/her;
- (ii) a full account of objective medical findings based on a thorough examination;
- (iii) the doctor's conclusions in the light of the above, a copy of which should be given to the prisoner and/or his/her lawyer, on request.

The response of the authorities was positive. In their letter of 12 February 2004, they confirmed that "it was ordered that the doctor [at Lepoglava State Prison] should note down the detailed statements made by the prisoner in his medical file, including all complaints related to ill-treatment, then make a full medical examination and write a report based on that examination, as well as providing a prisoner or his lawyer with the prisoner's medical file, at their request".

The CPT welcomes the above measures and **trusts that they will be adhered to throughout the prison system.**

100. The CPT was also informed that according to Article 145 (12) of the Law of the Execution of Prison Sentences of 1999 "refusal to be tested for illicit or psychoactive substances and transmissible diseases" represents a serious disciplinary offence, as well as "resistance to being medically examined and to measures for the prevention of the transmission of transmissible diseases" (Article 145 (19). Article 138 (in conjunction with Article 135) provides in these cases for the "handcuffing and feet-cuffing [of the prisoner concerned] for the above offences, which can last up to 12 hours within a period of 24 hours".

The CPT notes that refusal to be tested for illicit/psychoactive drugs may indeed be the subject of a disciplinary sanction; however, to handcuff/feet-cuff a prisoner in such a case is a totally unacceptable measure. Moreover, as regards refusal to be subjected to a test for transmissible diseases, appropriate measures of medical nature should be taken.

**The CPT recommends that the Croatian authorities revise the above-mentioned provisions of the Law on the Execution of Prison Sentences, in light of these comments.**

101. The new Regulations on treatment of remand prisoners also provide the possibility for inmates to be examined by the doctor of their choice. This is in principle a welcome development. **The CPT would like to be informed of the arrangements allowing access to a doctor of the inmate's own choice, and whether sentenced prisoners also enjoy this right.**

102. Split County Prison accommodated a significant number of inmates who were drug addicts. The presence in prison of such inmates gives rise to a number of particular challenges for the prison authorities. These include health and security matters, as well as the choice of forms of assistance which are offered to the prisoners concerned.

Article 49 of the Regulations on house rules in remand prisons stipulates that methadone treatment started before imprisonment should be continued for up to two months. Further, a seven-days training for prison officers has been organised by doctors treating drug addiction to instruct prison officers how to recognise the symptoms of addiction.

The CPT takes note of the efforts made by the authorities to address this problem through a multifaceted strategy which involves reducing the supply and demand of drugs in prison, improving the quality of the treatment, assistance and information provided to prisoners with drug problems (partly with a view to reducing the risks associated with the taking of drugs), and providing suitable training to staff. **This multifaceted strategy should be vigorously pursued.**

## 7. Discipline

103. Various sanctions are provided for by the disciplinary rules (a warning, a ban on receiving parcels for up to three months, a ban on spending money at the prison canteen for a maximum of three months, deprivation of privileges and solitary confinement for up to 21 days). In general, disciplinary procedures met the CPT's standards; in particular, prisoners were provided with an effective right of appeal to a higher authority (the judge for the supervision of the execution of sentences) against disciplinary sanctions imposed on them. Further, in cases involving allegations of serious breaches of discipline for which the sanction of solitary confinement could be imposed, inmates could engage lawyers to assist them during the hearing (Article 16, paragraph 2 of LES).

104. As was the case in 1998, the CPT's delegation found no evidence of excessive resort to the disciplinary sanction of solitary confinement. By way of example, during 2002, 105 measures of this kind were pronounced at Lepoglava, out of which only nine were for the maximum period of 21 days.

However, the delegation noted that it was possible for the same inmate to be subjected to successive sanctions of up to 21 days of solitary confinement without there being any interruption in the solitary confinement regime; this is clearly unacceptable. The existing maximum period for solitary confinement on disciplinary grounds is already very high; under no circumstances should such a sanction be prolonged without there being an interruption.

**The CPT recommends that appropriate amendments be made to the disciplinary regulations on this point.**

105. As was indicated in the report on the 1998 visit, the material conditions and regime applied to prisoners at Lepoglava who are subject to the sanction of solitary confinement are basically adequate. However, the delegation which carried out the 2003 visit noted that during the day the bed was locked to the wall and that prisoners had no other means of rest.

**The CPT recommends that cells used for the sanction of solitary confinement be equipped with suitable seating (e.g. a chair or bench) during the day; it would also be preferable for them to be equipped with a table.**

## **8. Staff issues**

106. The real professionalism of prison staff requires that they should be able to deal with prisoners in a decent and humane manner while paying attention to matters of security and good order. In this regard prison management should encourage staff to have a reasonable sense of trust and expectation that prisoners are willing to behave themselves properly. The development of constructive and positive relations between prison staff and prisoners will not only reduce the risk of ill-treatment but also enhance control and security. In turn, it will render the work of prison staff far more rewarding.

Ensuring positive staff-inmate relations will depend greatly on having an adequate number of staff present at any given time in detention areas and in facilities used by prisoners for activities. An overall low staff complement and/or specific staff attendance systems which diminish the possibilities of direct contact with prisoners will certainly impede the development of positive relations; more generally, they will generate an insecure environment for both staff and prisoners.

It should also be noted that, where staff complements are inadequate, significant amounts of overtime can prove necessary in order to maintain a basic level of security and regime delivery in the establishment. This can easily result in high levels of stress in staff and burnout, a state of affairs which is likely to exacerbate the tension inherent in any prison environment.

107. Unfortunately, the information gathered during the 2003 visit indicated that there is still room for improvement in this area. Although the staffing levels had increased considerably since 1998, they were still insufficient. By way of example, only 214 out of 243 of custodial staff posts were filled at Lepoglava State Prison. Consequently, at night, the custody of approximately 100 inmates was the responsibility of one prison officer. **The CPT recommends that the Croatian authorities take all necessary steps to bring staffing levels fully into conformity with those foreseen by the prison regulations.**

108. At both Lepoglava State Prison and Split County Prison, the CPT's delegation observed clear signs of staff burnout. In the same context, it is clear that continued exposure to highly stressful or violent situations can generate psychological reactions and disproportionate behaviour. The Governor of Lepoglava indicated that one of his priorities would be to develop measures aimed at reducing stress among his staff. **The CPT recommends that measures be taken to ensure that prison staff throughout Croatia benefit from adequate psychological support.**

## 9. Contact with the outside world

109. Sentenced inmates were allowed visits twice per month (four visits if they had children under the age of 15), lasting one hour each, and on public holidays. In addition, there were possibilities for prison leave. Inmates were also allowed to make one or two phone calls a week, up to a maximum of ten minutes per week, and to send and receive letters without any limitation.

110. A number of inmates from the Dalmatia region accommodated at Lepoglava State Prison experienced significant difficulties in receiving visits from their relatives and friends, due to the establishment's geographical isolation and its distance from their region. Reference has already been made to plans to build another high-security prison in Dalmatia (cf. paragraphs 81 - 82 above). In the meantime, the CPT wishes to stress the need for a certain flexibility when applying the rules on visits, telephone contacts and correspondence to prisoners whose families live very far from the establishment, thus making regular visits very difficult if not impossible. For example, such prisoners could be authorised to combine several visit entitlements into one longer session and/or could be given more opportunities to have telephone contacts with their families. **The CPT invites the authorities to review existing arrangements at Lepoglava State Prison, in the light of these remarks.**

111. Remand prisoners in Croatia are entitled to six visits a month, each lasting between 15-60 minutes. In each case, visits have to be authorised by the competent judge. Although no particular complaints were heard in this respect by the inmates interviewed, **the CPT wishes to recall its view that granting of visits should be the norm, their refusal the exception.**

112. Under the Code of Criminal Procedure (Article 121), a "remand prisoner has the right to have free and unrestricted contact with his defence lawyer". However, the CPT noted that Article 45 of the 1999 Regulations on treatment of remand prisoners stipulates that such access could only be granted *after the prisoner's questioning by the investigating judge*\*. In the CPT's view, guaranteeing unrestricted access to a lawyer is just as important when the person concerned is remanded to prison as at the stage of police custody. **The CPT recommends the Croatian authorities to review without delay the above regulation, taking into account the above remarks.**

## 10. Complaints and inspection procedures

113. The new Law on the Execution of Sentences contains detailed provisions on the subject of complaints by sentenced prisoners. They have the right to submit their complaints to the Prison Governor; if dissatisfied with the director's decision, they may address the Ministry of Justice and the execution judge.

Establishments for sentenced prisoners are still inspected by the Directorate for the execution of sentences at the Ministry of Justice.

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\* Emphasis added.

114. The same law introduced the institution of the execution judge, with the mandate to protect the rights of imprisoned persons and to supervise *inter alia* the legality of the execution of prison sentences.

115. A judge of the competent court is required to visit remand prisons at least once per week and to enter into contact with remand prisoners on a confidential basis, with the purpose of verifying that their basic needs are being met and that they are treated correctly. However, following the 1998 visit, the CPT expressed doubts about the effectiveness in practice of these visits, as the judges were always accompanied by a number of persons, including prison personnel. The Committee therefore recommended that the manner in which those visits were carried out be reviewed, and that judges should not limit their activities to those prisoners who expressly requested to meet them, but should take the initiative by entering into direct contact with inmates in the absence of prison personnel.

In their follow-up report, the authorities stated that "the Ministry of Justice has sent an excerpt from the CPT's report and opinion on the contents and the method of the implementation of surveillance activities by judicial authorities to the county courts authorized to control the treatment of prisoners" (page 65, CPT/Inf (2001) 5). However, the information gathered during the CPT's 2003 visit clearly indicates that the judicial authorities have not changed the manner in which they carry out prison visits.

**The CPT therefore reiterates the recommendation mentioned above.**

116. Article 6 (5) of the LES stipulates that the Ministry of Justice has to inform the Government once per year about the state of penitentiaries and prisons. **The CPT would like to receive copies of these reports for 2002 and 2003.**

C. **Establishments under the authority of the Ministries of Health and Labour and Social Welfare**

1. **Preliminary remarks**

117. The CPT's delegation visited for the first time Vrapče Psychiatric Hospital in Zagreb, as well as the Social Care Home for the Mentally Ill Patients at Nuštar. The first establishment falls under the responsibility of the Ministry of Health, and the second, that of the Ministry of Labour and Social Welfare.

Involuntary hospitalisation of mentally ill patients in psychiatric establishments in Croatia is regulated by the Law on the Protection of Persons with mental disorders of 1997<sup>20</sup>, whereas the situation of patients accommodated in social care establishments is regulated by the Law on Social Care of 1997<sup>21</sup>.

118. Built in 1879, **Vrapče Psychiatric Hospital** is a large, partly renovated, purpose-built institution, situated in the outskirts of Zagreb. Known as "the yellow house" by the local residents, it had originally been intended for the care of 300 patients. The hospital expanded to accommodate up to 1,500 patients, after World War II; however, its official capacity was subsequently regularly reduced to some 1,000 beds in the 1980's and 806 beds during the CPT's visit in 2003.

The hospital is dispersed over a rather large area and comprises several buildings (wards for patients' accommodation, occupational workshops, kitchen, laundry, administrative building, etc.). The facilities were generally well maintained, with two notable exceptions, the Forensic Psychiatric Unit (FPU) and the Male Chronic Unit (MCU), where the conditions were described by the Director himself as being inadequate (cf. paragraphs 122 and 123). This state of affairs is particularly serious, as the hospital is the referral centre for forensic psychiatry in Croatia.

The visit focused on the FPU, the MCU, and the Admission/Observation and Intensive Care Units (which had opened some 10 days before the visit).

119. **Nuštar Social Care Home for the Mentally Ill** is situated on the edge of the village of Nuštar, near Vinkovci, in Eastern Slavonia. The establishment, which opened in September 2001, is located on 10,000 m<sup>2</sup> of habitable area and surrounded by 53,000 m<sup>2</sup> of grounds. It replaced an older social care home situated in a nearby castle, which was damaged during the armed conflict.

Originally intended to accommodate up to 300 residents in six different wards, it had 170 residents at the time of the visit. It was also accommodating - and will continue to do so until mid-2004, when they will be re-housed elsewhere - some 100 residents from the Vukovar Institution for the Elderly and Invalid. As a result of this situation, the official capacity of the social care home had temporarily been reduced to 200 beds.

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<sup>20</sup> This Law entered into force on 1 January 1998 and has been amended twice, in 1999 and 2001.

<sup>21</sup> Act of 27 June 1997 on Social Care, published in "Narodne Novine", 14 July 1997, N° 73, pp. 2398-2418 (as amended on 14 March 2001, 28 June 2001, 21 September 2001 and 12 June 2003).

120. At the outset, it should be highlighted that the delegation heard hardly any recent allegations of ill-treatment of patients by staff at Vrapče Psychiatric Hospital, and none at Nuštar Social Care Home. The very few allegations which were received related mainly to cases of seemingly unnecessarily prolonged use of means of physical restraint (cf. paragraph 142). The delegation noted that relations between patients and staff in the two establishments were quite relaxed.

## 2. Patients' living conditions

### a. Vrapče Psychiatric Hospital

121. The material conditions at Vrapče Psychiatric Hospital varied considerably. They were generally good in the renovated units of the hospital, and even very good - despite some design faults (cf. paragraph 142) - in the recently renovated *Admission/Observation* and *Intensive Care Units*. In the latter Units (74 beds in total), the conditions were clearly up to modern hospital standards. Patients were accommodated in small dormitories, which were very clean, light and airy; moreover, they had bedside units and locked cupboards at their disposal.

The conditions in the decrepit and unrenovated *FPU* (70 beds) and *MCU* (80 beds) were clearly not acceptable. Significant structural problems in the building housing these two Units were observed by the delegation (major cracks penetrating the walls; some parts of the building near to collapse). Inside, the wards were dilapidated. The dormitories were impersonal, overcrowded (beds were nearly touching each other) and lacking personal space and privacy; however, they were sufficiently heated, ventilated and lit, and cleanliness and hygiene within the wards, including in the sanitary facilities, were broadly satisfactory. Conditions in the "open" section of the *FPU*, housed in a separate building just behind the main *FPU*, were slightly better.

It was also noteworthy that the *FPU* - as well as the *Admission/Observation* and *Intensive Care Units* - had no secure perimeter/outdoor secure exercise area, a state of affairs which severely limited the possibilities for patients from these units to gain access to fresh air; there were not enough staff to escort patients for a daily walk. It also severely limited the possibility for adequate in-patient pre-trial psychiatric assessment (such patients had to be escorted back to the Prison Hospital every night).

122. The Director informed the delegation that plans for a new *Forensic Psychiatric Unit* had already been completed and he expected that its construction would start by spring 2004. The delegation was pleased to note that the deficiencies in the material conditions and accommodation for the *Forensic Psychiatric Unit* patients should be satisfactorily addressed when the planned new *Forensic Psychiatric Unit* at Vrapče is constructed and patients transferred there. However, certain shortcomings in the design within the newly opened *Admission/Observation* and *Intensive Care Units* - for example, in the *Observation Unit*, the lack of proper office space for the staff in the Unit, as well as the severe deficiencies concerning the planned isolation room (cf. paragraph 141) - should not be repeated in the new *FPU* building. Hopefully, this has been addressed by senior clinical staff involved in the commissioning of the new building seeking appropriate guidance, including via visits to similar institutions abroad.

123. The delegation was very concerned about the lack of a feasible solution for the poor conditions under which the *Male Chronic Unit* patients were accommodated; the Director himself described this Unit as the "ugliest part of the hospital". He informed the delegation that the first available solution would be to renovate the old FPU and transfer the male chronic patients there. The old Male Chronic Unit could itself be renovated and converted into an occupational therapy workshop.

124. **The CPT recommends that:**

- **the construction of the new Forensic Psychiatric Unit at Vrapče Psychiatric Hospital and the subsequent transfer of the forensic patients be treated as a matter of the highest priority;**
- **plans be drawn up as a matter of urgency to address the problem of the poor accommodation of the Male Chronic Unit. In the meantime, vigorous efforts should be made to reduce the occupancy levels in the dormitories to an acceptable standard (at least 4 m<sup>2</sup> living space to be provided to each patient);**
- **all patients accommodated in "closed" sections of the hospital be immediately offered, health permitting, one hour a day of outdoor exercise in a reasonably spacious setting which should also offer shelter from inclement weather.**

**Measures should also be taken to remedy the shortcomings observed by the delegation in the newly opened Admission/Observation and Intensive Care Units, which should not be repeated elsewhere in the establishment.**

125. With the exception of the *Male Chronic Ward (and the Female Chronic Ward)*, the delegation noted that all other wards visited were of mixed gender, the patients being accommodated in separate dormitories at night. The clear benefits of such an arrangement should not be to the detriment of privacy. Particular precautions are required to ensure that patients are not subjected to inappropriate interaction with other patients which threaten their privacy; in particular, female patients should have their own protected bedrooms and sanitary areas.

**The CPT recommends that the Croatian authorities take measures to ensure that patients accommodated in mixed gender wards are not subjected to inappropriate interaction with patients of the opposite sex, taking into account the above comments.**

b. Nuštar Social Care Home

126. At Nuštar Social Care Home, a new institution which opened in September 2001, the conditions were clearly up to modern social care home standards. The institution was light, airy, modern, very clean and pleasantly furnished and decorated. Up to four residents were accommodated in well-equipped rooms; residents had bedside units and locked cupboards at their disposal and wore their own clothes. Communal areas were located between the wards, enabling patients to meet, participate in games together and watch TV. In addition, residents had access to an occupational therapy workshop and the spacious garden surrounding the institution.

### 3. Treatment and care

#### a. introduction

127. Psychiatric treatment should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient indicating the goals of treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication.

The treatment should involve a wide range of therapeutic, rehabilitative and recreational activities, such as access to appropriate medication and medical care, occupational therapy, group therapy, individual psychotherapy, art, drama, music and sports. Patients should have regular access to suitably-equipped recreation rooms and have the possibility to take outdoor exercise on a daily basis; it is also desirable for them to be offered education and suitable work.

#### b. Vrapče Psychiatric Hospital

128. On the first day of the visit, the *Forensic Psychiatric Unit* was accommodating 66 patients (56 men and 10 women). All of them had been sentenced by courts (for the overwhelming majority, for murder or attempted murder) and were deemed legally criminally irresponsible. The majority of the patients suffered from schizophrenia, with smaller numbers of patients diagnosed with affective disorders, epilepsy or organic brain syndromes. The average length of stay in the FPU was 4 years.

129. The delegation was globally satisfied with the treatment and care provided to patients at the FPU. The main treatment offered was pharmacotherapy. In addition, some 80% of the patients attended some form of occupational therapy and two therapeutic community style meetings were organised per week. However, there was still scope for improvement in certain domains, such as psychological and social support. In this context, the delegation noted that the input from the visiting psychologist and the social worker - who were shared with the Male Chronic Ward - was insufficient.

130. At the *Male Chronic Unit*, the situation regarding treatment and care was less satisfactory. There were three main reasons for this: the inadequate material conditions, characterised by overcrowding and collapsing buildings; the heterogeneous character of the patient population, which combined patients suffering from chronic schizophrenia and patients with learning disabilities; and the severe lack of staff (cf. paragraph 137).

The delegation was further informed that many patients were admitted to the Unit years ago, and would probably stay in the Unit for a very long time, as discharge from the ward to the community was quite rare (due to the unwillingness of the families to take back their relatives and/or to the lack of beds in social care homes). It was noteworthy that, in the opinion of the clinical staff, some 50% of the patients did not need ongoing psychiatric in-patient treatment; despite this, they had no real prospect of leaving the institution.

As was the case at the FPU, the main treatment was based on pharmacotherapy. In addition, some 20 of the 83 patients attended occupational therapy and approximately 50 were allowed to go into the hospital grounds, unescorted. Clinical staff tried to offer some weekly group therapy to the patients, but this proved to be difficult, because of the heterogeneous nature of the population (which led to inter-patient quarrelling) and a lack of space in the Unit.

131. Treatment and care in the *Admission/Observation and Intensive Care Units* were clearly up to contemporary standards and do not require any particular comments from the CPT.

132. More generally, as regards all Units visited, the delegation did not identify any problems as regards the supply of medication (in particular, psychotropic medication was available in sufficient quantity and variety) and the somatic care provided to patients. Although medical confidentiality was preserved in the institution, the standards of clinical record-keeping could be improved.

133. To sum up, the delegation gained an overall positive impression of the regime and care of patients at Vrapče Psychiatric Hospital. Nevertheless, **the CPT recommends that measures be taken at Vrapče to:**

- **improve the quality of the clinical record keeping. In this respect, each patient should benefit from an individual written treatment plan and patients should be more actively involved in the decision-making process concerning their treatment;**
- **increase the range of therapeutic, rehabilitative and recreational activities offered to patients;**
- **significantly increase the input from psychologists and social workers in clinical teams;**
- **ensure a better stratification of patients in the Male Chronic Unit, so that patients suffering from chronic psychotic illnesses are better separated from those suffering from learning disabilities and that both categories benefit from tailored individualised treatment;**
- **increase the possibilities of discharging patients from the Male Chronic Unit to the community (families, sheltered homes or social care homes).**

**It is axiomatic that implementation of many of the measures recommended above will require an increase in the number of qualified clinical staff at the hospital (cf. paragraphs 136 and 137).**

c. Nuštar Social Care Home

134. The function of this establishment is to take care of the social and health care needs of long-term mentally ill adult persons and adult persons with learning disabilities ("mental retardation"). The treatment and care of residents at Nuštar does not require extensive comment, as it was globally satisfactory. However, although a range of occupational therapy and psychosocial rehabilitation activities (gardening, cleaning, and some agricultural work) were provided, **there was scope for improvement in this regard**. As was the case in Vrapče Psychiatric Hospital, the above deficiencies were intimately linked to a lack of qualified staff (cf. paragraph 136).

135. The delegation also noted that every patient had an administrative and medical file. Although their administrative files were well kept, the individual record-keeping of medical data left something to be desired (data which was too succinct or inadequate). **The CPT recommends that the quality of the individual medical files be improved at Nuštar, in light of the above comments.**

#### 4. Staffing

a. Vrapče Psychiatric Hospital

136. At the *Forensic Psychiatric Unit*, the input from psychiatrists was found to be sufficient (three of them were working in the Unit, for 66 patients). In contrast, the number of nursing staff available was quite limited (21 certified nurses - male and female - and one higher qualified nurse)<sup>22</sup>. Moreover, the input from the psychologist and social worker, who were both shared with other Units, was clearly insufficient (cf. paragraph 129).

The situation found by the delegation in the *Male Chronic Unit* (83 beds) was unacceptable. Only one psychiatrist was providing treatment and care (both psychiatric and somatic) and he was also responsible for the *Female Chronic Unit*, accommodating 57 patients. The psychiatrist concerned informed the delegation that two psychiatrist's posts had been vacant for three years in the Male and Female Chronic Units. The situation in the Male Chronic Unit was also extremely difficult as regards qualified nurses. One head nurse, 2 certified nurses, 6 non-certified nurses and 7 auxiliary nurses were providing care to 83 patients (many of them with learning disabilities). Here again, the input from the (part-time) psychologist and social worker was insufficient.

At the *Admission/Observation* and *Intensive Care Units*, the staff complement was globally satisfactory. For example, four psychiatrists were providing treatment and care in the Observation and Acute Units, and each Unit benefited from the services of 4 or 5 nurses on the morning shift, 3 on the afternoon shift and 3 on the night shift.

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<sup>22</sup> Three nurses were present (2 male and 1 female) on each shift, although 5 were on duty on the morning shift. The total absence of security guards at the FPU and the difficulty in guaranteeing security for patients and staff in such a decrepit and unrenovated building should be taken into account when assessing staff resources.

137. To sum up, although the general staff complement was satisfactory at the hospital level (Vrapče is a teaching centre, i.e. junior doctors and other medical staff were at hand), some Units and, in particular, the Forensic Psychiatric Unit and the Male (and Female) Chronic Units, urgently needed an increased complement of qualified staff. **The CPT recommends that measures be taken to ensure that:**

- **the two vacant psychiatrist positions in the Male (and Female) Chronic Units are immediately filled;**
- **the number of qualified nurses in the Male Chronic Unit (and in the FPU) is increased;**
- **clinical teams in all the Units visited receive an increased multidisciplinary input (in particular, in psychological, social work and occupational therapy services).**

b. Nuštar Social Care Home

138. Two psychiatrists were regularly visiting the institution and arrangements were made locally when in-patient psychiatric care was necessary. As regards somatic care, one general practitioner visited the institution once (or twice) a week and was on call in case of emergencies. The staff on site consisted of one head nurse, seconded by a team of nurses<sup>23</sup>, some orderlies and two social workers (one of them an occupational therapist).

The psychologist's position was vacant and the post of defectologist was filled by the Director (himself a defectologist, but overwhelmed by managerial duties). The post of legal advisor was also vacant.

139. It is clear from the above that, although the treatment and care of residents at Nuštar was globally satisfactory, the social care home suffered from qualified clinical staff shortages. **The CPT therefore recommends that measures be taken to ensure:**

- **that all vacant positions are filled (psychologist, defectologist, legal advisor);**
- **that more nursing staff are present on the wards during the day shift (in particular those accommodating the "mobile" patients);**
- **that the social worker and occupational therapist complement is also increased, to establish a fuller multidisciplinary clinical input to resident care in the Social Care Home.**

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<sup>23</sup> On a normal day shift, a ward with "mobile" residents benefit from the services of one qualified nurse and one auxiliary nurse. In the ward with "immobile" residents there were two nurses and five orderlies. For the night shift, only one nurse and two orderlies are present in the whole institution.

## 5. Means of restraint/isolation

140. In any psychiatric establishment, the *restraint* of agitated and/or violent patients may on occasion be necessary. This is an area of particular concern to the CPT, given the potential for abuse and ill-treatment.

### a. Vrapče Psychiatric Hospital

141. The delegation noted that isolation was not in use at Vrapče at the time of the visit. However, an isolation room was under construction in the Admission/Observation Unit (cf. paragraph 122). The room designated for this purpose measured a mere 2,2m x 2,7m and, after being equipped with a bed (with straps), would have hardly any space for the staff/patient to move. Moreover, the room was not situated close to the staff on duty and did not offer any possibility to monitor the patient. There was no access to natural light and the walls were covered with ceramic tiles. **By its very design, this room is totally unsuited for the isolation of a psychiatric patient; the CPT recommends that it never be used for this purpose.**

142. The information gathered during the visit indicated that more resort than absolutely necessary was made to means of physical restraint at Vrapče. Several patients strapped in their beds were seen, in particular in the Admission/Observation Unit. Such restraint was applied in the dormitories. For example, one of these patients had been restrained - with a straightjacket and straps - for three consecutive days and nights (after having assaulted two nurses); such a state of affairs cannot have any therapeutic justification and amounts, in the CPT's view, to ill-treatment. The delegation was also concerned to learn that the use of the means of restraint was not recorded in a specific register and that the information recorded in the nurses' log/medical files was sparse.

143. The Law on the Protection of Persons with Mental Disorders already provides for a certain number of safeguards concerning the use of means of restraint. However, Vrapče Psychiatric Hospital should develop a detailed written policy covering the use of means of restraint. Such a policy should address the following points.

Initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (e.g. verbal instruction) and, where physical restraint is necessary, it should in principle be limited to manual control. Staff in psychiatric establishments should receive training in both non-physical and manual control techniques vis-à-vis agitated or violent patients. The possession of such skills will enable staff to choose the most appropriate response when confronted with difficult situations, thereby significantly reducing the risk of injuries to patients and staff.

Further, resort to instruments of physical restraint must always be either expressly ordered by a doctor or immediately brought to the attention of a doctor with a view to seeking his or her approval. If, exceptionally, recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity. Moreover, patients who are physically restrained or placed in seclusion must be supervised on a continuous basis. Doctors should always fix time limits within which they will review the use of such restraint (e.g. two hours); further authorisation by a doctor should be sought for their continued use.

The delegation was pleased to note that draft operational guidelines were already in preparation at the management level and **recommends that these guidelines be finalised and implemented as soon as possible, taking into account the above remarks.**

144. Further, it is axiomatic that every instance of the physical restraint of a patient (manual control, use of instruments of physical restraint) should be recorded in a specific register established for this purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. This will greatly facilitate both the management of such incidents and the oversight of their prevalence.

**The CPT recommends that steps be taken to ensure that every instance of the physical restraint of a patient is recorded in a specific register established for this purpose (as well as in the patient's file), taking into account the above remarks.**

b. Nuštar Social Care Home

145. The delegation was pleased to note that, since the opening of the home in September 2001, no resort had been made to isolation or means of physical restraint. However, the need for the dissemination and the implementation of a detailed written policy on these issues should be duly addressed at the establishment, as well as in all social welfare establishments throughout the country. This policy should be in accordance with the criteria set out above by the CPT (cf. paragraphs 142-144).

## 6. Safeguards

146. On account of their vulnerability, the mentally ill and mentally disabled warrant much attention in order to prevent any form of conduct - or avoid any omission - contrary to their well-being. It follows that involuntary placement in a psychiatric establishment/special institution should always be surrounded by appropriate safeguards.

a. Vrapče Psychiatric Hospital

147. The notion of *civil "involuntary hospitalisation"* is defined in Article 22 of the Law: "a person with more severe mental disturbance who, owing to his/her mental disorders, poses a serious and imminent threat to his/her own life or health or security, or to the life or health or security of other persons, can be admitted to a psychiatric institution without his or her consent".

Such persons shall be admitted "on the basis of a referral slip issued by a doctor of medicine who is not an employee of the psychiatric institution and who has personally examined the person and written the required certificate about his examination" (Article 23 (1)). The certificate "must indicate and explain the reason on account of which the doctor of medicine deems involuntary admission indispensable...the form and the suitable content [of the certificate] are prescribed by the Minister of Health" (Article 23 (2)).

148. The Law also provides for a civil involuntary hospitalisation procedure in "especially urgent cases". Under such circumstances, the authorised law enforcement officers may "bring the person with mental disorders, who is reasonably suspected of being able to directly threaten his or her own life or health, or the life and health of others, to the authorised psychiatric institution according to the person's permanent or temporary residence or the place of his or her actual whereabouts, without prior medical examination..." (Article 24).

149. Persons suffering from mental disorders, admitted to the psychiatric institution pursuant to Articles 23 or 24 of the Law, are "immediately examined by a psychiatrist", so as to establish the existence of reasons for compulsory detention as prescribed by Article 22. If such reasons are lacking, the person concerned "shall be immediately discharged" (Article 25); if their existence is established, the psychiatrist makes a decision<sup>24</sup> about compulsory detention (Article 26)<sup>25</sup>.

Compulsory detention is notified, without delay, or within 12 hours at the latest, starting from the moment of making the decision on compulsory detention...to the local county court (Article 27).

150. "The judge [of the local county court]...is obliged to pay a visit to the compulsory detained person in the psychiatric institution, without delay or no later than 72 hours from the moment of receiving the notice of compulsory detention, and to interview him/her if his/her health condition allows" (Article 30 (2)).

An order for the continuation of the compulsory detention may be issued, which cannot exceed 8 days (as from the moment of compulsory detention) (Article 30 (3)). Further compulsory detention periods are decided upon by the court, first for a maximum of 30 days (Article 33 (3)), then for a maximum of three months (Article 34 (2)), and then for further periods of up to six months (Article 34 (3)).

Appeal procedures are defined by law, at various stages of the procedure, as well as access to legal advice. Discharge is possible at the expiration of a detention order, or prior to it, on the court's decision, ex officio or on the motion of the involuntarily admitted patient, his/her legal representative, close relative, attorney... (Article 41 (1)). Transfer is also possible, in certain cases, to a social care home (Article 42).

151. To sum up, the legal provisions surrounding the civil involuntary admission to psychiatric institutions in Croatia appear on the whole to be satisfactory. This being said, the facts found during the visit do give rise to certain concerns.

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<sup>24</sup> The "reception procedure", during which the person concerned is under observation, shall not exceed 72 hours from the moment of the person's arrival at (or his/her being taken to) the psychiatric institution (Article 3 (13), as amended in 1999).

<sup>25</sup> This also refers to the case of a "voluntary patient", when he/she withdraws his/her consent for admission, but subsequently develops conditions which correspond to the requirements defined in Article 22 (Article 28 (1)).

152. At the time of the visit, the percentage of patients admitted on an involuntary basis at Vrapče had dropped below 5%<sup>26</sup>, a figure which, compared to international experience, appears quite low. It was obvious to the delegation that the vast majority of the patients accommodated in the Admission/Observation Unit had been admitted without their explicit consent or had not been able to give free and informed consent. Since the 1999 amendments to the Law, the latter category of patients was no longer covered by the regulation concerning the compulsory hospitalisation procedure. As regards other patients, according to medical staff met, they did not notify the county court in most of these cases, as the patient's situation usually resolved and the person finally agreed to hospitalisation within a few days<sup>27</sup>.

Further, even in cases when the judge came to the institution, he did not necessarily interview the patient and a lawyer was usually not present at this early - but critical - stage of the procedure.

In the above circumstances, it is clear to the CPT that the safeguards concerning civil involuntary hospitalisation in Croatia have been - *de jure* and *de facto* - construed too narrowly. Together with the inactivity of the State Commission for the Protection of Persons with Mental Disorders (cf. paragraph 155), such a state of affairs leaves a substantial gap in the system of safeguards for mental patients and is open to abuse.

**The CPT recommends that all safeguards and procedures set out in the Law on the Protection of Persons with mental disorders be implemented in full at Vrapče Psychiatric Hospital.**

**Further, the CPT would like to receive the comments of the Croatian authorities on the issue of safeguarding the fundamental rights of patients who were not able to give their free and informed consent on admission, and were subsequently *de facto* detained in "locked" wards without benefiting from a compulsory admission procedure.**

153. 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 should not be construed as authorising treatment without his consent. It follows that every competent patient, whether voluntary or involuntary, 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.

Of course, consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed. Consequently, all patients should systematically be provided with relevant information about their condition and the treatment which it is proposed to prescribe for them. Relevant information (results, etc.) should also be provided following treatment.

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<sup>26</sup> See "Involuntary Hospitalizations of Patients with Mental Disorders in Vrapče Psychiatric Hospital: Five Years of Implementation of the First Law on Protection of Persons with Mental Disorders" by Oliver Kozumplik, Vlado Jukić and Miroslav Goreta, University Department of General and Forensic Psychiatry and Clinical Psychophysiology, Vrapče Psychiatric Hospital, Zagreb, Croatia. This study highlights in particular the consequences, in terms of the rate of involuntary admissions, of the amendments passed to the law in December 1999.

<sup>27</sup> The medical staff clearly indicated to the delegation that a patient had to "explicitly resist hospitalisation" to benefit from the compulsory hospitalisation procedure.

The CPT noted that, in its present state, the Law on the protection of persons with mental disorders does not provide for a distinction between involuntary admission to a psychiatric institution and treatment without consent. This state of affairs was confirmed by medical staff during the visit.

**The CPT recommends that measures be taken to ensure that a distinction is made, in law, between the involuntary admission procedure and treatment without consent.**

154. Procedures concerning *forensic psychiatric patients* are provided for in Articles 44 to 53 ("Procedures involving persons with mental disorders who are criminal or misdemeanour defendants or convicts") of the Law. Although being globally satisfactory, these procedures suffered from a certain number of deficiencies. More particularly, it appeared clearly to the delegation that:

- the renewal of the detention order as regards this category of patients occurred, in almost all cases, without the patient concerned being heard in person by the relevant judge/court;
- such patients did not usually benefit from the assistance of a lawyer during appeal procedures or in the context of the renewal of detention orders.

**The CPT recommends that steps be taken to ensure that forensic patients are heard in person by the relevant judge/court in the context of the renewal of their detention order. Furthermore, forensic patients should benefit from advice from a lawyer - if necessary, free of charge - in the context of the examination of appeal procedures and/or the renewal of detention orders.**

155. The CPT attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.

As already indicated, the Law on the Protection of Persons with Mental Disorders established a State Commission for the Protection of the Rights of Mental Patients. This Commission was given ample powers and, in particular, has competence to supervise the implementation of the procedures stipulated in the Law; to monitor the observance of human rights and freedoms and dignity of the persons with mental disorders; to investigate, either on its own discretion or at the proposal of a third party, individual cases of compulsory detention or involuntary admission in a psychiatric institution; to pay unannounced visits to psychiatric institutions; etc. However, information gathered by the delegation during the visit confirmed that this body was no longer active.

The CPT would like to highlight the importance of this body for the protection of persons with mental disorders and **recommends that measures be taken to ensure that the State Commission is in a position to resume, at the earliest opportunity, its monitoring activities in an efficient manner in all psychiatric establishments in Croatia.**

156. An introductory brochure setting out the establishment's routine and patients' rights should also be issued to each patient on admission, as well as to their families. Any patients unable to understand this brochure should receive appropriate assistance.

The delegation was informed that a booklet informing patients about their rights was under preparation at Vrapče Psychiatric Hospital at the time of its visit. **The CPT would like to receive a copy of that booklet in due course.**

b. Nuštar Social Care Home

157. As already indicated (cf. paragraph 117), social care homes in Croatia are regulated by the Law on Social Care (Articles 93 to 105). Admission to (and discharge from) social care homes are decided by the local Centres for Social Welfare, supported by a Committee of Experts.

The delegation noted in particular that patients with legal capacity were requested to give their written consent before being admitted in the Home. As for the other patients, the admission procedure was initiated by their legal guardian/next of kin or the relevant social welfare centres.

**The CPT would like to receive detailed information concerning the possibilities for patients admitted or retained without their consent in a social care home to contest such a decision and to benefit from advice from a lawyer, if necessary free of charge.**

### III. RECAPITULATION AND CONCLUSIONS

#### A. Police establishments

158. The majority of persons interviewed by the CPT's delegation during the 2003 visit indicated that they had not been ill-treated by the police. However, several allegations were received of deliberate physical ill-treatment by police officers of persons in their custody; some of the allegations concerned ill-treatment at the time of or immediately following apprehension, whereas others related to ill-treatment during police questioning (more particularly by officers of the criminal police). The ill-treatment alleged mainly consisted of kicks, slaps, punches, and blows with batons. In some cases, it was of such a severity - blows with batons on the soles of the feet, asphyxiation by the placing of a plastic bag over the detainee's head - that it could be considered to amount to torture. The delegation also received a number of allegations of verbal abuse by police officers (including threats and other forms of psychological pressure). It would appear that nationals of other former Yugoslav republics and members of the national minorities in Croatia were particularly targeted in this context.

159. The number of allegations received of deliberate physical ill-treatment of persons in police custody was certainly lower than during the 1998 visit. Nevertheless, police ill-treatment still represents a problem in Croatia, a fact which was not contested by senior officials at the Ministry of the Interior. The CPT has recommended once again that senior police officers remind their subordinates (in particular, officers of the criminal police), through appropriate means and at regular intervals, that ill-treatment, including verbal abuse, is not acceptable and will be the subject of severe sanctions. Police officers should also be reminded that no more force than is strictly necessary is to be used when apprehending a person. The need to continue to give a high priority to police training has also been emphasised by the Committee.

160. There remains considerable room for improvement as regards fundamental safeguards against ill-treatment. The CPT has reiterated its recommendation that all persons deprived of their liberty by the police, for whatever reason, be granted the right to notify a close relative or a third party of their choice of their situation, as from the outset of their deprivation of liberty. Any possibility exceptionally to delay the exercise of this right should be clearly circumscribed by law and made the subject of appropriate safeguards. From the information gathered, it also appears that, in many cases, the right of access to a lawyer only becomes effective some time after apprehension and, more specifically, only after a confession relating to a particular criminal offence has been obtained. The CPT has urged the Croatian authorities to take steps to ensure that the right of access to a lawyer is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty.

Legislation has recently been passed concerning access to a doctor. However, it rapidly became clear during the 2003 visit that, in reality, such access was still entirely at the discretion of police officers. The CPT has called for immediate steps to be taken to ensure that the right of access to a doctor for persons in police custody is both formally granted by law and fully implemented in practice.

Despite the firm commitment given by the Croatian authorities in their response to the report on the 1998 visit, no forms setting out the rights of detained persons were available at the police establishments visited. The CPT has therefore reiterated its recommendation on this subject. Further, the information gathered during the 2003 visit illustrates the need for the Croatian authorities to implement without any further delay the Committee's recommendation that a code of conduct for police questioning be drawn up.

161. Material conditions of detention in many police establishments still leave a lot to be desired. As in 1998, it was not uncommon for criminal suspects to be kept on police premises for up to 24 hours - and, on occasion, even longer - under inadequate conditions. The CPT has called upon the authorities to review arrangements for the holding of such persons on police premises.

#### **B. Ježevó Detention Centre for Illegal Immigrants**

162. No allegations of physical ill-treatment by police officers working on day-shifts were heard at the Ježevó Detention Centre; however, several allegations of verbal abuse were received. The delegation did receive allegations of physical ill-treatment - supported by medical evidence - of several foreign nationals by police officers working on night-shifts in mid-November 2003. The CPT has recommended that police officers at Ježevó Detention Centre be given the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions. Further, it has requested updated information on the measures taken by the Municipal General Attorney's Office concerning an incident in November 2003.

163. As regards material conditions of detention at the Centre, the dormitories were overcrowded and sparsely furnished. In addition, detainees were not offered a proper programme of activities. The CPT has recommended improvements in respect of these matters. Moreover, detainees should have proper outdoor exercise facilities at their disposal.

164. Health care staff resources were adequate for the number of persons held at the time of the visit (though the nursing staff should be significantly reinforced whenever the Centre operates closer to its official capacity). However, health care provision at the establishment was being seriously compromised by the lack of proper medical equipment and medication; the CPT has recommended that appropriate steps be taken to provide basic medical sets at the Ježevó Centre and to ensure that all inmates are guaranteed the provision of treatment (including medication) required by their state of health. It is also essential that all new arrivals be systematically medically screened by a doctor, or a fully qualified nurse reporting to a doctor, within 24 hours of their arrival at the establishment.

165. The CPT has stressed the importance of supervisory staff in centres such as Ježevó being carefully selected and receiving appropriate training, and of detainees receiving - in a language they understand - written information explaining the procedures applicable to them and setting out their rights.

**C. Prison establishments**

166. The CPT's delegation received a certain number of allegations of physical ill-treatment of prisoners (kicks, punches and blows with batons) by staff within the three prisons visited, as well as in respect of other penitentiary establishments, including Zagreb Prison Hospital. The delegation also heard a number of allegations of verbal abuse. At the end of the visit, the delegation made immediate observations in respect of two specific cases, concerning respectively Lepoglava State Prison and Split County Prison, in which credible allegations of physical ill-treatment of prisoners by staff were heard; the Croatian authorities were requested to conduct investigations into these incidents. Effective action was taken in respect of the incident at Lepoglava, but the CPT is still awaiting the results of a thorough and independent investigation into the incident at Split.

167. The information gathered during the 2003 visit as regards the treatment of prisoners by custodial staff represents a disturbing departure from the situation found in 1998. The CPT has recommended that the Croatian authorities deliver the clear message to prison officers in establishments throughout the country that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions. Concerted efforts are also needed to further enhance the possibilities of training for prison staff; the best possible guarantee against the ill-treatment of prisoners is properly recruited and trained prison officers who know how to adopt the appropriate attitude in their relations with inmates.

168. As regards material conditions of detention, the beneficial effects of high-quality renovation work in certain wings (B and E) of Lepoglava State Prison were being undermined by overcrowding. Split County Prison also remained overcrowded, despite the provision of some extra accommodation in July 2003. The CPT has made various recommendations and comments on this subject. Above all, it has stressed once again that expanding the prison estate will alone be unlikely to provide a definitive solution to the problem of overcrowding; current law and practice in relation to custody pending trial and sentencing, including the range of non-custodial sentences available, must also be reviewed.

The CPT has also urged the Croatian authorities to remove without further delay the metal screens blocking windows at Split County Prison (as well as at other establishments where such devices are to be found). Natural light and fresh air are basic elements of life which every prisoner is entitled to enjoy; moreover, the absence of those elements generates conditions favourable to the spread of diseases.

169. Positive developments were observed in relation to activities at Lepoglava State Prison; the CPT trusts that progress will continue to be made, in particular as regards educational activities. In contrast, the regime for remand prisoners at Split County Prison remained very unsatisfactory. The Committee has called upon the Croatian authorities to remedy this situation throughout the country; all prisoners, including those on remand, should be able to spend a reasonable part of the day outside their cells engaged in purposeful activities.

170. Several improvements in the field of health care were noted at Lepoglava State Prison. Staff levels had been significantly increased since the 1998 visit and, in particular, a second full-time doctor was now employed. The CPT also welcomes the fact that a nurse is now present in the establishment on a 24-hour basis. As regards Osijek County Prison, the CPT has recommended that the hours of attendance by a doctor be significantly increased (i.e. to the equivalent of at least a half-time post). Urgent measures are also required to compensate for the absence of two nurses (on extended sick leave) at Split County Prison and to ensure that prisoners in that establishment have effective access to proper dental care.

171. Further health-care issues addressed in the report include respect for medical confidentiality, the contents of reports on the medical examination of newly-arrived prisoners, and the approach to be adopted vis-à-vis prisoners with drug problems. On this last-mentioned issue, the CPT has noted with interest the multifaceted strategy adopted at Split County Prison.

172. Among other subjects raised in the report, specific reference should be made to that of staff issues. The CPT has recommended that all necessary steps be taken to bring staffing levels fully into conformity with those foreseen by the prison regulations, and that prison staff benefit from adequate psychological support. Where staff complements are inadequate, significant amounts of overtime can prove necessary in order to maintain a basic level of security and regime delivery in the establishment. This can easily result in high levels of stress in staff and burnout, a state of affairs which is likely to exacerbate the tension inherent in any prison environment.

#### **D. Establishments under the authority of the Ministries of Health and Social Welfare**

173. Hardly any recent allegations of ill-treatment of patients by staff were received at Vrapče Psychiatric Hospital, and none at Nuštar Social Care Home. The very few allegations which were received related mainly to cases of seemingly unnecessarily prolonged use of means of physical restraint. Relations between patients and staff in the two establishments were quite relaxed.

174. Material conditions at Vrapče Psychiatric Hospital were generally good in the renovated units of the hospital, and even very good in the recently renovated Admission/Observation and Intensive Care Units. In contrast, conditions in the decrepit and unrenovated Forensic Psychiatric Unit (FPU) and Male Chronic Unit (MCU) were clearly not acceptable. The CPT has recommended that the construction of the new Forensic Psychiatric Unit be treated as a matter of the highest priority, and that plans be drawn up as a matter of urgency to address the problem of the poor accommodation in the Male Chronic Unit. Measures are also required to ensure that all patients are offered, health permitting, one hour a day of outdoor exercise in an appropriate setting and that patients accommodated in mixed gender wards are not subjected to inappropriate interaction with patients of the opposite sex.

As for conditions at the Nuštar establishment, they were up to modern social care home standards.

175. The CPT's delegation gained an overall positive impression of the treatment and care provided to patients at Vrapče Psychiatric Hospital. However, the situation in the Male Chronic Unit was not satisfactory; in particular, a better stratification of patients in this Unit is required. More generally, the CPT has recommended improvement in the quality of the clinical record keeping (each patient should benefit from an individual written treatment plan and be more actively involved in the decision making process), an increase in the range of therapeutic, rehabilitative and recreational activities, and a significant increase in the input from psychologists/social workers in clinical teams. The implementation of these measures will require more qualified clinical staff at the hospital.

The treatment and care of residents at Nuštar Social Care Home was globally satisfactory. However, there was scope for improvement as regards occupational therapy and psychosocial rehabilitation activities, and the quality of medical files should be improved.

176. The general staff complement was satisfactory at Vrapče Psychiatric Hospital; however, some Units and, in particular, the Forensic Psychiatric Unit and the Male (and Female) Chronic Units, urgently needed more qualified staff. The CPT has recommended that the two vacant psychiatrist positions in the Male (and Female) Chronic Units be immediately filled, that the number of qualified nurses in the Male Chronic Unit (and in the FPU) be increased and that clinical teams in all the Units visited receive an increased multidisciplinary input.

Similar measures are required at Nuštar Social Care Home; in particular, all vacant positions (psychologist, defectologist) should be filled and the social worker and occupational therapist complement increased, to establish a fuller multidisciplinary clinical input to resident care in the establishment. The Committee has also recommended that more nursing staff be present on the wards during the day shift (in particular, those accommodating the “mobile” residents).

177. More resort than absolutely necessary was had to means of physical restraint at Vrapče Psychiatric Hospital. Further, the use of such means was poorly recorded. Draft operational guidelines concerning the use of means of restraint were in preparation at the hospital management level; the CPT has recommended that they be finalised and implemented as soon as possible, taking into account remarks made by the Committee.

178. Given the vulnerability of the mentally ill and mentally disabled, involuntary placement in a psychiatric establishment or special institution should always be surrounded by appropriate safeguards.

The legal provisions surrounding civil involuntary admission to psychiatric institutions in Croatia appeared on the whole to be satisfactory. Nevertheless, certain concerns have been raised by the CPT. In particular, the vast majority of the patients accommodated in the Admission/Observation Unit at Vrapče Psychiatric Hospital had been admitted without their explicit consent or had not been able to give free and informed consent and, as a result of legal amendments introduced in 1999, these patients were no longer covered by the compulsory hospitalisation procedure. The CPT has also recommended that measures be taken to ensure that a distinction is made, in law, between the involuntary admission procedure and treatment without consent.

Finally, the CPT has highlighted the importance of psychiatric establishments being visited on a regular basis by an independent outside body. In this connection, the Committee has recommended that measures be taken to ensure that the State Commission for the Protection of Persons with Mental Disorders is in a position to resume, at the earliest opportunity, its monitoring activities in an efficient manner.

**E. Action on the CPT's recommendations, comments and requests for information**

179. The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I.

180. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Croatian authorities to provide **within six months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Croatian authorities to provide in the above-mentioned response, reactions to the comments formulated in this report as well as replies to the requests for information made.

As regards the inquiry concerning Split County Prison referred to in paragraph 72 of the visit report, the Croatian authorities are requested to inform the CPT of its results **within three months**.

## APPENDIX I

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

#### **Police establishments**

##### **Torture and other forms of ill-treatment**

###### recommendations

- senior police officers to remind their subordinates, through appropriate means and at regular intervals, that ill-treatment, including verbal abuse, is not acceptable and will be the subject of severe sanctions. It is particularly important that such a reminder be given to officers of the criminal police (paragraph 13);
- police officers in Croatia to be reminded that no more force than is strictly necessary should be used when apprehending a person (paragraph 13);
- a high priority to be given to police training (paragraph 14).

###### requests for information

- the following information in respect of 2003 and the first half of 2004:
  - the number of complaints of ill-treatment lodged against police officers and the number of criminal/disciplinary proceedings which were initiated as a result;
  - a detailed account of the specific criminal/disciplinary sanctions imposed following complaints of ill-treatment (paragraph 15);
- detailed information on police complaints and disciplinary procedures, including as regards the procedural safeguards aimed at ensuring their objectivity (paragraph 15);
- copy of the results of the research project entitled "Use of means of coercion by the Police" and an account of measures taken by the authorities in the light of those results (paragraph 16).

##### **Safeguards against ill-treatment**

###### recommendations

- steps to be taken to ensure that all persons deprived of their liberty by the police, for whatever reason, are granted the right to notify a close relative or a third party of their choice of their situation, as from the outset of their deprivation of liberty. Any possibility exceptionally to delay the exercise of this should be clearly circumscribed by law and made the subject of appropriate safeguards (paragraph 19);

- effective steps to be taken without further delay to ensure that the right of access to a lawyer is enjoyed by all persons obliged to remain with the police, as from the very outset of their deprivation of liberty. This right should be enjoyed not only by criminal suspects, but also by anyone who is under a legal obligation to attend - and stay at - a police establishment. The form used for inviting persons to "informative talks" should make express mention of the right of access to a lawyer enjoyed by such persons (paragraph 23);
- a lawyer always to be called when juveniles are deprived of their liberty by the police and juveniles not to be required to make any statement or sign any document related to an offence of which they are suspected without the lawyer being present (paragraph 23);
- the system of legal aid to detained persons to be reviewed, in order to ensure its effectiveness throughout the procedure, including at the initial stage of police custody (paragraph 24);
- immediate steps to be taken to ensure that the right of access to a doctor for persons held in police custody is formally granted by law and fully implemented in practice (paragraph 28);
- a form setting out in a straightforward manner the rights of persons in police custody to be systematically given to detained persons at the very outset of their deprivation of liberty. This form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights (paragraph 29);
- a code of conduct for police questioning to be drawn up without any further delay (paragraph 31);
- immediate steps to be taken to ensure that any detention in a police establishment is properly recorded (paragraph 32).

#### comments

- the Croatian authorities are invited to examine the possibility of introducing in all police detention facilities a single and comprehensive custody record for each person detained. Such a document should record all aspects of the person's custody and all the action taken in connection with it (time and reason(s) for the arrest; when the person arrived at the police station; when informed of rights; signs of injury, health problems, mental disorder, etc; when offered food, when interrogated; contacts with and/or visits by next of kin, lawyer, doctor or consular official; when transferred; when brought before a judge; when remanded in custody or released, etc). Further, the detainee's lawyer should have access to the custody record (paragraph 32).

#### requests for information

- comprehensive information on the frequency of visits to police facilities in 2003 by the prosecuting/judicial authorities, and the Office of the Ombudsman and, as appropriate, on the action taken following those visits (paragraph 33).

## **Conditions of detention**

### recommendations

- arrangements for the holding of criminal suspects on police premises to be reviewed. Such persons should be offered food at appropriate intervals (which implies that budgetary means must exist for providing food to persons not in a position to pay for it themselves), including at least one full meal (i.e. something more substantial than a sandwich) every day. Suspects held overnight should be accommodated in a designated holding facility and provided with a clean mattress and clean blankets (paragraph 35);
- appropriate steps to be taken to ensure that criminal suspects held on police premises are not kept handcuffed to radiators or items of furniture for extended periods (paragraph 35);
- the makeshift facility at Črnomerec Police Station in Zagreb no longer to be used for an overnight stay (paragraph 36);
- alternative holding facilities to be found at Trogir Police Station for accommodating persons under the influence of alcohol (paragraph 36);
- conditions in the cubicles at Trogir Police Station to be improved in light of the remarks made in paragraph 36. In view of their very limited size, these cubicles should only be used as temporary holding facilities (i.e. for detention periods of no more than two to three hours); they should never be used as overnight accommodation. Moreover, the situation of persons detained in the cubicles should be closely monitored (paragraph 36).

### comments

- the CPT trusts that steps will be taken to dim at night the lighting in the cells at the Unit for detention, escort and security in Đorđićeva Street 4, Zagreb (paragraph 37).

### requests for information

- details concerning the new facility for detention of persons at Zagreb International Airport (e.g. capacity, material conditions, possibilities for outdoor exercise, etc.) (paragraph 38);
- the practical measures taken by the Croatian authorities to ensure the full implementation of the new Law on Asylum N° 103/2003 at Zagreb International Airport (as well as any other air, land or sea points of entry on Croatian territory) (paragraph 39).

## **Jezevo Detention Centre for Illegal Immigrants**

### **Preliminary remarks**

#### requests for information

- confirmation that the prohibition for any person to be returned to a country where there are substantial grounds for believing that he/she would run a real risk of being subjected to torture or ill-treatment is being complied with under current legislation and practice (paragraph 42).

### **Ill-treatment**

#### recommendations

- police officers at the Centre to be given the clear message that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions (paragraph 45).

#### requests for information

- any measures taken by the Municipal General Attorney's Office as regards the November 2003 incident (paragraph 45).

### **Conditions of detention**

#### recommendations

- material conditions at the Centre to be improved, in light of the remarks made in paragraph 46 (paragraph 46);
- steps to be taken as a matter of urgency to provide a better range of activities to foreign nationals held at the Centre; the longer the period for which persons are detained, the more developed should be the activities which are offered to them. Moreover, detainees at the Centre should benefit from proper outdoor exercise facilities, enabling them to exert themselves physically (paragraph 46).

#### requests for information

- detailed information on the material conditions of stay (including the arrangements taken as regards access to toilets at night) after the increase in capacity of the Centre, the daily activities, the outdoor exercise facilities, etc. (paragraph 47).

## **Health care**

### recommendations

- steps to be taken immediately to ensure that all new arrivals at the Centre are systematically medically screened by a doctor, or a fully qualified nurse reporting to a doctor, within 24 hours of their arrival at the establishment (paragraph 49);
- appropriate steps to be taken to provide basic medical sets at the Centre (paragraph 50);
- all inmates to be guaranteed the provision of treatment (including medication) required by their state of health. Sufficient funds should be allocated to the Centre to enable treatment (including medication) to be provided free of charge to those foreign nationals who do not have the necessary financial means to pay for it themselves (paragraph 50).

### comments

- the nursing staff resources should be significantly reinforced whenever the Centre operates closer to its official capacity (paragraph 48).

### requests for information

- comments of the authorities as regards the complaints received at the Centre about the quantity and variety of food (paragraph 51).

## **Discipline**

### recommendations

- formal disciplinary regulations to be introduced at the Centre, taking into account the remarks in paragraph 52 (paragraph 52).

## **Staff**

### recommendations

- an appropriate number of female police officers to be assigned to the Centre and additional staff to be present on site during week-ends (paragraph 55);
- custodial duties at night again to be performed by regular police officers (paragraph 56);
- measures to be taken to avoid in future the practice of police officers carrying firearms while performing their custodial duties within the Centre, and of them carrying batons in a visible manner (paragraph 57).

requests for information

- detailed information on the specific training being provided to staff at the Centre (paragraph 55).

**Information to foreign nationals**

recommendations

- foreign nationals held at the Centre to be systematically provided with a document explaining the procedures applicable to them and setting out their rights. This document should be available in the languages most commonly spoken by those concerned and, if necessary, recourse should be had to the services of interpreters (paragraph 59);
- each detainee to be regularly updated on issues concerning his/her future (paragraph 59).

**Contact with the outside world**

recommendations

- existing arrangements at the Centre to be reviewed, with a view to increasing significantly the current visiting entitlements (paragraph 61);
- steps to be taken to provide suitable facilities for visits (paragraph 61).

comments

- the Croatian authorities are invited to install additional pay phones and to explore the possibility of offering assistance to detainees who do not have the means to purchase a phone card (paragraph 62);
- the Croatian authorities are invited to reconsider their policy of systematically confiscating mobile phones (paragraph 62).

**Establishments under the authority of the Ministry of Justice**

**Preliminary remarks**

comments

- the CPT trusts that the principles set out in Committee of Ministers Recommendation N° R (99) 22 on prison overcrowding and prison population inflation will be fully taken into account by the Croatian authorities (paragraph 66).

requests for information

- further information on the implementation of measures which are alternative to imprisonment (paragraph 66).

**Ill-treatment**

recommendations

- a thorough and independent inquiry to be carried out into the allegations of ill-treatment of inmates by prison staff at Split County Prison in April 2003 and the CPT to be informed of its results within three months (paragraph 71);
- the clear message to be delivered to prison officers in establishments throughout the country that all forms of ill-treatment, including verbal abuse, are not acceptable and will be the subject of severe sanctions (paragraph 75).

comments

- the force used when controlling violent and/or recalcitrant prisoners should be no more than is strictly necessary (paragraph 74);
- to tie violent and/or recalcitrant prisoners to radiators or other items of furniture "to cool off" is totally inappropriate. Disciplinary sanctions should result from relevant existing disciplinary procedures and not take the form of an unofficial punishment (paragraph 74);
- in view of the severity, frequency and variety of allegations of ill-treatment by prison staff, it is essential that the Croatian authorities remain particularly proactive in this area. Concerted efforts are needed to further enhance the possibilities of training for prison staff (paragraph 77).

requests for information

- the outcome of the criminal charges against a prison officer at Lepoglava State Prison concerning an incident on 8 November 2003 (paragraph 70).

**Material conditions**

recommendations

- steps to be taken to ensure that the standard of at least 4 m<sup>2</sup> living space per prisoner in multi-occupancy cells is respected throughout Lepoglava Prison. No more than two prisoners should be accommodated in the 11.5m<sup>2</sup> cells; as for the 6m<sup>2</sup> cells, they should only be used for single occupancy (paragraph 80);

- steps to be taken to ensure that the recommendations made in paragraph 84 of the report on the 1998 visit as regards conditions at Split County Prison (concerning in particular the reduction of overcrowding and the full partitioning of the sanitary annexes) are implemented (paragraph 82);
- metal window screens at Split County Prison (as well as at any other establishment where such devices are to be found) to be removed without further delay (paragraph 83);
- all cells and dormitories at Osijek County Prison to be fitted with a call system (paragraph 84).

#### comments

- the CPT trusts that the renovation of accommodation in Glina Prison and the plan to build a new high-security prison in Dalmatia will be given a high priority (paragraph 81);
- the CPT trusts that the project to construct another floor at Split County Prison will be implemented without further delay (including the increase in parallel of the facilities available for out-of-cell activities) (paragraph 82);
- it would be preferable for cells measuring some 8.5m<sup>2</sup> at Osijek County Prison to be used for single occupancy (paragraph 84).

#### requests for information

- confirmation that the renovated B Wing at Lepoglava State Prison is now fully operational (paragraph 79);
- any alternative measures introduced by the Croatian authorities following the removal of metal window screens (paragraph 83).

#### **Activities**

##### recommendations

- all necessary steps to be taken to improve the regime activities for remand prisoners at Split County Prison (and in county prisons throughout Croatia), in accordance with the remarks made in paragraph 87 (paragraph 87).

##### comments

- the CPT trusts that the measures taken to improve the regime offered to inmates at Lepoglava State Prison will be pursued, in particular as regards educational activities (paragraph 85).

requests for information

- detailed information on the regime which will be implemented in the increased supervision unit at Lepoglava State Prison, once the unit has entered into service (paragraph 86).

**Prisoners who constitute a particular security risk**

comments

- bearing in mind that prisoners in Unit B4 will benefit from an open door regime, the accommodation of up to three prisoners (but certainly not four) in the 11.5 m<sup>2</sup> cells might be considered as acceptable. The 6 m<sup>2</sup> cells might accommodate up to two prisoners, although single occupancy would certainly be preferable (paragraph 89);
- the Croatian authorities are invited to resume the discussions on the transfer of prisoners to Serbia and Montenegro (paragraph 91).

**Health care**

recommendations

- the hours of attendance by a doctor at Osijek County Prison to be increased significantly; there should be at least the equivalent of a half-time post (paragraph 94);
- a medical file to be compiled for each patient at Osijek County Prison, containing diagnostic information as well as an ongoing record of the patient's medical history and of any special examinations he has undergone. In the event of a transfer, this file should be forwarded to the doctors in the receiving establishment (paragraph 94);
- steps to be taken immediately to ensure that all new arrivals at Osijek County Prison are systematically medically screened by a doctor, or a fully qualified nurse reporting to a doctor, within 24 hours of their arrival at the establishment (paragraph 94);
- urgent measures to be taken at Split County Prison to compensate for the absence of the two nurses on extended sick leave (paragraph 95);
- steps to be taken to ensure that prisoners at Split County Prison have effective access to proper dental care (paragraph 96);
- steps to be taken throughout the prison system to ensure respect for medical confidentiality, similar to those already taken at Lepoglava State Prison and Split County Prison (paragraph 97);
- the provisions of the Law on the Execution of Prison Sentences concerning the handcuffing/feet-cuffing of prisoners who refuse to be tested for illicit/psychoactive drugs to be revised, in light of the comments made in paragraph 100 (paragraph 100).

#### comments

- the Croatian authorities are invited to ensure proper nursing coverage during nights/week-ends at Split County Prison (e.g. through the introduction of a nurse on call) (paragraph 95);
- the CPT trusts that the measures taken by the Croatian authorities at Lepoglava State Prison as regards the medical examination of prisoners and reports based on those examinations will be adhered to throughout the prison system (paragraph 99);
- the multifaceted strategy at Split County Prison, as regards inmates who are drug addicts, should be vigorously pursued (paragraph 102).

#### requests for information

- confirmation that the medical technician at Lepoglava State Prison will have nursing qualifications and will ensure daytime cover in the medical facility (paragraph 93);
- the arrangements allowing access to a doctor of the inmate's own choice, and whether sentenced prisoners also enjoy this right (paragraph 101).

### **Discipline**

#### recommendations

- appropriate amendments to be made to the regulations on the disciplinary sanction of solitary confinement in order to ensure that any such sanction can not be prolonged without there being an interruption (paragraph 104);
- cells used for the sanction of solitary confinement at Lepoglava State Prison to be equipped with suitable seating (e.g. a chair or bench) during the day (paragraph 105).

#### comments

- it would be preferable for cells used for the sanction of solitary confinement at Lepoglava State Prison to be equipped with a table (paragraph 105).

### **Staff issues**

#### recommendations

- all necessary steps to be taken to bring staffing levels at Lepoglava State Prison fully into conformity with those foreseen by the prison regulations (paragraph 107);
- measures to be taken to ensure that prison staff throughout Croatia benefit from adequate psychological support (paragraph 108).

## **Contact with the outside world**

### recommendations

- Article 45 of the 1999 Regulations on treatment of remand prisoners to be reviewed without delay, taking into account the remarks made in paragraph 112 (paragraph 112).

### comments

- the Croatian authorities are invited to review existing arrangements at Lepoglava State Prison as regards contact with the outside world, in the light of the remarks made in paragraph 110 (paragraph 110);
- granting of visits to remand prisoners should be the norm, their refusal the exception (paragraph 111).

## **Complaints and inspection procedure**

### recommendations

- the manner in which the judicial authorities carry out prison visits to be reviewed (paragraph 115).

### requests for information

- copies of the Ministry of Justice reports for 2002 and 2003, on the state of penitentiaries and prisons (paragraph 116).

## **Establishments under the authority of the Ministries of Health and Social Welfare**

### **Patients' living conditions**

#### recommendations

- the construction of the new Forensic Psychiatric Unit at Vrapče Psychiatric Hospital and the subsequent transfer of the forensic patients to be treated as a matter of the highest priority (paragraph 124);
- plans to be drawn up as a matter of urgency to address the problem of the poor accommodation of the Male Chronic Unit at Vrapče Psychiatric Hospital. In the meantime, vigorous efforts should be made to reduce the occupancy levels in the dormitories to an acceptable standard (at least 4 m<sup>2</sup> living space to be provided to each patient) (paragraph 124);

- all patients accommodated in "closed" sections of the hospital to be immediately offered, health permitting, one hour a day of outdoor exercise in a reasonably spacious setting, which should also offer shelter from inclement weather (paragraph 124);
- measures to be taken to remedy the shortcomings observed by the delegation in the newly-opened Admission/Observation and Intensive Care Units at Vrapče Psychiatric Hospital, which should not be repeated elsewhere in the establishment (paragraph 124);
- measures to be taken to ensure that patients accommodated in mixed gender wards at Vrapče Psychiatric Hospital are not subjected to inappropriate interaction with patients of the opposite sex, taking into account the comments in paragraph 125 (paragraph 125).

## **Treatment and care**

### recommendations

- measures to be taken at Vrapče Psychiatric Hospital to:
  - improve the quality of the clinical record keeping. In this respect, each patient should benefit from an individual written treatment plan and patients should be more actively involved in the decision-making process concerning their treatment;
  - increase the range of therapeutic, rehabilitative and recreational activities offered to patients;
  - significantly increase the input from psychologists and social workers in clinical teams;
  - ensure a better stratification of patients in the Male Chronic Unit, so that patients suffering from chronic psychotic illnesses are better separated from those suffering from learning disabilities and both categories benefit from tailored individualised treatment;
  - increase the possibilities of discharging patients from the Male Chronic Unit to the community (families, sheltered homes or social care homes) (paragraph 133);
- the quality of the individual medical files to be improved at Nuštar Social Care Home, in light of the comments made in paragraph 135 (paragraph 135).

### comments

- implementation of many of the measures recommended in paragraph 133 will require an increase in the number of qualified clinical staff at Vrapče Psychiatric Hospital (paragraph 133);
- there was scope for improvement at Nuštar Social Care Home as regards the range of occupational therapy and psychosocial rehabilitation activities (paragraph 134).

## **Staffing**

### recommendations

- measures to be taken at Vrapče Psychiatric Hospital to ensure that:
  - the two vacant psychiatrist positions in the Male (and Female) Chronic Units are immediately filled;
  - the number of qualified nurses in the Male Chronic Unit (and in the FPU) is increased;
  - clinical teams in all the Units visited receive an increased multidisciplinary input (in particular, in psychological, social work and occupational therapy services) (paragraph 137);
  
- measures to be taken at Nuštar Social Care Home to ensure:
  - that all vacant positions are filled (psychologist, defectologist, legal advisor);
  - that more nursing staff are present on the wards during the day shift (in particular those accommodating the "mobile" patients);
  - that the social worker and occupational therapist complement is also increased, to establish a fuller multidisciplinary clinical input to resident care (paragraph 139).

## **Means of restraint/isolation**

### recommendations

- the isolation room under construction in the Admission/Observation Unit at Vrapče Psychiatric Hospital never to be used for the isolation of a psychiatric patient (paragraph 141);
  
- the guidelines concerning the use of means of restraint to be finalised and implemented as soon as possible at Vrapče Psychiatric Hospital, taking into account the remarks made in paragraphs 142 to 143 (paragraph 143);
  
- steps to be taken at Vrapče Psychiatric Hospital to ensure that every instance of the physical restraint of a patient is recorded in a specific register established for this purpose (as well as in the patient's file), taking into account the remarks made in paragraph 144 (paragraph 144).

### comments

- by its very design, the isolation room under construction in the Admission/Observation Unit at Vrapče is totally unsuited for the isolation of psychiatric patient (paragraph 141).

## **Safeguards**

### recommendations

- all safeguards and procedures set out in the Law on the Protection of Persons with mental disorders to be implemented in full at Vrapče Psychiatric Hospital (paragraph 152);
- measures to be taken to ensure that a distinction is made, in law, between the involuntary admission procedure and treatment without consent (paragraph 153);
- steps to be taken at Vrapče Psychiatric Hospital to ensure that forensic patients are heard in person by the relevant judge/court in the context of the renewal of their detention order. Furthermore, forensic patients at Vrapče Psychiatric Hospital should benefit from advice from a lawyer - if necessary, free of charge - in the context of the examination of appeal procedures and/or the renewal of detention orders (paragraph 154);
- measures to be taken to ensure that the State Commission is in a position to resume, at the earliest opportunity, its monitoring activities in an efficient manner in all psychiatric establishments in Croatia (paragraph 155).

### requests for information

- the comments of the Croatian authorities on the issue of safeguarding the fundamental rights of patients who were not able to give their free and informed consent on admission, and were subsequently *de facto* detained in "locked" wards at Vrapče Psychiatric Hospital without benefiting from a compulsory admission procedure (paragraph 152);
- a copy, in due course, of the booklet under preparation at Vrapče Psychiatric Hospital informing patients about their rights (paragraph 156);
- detailed information on the possibilities for patients admitted or retained without their consent in a social care home to contest such a decision and to benefit from advice from a lawyer, if necessary free of charge (paragraph 157).

**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES AND REPRESENTATIVES  
OF INTERNATIONAL ORGANISATIONS WITH WHICH  
THE CPT'S DELEGATION HELD CONSULTATIONS**

**Ministry of Justice**

Ms Ingrid ANTIČEVIĆ-MARINOVIĆ	Minister
Mr Josip HEHET	Director General of the Prison Administration

**Ministry of Health**

Mr Andro VLAHUŠIĆ	Minister
Mr Claude GRBEŠA	Head of the International Section
Mr Bruno PLAHUTAR	Health Inspector

**Ministry of Labour and Social Welfare**

Mr Nino ŽGANEC	Vice-Minister
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**Ministry of Interior**

Mr Milan PEMPER	Deputy Director General of the Police
Mr Josip ROHAČEK	Assistant Director, Directorate General of the Police
Mr Petar VASILJ	Head of Department, Department of Public Law and Order
Mr Jozo VESELČIĆ	Police Officer, Department of Public Law and Order
Mr Damir BRNETIĆ	CPT's liaison officer

**International organisations**

OSCE	
Mr Robert BECKER	Ambassador
Mr Dan PETERSEN	Head of Police Unit
Ms Mary WYCKOFF	Head of Rule of Law Unit