



CPT/Inf (2007) 16

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

from 1 to 9 December 2003

The Croatian Government has requested the publication of this response. The report of the CPT on its December 2003 visit to Croatia is set out in document CPT/Inf (2007) 15.

Strasbourg, 1 March 2007

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



REPUBLIC OF CROATIA

MINISTRY OF JUSTICE

**PRISON ADMINISTRATION
Central Office**

REFERENCE: 720-01/04-04/1
REG.NO. 514-08-01-04-11

Zagreb, 4 October 2004

**To:
PENITENTIARIES
PRISONS
JUVENILE CORRECTIONAL INSTITUTIONS**

Attn. Governors

Re: CPT Report on the visit to Prison System in 2003,
Instructions for conduct

Due to the respective Report on the visit to Croatian Prison System carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in December 2003, we herewith set forth the instructions for conduct as follows:

1. To define the list of staff, especially of the judicial police officers, for the purpose of education in field of communication with inmates,
2. To define the list of staff for the purpose of education regarding provisions of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,
3. To review communication abilities of judicial police officers who work in prison wards, and suggest assignments to other working posts in addition,
4. To establish requirements of medical units for appropriate filing cabinets for inmates' medical files,
5. To strongly advise all medical staff regarding the record of data in inmates' medical files; all diagnostic findings and anamnesis, as well as remarks of each conducted specialist exam must be registered; in the event of transfer, medical file should be forwarded to penitentiary or to prison to which an inmate is transferred,
6. To conduct a medical exam of newly-arrived prisoners within 24 hours, or within 72 hours during week-ends, and to duly register respective statements given by a prisoner that are of importance for medical exam, as well as detailed medical findings and the doctor's conclusion,
7. To conduct medical exams in the absence of judicial police officers, with exception of an explicit doctor's request. In the latter case, the exam should be conducted in a manner disabling overhearing of conversation between a doctor and an inmate (a doctor has to put in writing in the medical record that he/she required supervision in the course of the exam),

8. An inmate must be given a copy of medical documentation, if so requested,
9. Penitentiaries, prisons and juvenile correctional institutions that employ several members of medical staff shall organize working in shifts, and shall, in addition, require a consent to employ doctors and medical technicians on vacant posts,
10. The penitentiaries shall establish needs of inmates for education and organize respective involvement of inmates in process,
11. To equip isolation rooms and solitary confinements with tables and chairs and review the lifting and fixing of beds to walls in solitary confinements,
12. To apply special measures for maintaining of order and security only on grounds set forth by the Law on the Enforcement of Prison Sentence, and not as a punishment,
13. The penitentiaries shall determine a wider range of daily activities for inmates in intensified supervision units,
14. The disciplinary measure of solitary confinement shall be imposed due to the Article 146, paragraph 2, point 5 of the Law on the Enforcement of the Prison Sentence (up to 21 days), and more of such imposed measures shall not be enforced cumulatively,
15. To determine needs for separation of sanitary annexes from the rest of cell,
16. To determine needs in respect of CPT-s recommendations for removing metal window screens from windows in prisoners' rooms,
17. To ensure court's supervision of remand prisoners and communication with detainees in absence of prison officers,
18. The prisons shall determine and propose possible activities for remand prisoners in accordance with regulations applicable on remand prison regime,
19. To conduct in accordance with the instruction of the Central Office regarding the carrying of batons and firearms while escorting inmates.

The governors shall submit written reports regarding the undertaken activities to the Central Office until the 14 October 2004.

GENERAL DIRECTOR

Ivan Damjanović, M.A.

Copy to:
The Training Centre



SECRET

REPUBLIC OF CROATIA

MINISTRY OF JUSTICE

**PRISON ADMINISTRATION
Central Office**

REFERENCE: 720-01/04-04/1
REG.NO. 514-08-01/2-04-9

Zagreb, 1 October 2004

To:
CRIMINAL LAW ADMINISTRATION
Attn. Mr. Dubravko Palijaš, Assistant Minister

ORGANISATION AND PERSONNEL ADMINISTRATION
Attn. Mrs. Barica Novosel, Assistant Minister

Re: Report on the visit of the European Committee for the Prevention of Torture (CPT) to the Republic of Croatia and the letter of the Permanent Representative Office of the Republic of Croatia at the Council of Europe

Dear Sirs,

The Ministry of Justice Cabinet forwarded to us the Report on the visit of the CPT representatives to the Republic of Croatia carried out from the 1 to 9 December 2003, along with the letter of the Permanent Representative Office of the Republic of Croatia at the Council of Europe regarding realization of the respective comments and recommendations.

Points 66, 87, 111, 112 and 168 of the Report include comments and recommendations regarding: legal stipulations and the courts' practice for ordering remand custody and sentencing in general together with available mechanisms for ordering house arrest and other non-custodial measures reflecting on prison overcrowding; legal stipulation regarding the sole authority of the respective Court to approve of any activities programme for remand prisoners; the court's approval of visits to remand prisoners and; the legal stipulation providing for a defence attorney to have contact with client only after one was already interrogated by the interrogation judge.

Given the fact that the aforementioned comments and recommendations reflect the issues within competency of your Administrations, we hereby forward the Croatian translation of the respective Report for further actions.

Respectfully yours,

GENERAL DIRECTOR

Ivan Damjanović, M.A.

Copy to :

1. The Ministry of Justice Cabinet
2. Mrs. Snježana Bagić, Secretary of State



SECRET

**REPUBLIC OF CROATIA
MINISTRY OF JUSTICE
PRISON ADMINISTRATION
Central Office**

REFERENCE: 720-01-04-01-000101
REG.NO. 514-08-01-01/1-04-10
Zagreb, 14 September 2004

**MUNICIPAL STATE ATTORNEY OFFICE
IN SPLIT**

Re:

Report pursuant to recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from the Report to the Croatian Government on the visit to Croatia from 1 to 9 December 2003

The delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Split County Prison in December 2003 and thereof drew up a report that was adopted at its 54th meeting, held from 28 June to 2 July 2004.

The paragraph 71 of the 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) implies that hooded uniformed prison officers, while separating prisoners in Split County Prison on 13 and 14 April 2003, beat prisoners by fists and feet, and after separating them in the atomic shelter premises, handcuffed prisoners to iron bars and continued beating them with batons. It also implies that judicial police officers denied the aforementioned separation in the atomic shelter premises to the Committee's representatives, and that the Prison management did not deny those allegations.

Regarding these issues, the CPT's recommendation invited Croatian authorities to conduct 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 (Appendix I to the Report – List of the CPT's recommendations), all on penalty of serious measure of a public statement regarding situation as is stipulated in Article 10, Paragraph 2 of the Convention for the Prevention of Torture.

There is following evidence as regards the April events in Split County Prison that is addressed in the Committee's Report:

1. The case-file of the Municipal State Attorney Office in Split No. KN-DO-1091/03;
2. The medical records on bodily injuries of remand prisoners A, B, C, D, E, and F;
3. The report submitted by the head of the Security Department in Split County Prison dated on 14 April 2003;

4. The report Split County Prison submitted to the County Court in Split, No. MK-111/03, No MK.396/02, MK-122/03 and MK-253/02 from 14 April 2003;
5. The report Split County Prison submitted to the County Court in Split, Reference Number: 730-03/01-03/20 from 18 April 2003;
6. The report Split County Prison submitted to the Central Office of the Prison Administration, Reference Number: 730-03/01-03/17 from 14 April 2003, and its addition from 14 January 2004;
7. The letter of observations made by the Split County Prison governor regarding visit of the CPT representatives to this establishment;
8. The 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 2004, and the letter of the Permanent Representative Office of the Republic of Croatia at the Council of Europe regarding implementation of measures the CPT suggested, dated on the 10 September 2004 – documents marked “SECRET”;
9. The official remarks of 25 judicial police officers in Split County Prison.

The report of the Head of the Security Department in Split County Prison to the Split County Prison governor and the report of the Split County Prison governor addressed to the Central Office of the Prison Administration imply that a group of prisoners (A, B, C, D, E, and F) repeatedly behaved against the House Regulations by refusing legitimate orders, and expressed unjustified dissatisfaction with treatment and stay in remand custody by threatening other inmates and judicial police officers and self-inflicting. The governor's report implies that this behaviour of remand prisoners had started some fifteen days earlier, that is at the end of March or at the beginning of April, and resulted in intensified supervision measures over those prisoners, as well as in intensified work of treatment staff, but the prisoners did not give up. Moreover, the information gathered in communication with prisoners and from anonymous written notes of prisoners, as well as by observation of officers, implied the conclusion of a possible mutiny and of hostage-crisis.

In the respectful period, the interrogation judge repeatedly ordered a disciplinary measure to remand prisoner A because of several disciplinary offences being physical dispute with other remand prisoners, self-infliction and threatening and insulting of officers.

In the evening of 12 April 2003, the disturbance of order and disobedience of the aforementioned prisoners culminated – remand prisoner A started yelling and shouting through the window and so offensively threatened two judicial police officers. In the meantime, a remand prisoner D was interviewed, and as he had heard his brother's (remand prisoner A) shouting, he reacted so aggressively that the officers hardly controlled him. There are no records of any measures taken that evening.

Report for 13 April 2003 records:

- In the morning, the remand prisoner D refuses to go on fresh air together with other remand prisoners and justifies this with medication effects. He requests going for a walk afterwards and does not accept explanations regarding House Regulations and daily schedule. In addition he starts yelling and saying that he can do whatever he likes and accepts orders from nobody;
- after an interview, a judicial police officer took D for a walk, but this remand prisoner continued yelling and protesting,
- Also in morning hours, remand prisoners C and F ask for an interview and make protests because they were not taken to church service. Thereof, and after it was explained that they never enlisted for church service, they announce the commencement of a hunger strike,
- again in morning hours and during the stay on fresh air, the remand prisoner E, despite of an order forbidding such actions, climbed over to protective bars on the first floor, stayed there a couple of minutes and then returned to walking grounds.

It should be pointed out that remand prisoners C and F stayed together in the same cell, and E and A together in another cell.

After the described events, at 16.30 the Head of Security Department interviewed a remand prisoner C regarding these issues and concluded that this group of prisoners prepares a mutiny and a hostage-crisis. Therefore and due to arrangements with Prison governor, he ordered particular alertness for judicial police officers on prison wards, and the officer on duty was ordered to act upon a special security plan for Split County Prison.

Up until 23.20 at night, the situation in Prison was normal. At this point, the judicial police officer having duty on prison ward for remand prisoners reported to the officer on duty that the remand prisoner B broke window glass. Thereof the following happened:

- at 23.40 the judicial police officers entered in B's cell in order to prevent further shattering of windows and demolition of inventory, but were threatened by remand prisoner B who held a piece of broken glass and threatened to self-harm and also insulted them. The officers exited the room and estimated that this was a sign for other prisoners to start mutiny in Prison by banging and demolition of inventory in rooms,
- Immediately after 23.40 and the aforementioned event, remand prisoners A and E started shouting through window and calling other remand prisoners upon refusing obedience. They rang for the officer on duty and called for getting even with judicial police officers by abusive insults and threats,
- At the same time, remand prisoners C and F shouted through the window to remand prisoners B, E and A supporting each other, and called other remand prisoners upon disorder and general disobedience.
- Also at the same time, remand prisoner D in his cell shouts through window to remand prisoners in another cell and mentions some kind of agreement.

The officer on duty reported to Prison governor on new circumstances at 23.30 and the Head of Security Department at 23.40. Immediately afterwards the governor reported to the Head of Security Division in the Central Office.

The governor and all senior employees of the Security Department and of the Treatment Department came to Prison, and other 35 judicial police officers were called to report on duty. The ambulance was required from Solin. The fire prevention devices and restraints were prepared. All the present personnel got acquainted with the situation, with prisoner's characteristics and with separation plan, which was put into action silently at 00.20. Separation of remand prisoners was over at 1.30 a.m. Remand prisoners A, B, C, D, E, and F were separated in cellar and in atomic shelter premises.

According to respective reports, the separation of remand prisoners was effectuated as follows:

- Remand prisoner B in his cell awaited an officer with a piece of glass in hand, refused to throw it away and to exit the room, and threatened the officer with glass. Therefore, five officers entered the room, but the remand prisoner persisted in refusing exit and hit his forehead against the shattered window. The officers managed to seize the glass and take him out of the room without applying means of coercion,
- Remand prisoners A and E refused to exit the room and expressed verbal threats, while remand prisoner A had a razor blade in his hand. All of them resisted to exiting the room and five officers applied batons in order to get them out.
- Remand prisoners F and C refused to exit the room and the remand prisoner C threatened swallowing of a sharp part of razor "bic". They also resisted actions of bringing in applied by judicial police officers, and four officers separated them by using batons,
- Remand prisoner D refused to exit the room, resisted actions of bringing in, threatened and kicked with his foot an officer. Therefore, four judicial police officers separated this remand prisoner by using batons.

All the aforementioned remand prisoners were handcuffed after they exited rooms and were separated in cellar and in atomic shelter premises after receiving medical assistance.

Pursuant to Article 135 of the law on the Enforcement of the Prison Sentence, special measures of maintaining order and security may be ordered against prisoners when a danger of escape, of violent actions against persons or inventory, of self-harm and suicide exist, or in situations of endangering security and order that cannot be averted in any other manner. This provision involves the measure of separation. In compliance with the aforementioned stipulation, it was necessary to take such measures promptly after those dangers occurred in order to gain the purpose with the most subtle measure granting maximum respect of remand prisoner's dignity and excluding the possibility for cruel and inhuman treatment in accordance with the Criminal Procedure Act, the Regulations regarding regime for remand prisoners and the European Convention for Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

However, the aforementioned reports indicate that this danger has been lasting for fifteen days despite numerous possibilities to separate prisoners or to apply other appropriate special measures for maintaining order and security during daylight in individual situations of obstructing house regime and daily schedules, and to prevent further disobedience and violent behaviour of prisoners in a manner having minimum consequences. Furthermore, they failed to accomplish so neither on 12 nor on 13 April 2003 in morning, when they observed incidents during stay of remand prisoners on fresh air, and knew for fact that there is an agreement among six remand prisoners to cause major disorder and disobedience involving attacks on Prison officers.

On 13 April 2003 at 23, 40 when the remand prisoner B crushed window glass in a room, he was not separated although his violence was a sign to other remand prisoners and a cause for riots. In addition, regarding the respective reports, when situation calmed down that night, separation of remand prisoners was conducted "in total silence", and means of coercion were applied against all six remand prisoners who suffered bodily injuries thereof.

Conclusively,

Contrary to stipulation of the Article 112, Paragraphs 1 and 2 of the Criminal Procedure Act and to Article 8 of the Regulations on regime for remand prisoners ("Official Gazette" No 135/99), and having intention of sanctioning prisoners awaited for disobedience of prisoners to escalate in order to fulfil conditions for application of means of coercion and for separation in cellar and in atomic shelter premises by applying means of coercion (physical force and rubber baton) and restraints. In course of these actions, the remand prisoner B cut the fist of an officer, and remand prisoners suffered minor bodily injuries due to application of means of coercion and due to kicks by fists and feet as follows: A suffered bruises on head and body; C suffered bruises on his head; B suffered bruises on his head, abrasion of left fist and scratch on his back; D suffered three haematomas. The judicial police officers were hooded while they separated remand prisoners, and they cuffed those remand prisoners to iron bars in atomic shelter and beat them with rubber batons.

In compliance with the CPT's Report and recommendation, and given the fact that the aforementioned claims imply reasonable suspicion regarding unlawful actions of Split County Prison officers towards prisoners, we herewith forward this Report including evidence for purpose of evaluation and procedure.

GENERAL DIRECTOR

Ivan Damjanović, M.A.



REPUBLIC OF CROATIA

MINISTRY OF JUSTICE

**PRISON ADMINISTRATION
Central Office**

REFERENCE: 720-01/04-04/01
REG.NO. 514-04-01-04-12
Zagreb, 25 October 2004

To:

**EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT**

Re: Report regarding undertaken measures due to recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

Regarding the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) as was adopted on 2 July 2004, we herewith submit information on the undertaken measures due to respective recommendations of the CPT as follows:

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

6. We accept the criticism and truly regret because of the problems in co-operation the representatives of the CPT had with officers in Split County Prison and in the Penitentiary in Lepoglava. All the governors of penitentiaries, prisons and juvenile correctional institutions had been informed about these issues and were requested to warn the staff about the obligation of providing accurate and coherent information to CPT delegation, as well as to respect the confidentiality of conversation between prisoners and CPT representatives in accordance with the Convention, and also with the fact that any contrary conduct represents disciplinary violation for which they will be disciplinary charged.

The Central Office of the Prison Administration shall organise education of prison staff regarding the provisions of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

II. THE FACTS ESTABLISHED DURING THE VISIT AND THE PROPOSAL OF MEASURES

B. Establishments under the authority of the Ministry of Justice

1. Preliminary remarks

66. Penitentiary in Lepoglava and Split County Prison, as well as other closed institutions of Prison System have insufficient accommodation capacities thereof resulting in “overcrowding” and in inability to comply with stipulated standards for accommodation of inmates. In addition, this fact aggravates the work of prison staff. Therefore, through 2005 the Central Office of Prison Administration plans the construction of another closed-type accommodation premises within the Penitentiary in Glina for 240 inmates, serving the purpose of relieving the Penitentiary in Lepoglava and improving of accommodation conditions.

There are also plans for constructing another closed establishment in Dalmatia, near Šibenik, which is an integral part of a new respective Regional Plan. Specifically, according to Croatian legislation, consent of local self-government is needed for construction of penitentiaries and prisons and such a fact must be integrated in regional plans.

Regarding the situation in Split County Prison, we would like to point out that the construction of another floor has been planned for several years now, but the Croatian National Budget does not provide for financial resources for that purpose.

The Central Office of Prison Administration has accepted suggestion of the CPT delegation regarding reviewing legislative provisions for ordering remand custody and sentencing itself, and in addition, has forwarded the respective CPT Report to the Criminal Law Administration having the authority in monitoring the implementation of those stipulations and in proposing changes of criminal legislation.

2. Ill-treatment

67. In accordance with the Law on the Enforcement of Prison Sentence, the Central Office of Prison Administration requests from governors immediate information on every case a coercion was used towards inmates, for the purpose of determining legality of such actions and in order to sanction physical abuse. Furthermore, in order to prevent the abuse of means of coercion and physical ill-treatment, the Program of the Prison Staff Training Centre schedules education regarding application of the medium-force means of coercion, as well as the training in communication skills combined with elements of anti-stress programme intended for most of the judicial police officers who are directly involved in enforcement of individual treatment programmes and in treatment with inmates.

In addition, on individual or group meetings all the governors are regularly reminded on their obligation to supervise work and actions of all staff, including communication between staff and inmates, and to sanction unacceptable forms of communication. Moreover, the additional training in communication skills for judicial police officers and vocational trainers is organized in the Prison Staff Training Centre in order to increase level of relationship between prison staff and prisoners and to prevent verbal abuse of inmates.

70. By the decision of the Employees Disciplinary Court, the officer was found guilty for abuse of official authority or exceeding of official authority by unjustifiably applying means of coercion. He was ordered a disciplinary measure of a fine in amount of 10% of pay check he received in July 2004 through three months. The information regarding criminal procedure against the judicial police officer from Penitentiary in Lepoglava will be provided in the following report.

71. As was already reported, the use of the atomic shelter for accommodation of inmates in Split County Prison was forbidden and these premises are out of use.

72. The Central Office of Prison Administration gathered and reviewed the complete documentation regarding separation of inmates in the atomic shelter within Split County Prison on 14 April 2003. It was determined that six inmates were separated within these premises (the report of the Prison Governor regarding separation of seven inmates involved also the name of the judicial police officer who participated in separation actions).

In compliance with the CPT delegation recommendation, the Central Office of Prison Administration submitted a request to the Municipal State Attorney Office for actions to be taken on basis of having reasonable suspicion regarding ill-treatment and misconduct of prisoners. Please find attached the respective letter (Reference: 720-01-04-01/1, Reg. No. 514-08-01-01/1-04-10, dated on 18 September 2004).

74. Pursuant to the Article 135, Paragraph 2, Point 6 of the Law on the Enforcement of Prison Sentence, hand-cuffing and restraining of prisoner's legs if necessary, are special measures of maintaining order and security, and may be ordered against a prisoner likely to attempt escape or violent actions against persons or inventory, or when a danger of suicide or self-harm exists, or in situations of endangering security and order that cannot be averted in any other manner. In addition and pursuant to the Law, this measure may be ordered only by a governor, and in exceptional urgent cases by an officer, but a governor must be promptly posted of any such case. Handcuffing may last 12 hours within 24 hours at the longest; it may be applied only under the doctor's supervision, and may not be used as a punishment but solely as a measure for restriction of movement. The governor of Osijek County Prison will instruct employees on law-obedient conduct; he will supervise their work and will request disciplinary procedure in any case of law violation.

75. The respective CPT Report was handed over to governors of penitentiaries, prisons and juvenile correctional institutions at the meeting held on 13 October 2004. They were acquainted with the Report's findings in order to take actions for coordinating work due to CPT's recommendations, and must report to the Central Office regarding these matters. Under the implication of disciplinary responsibility, governors were also instructed to supervise work of employees and to monitor and advise employees regarding models for communication with prisoners.

76. In accordance with the Training Programme of the Prison Staff Training Centre, there are various educational models of basic training courses for newly arrived employees, and special additional courses for prison staff. Since 1999 when the Centre was established, there were basic courses for all newly employed judicial police officers; additional education for the rest of judicial police officers, for treatment staff, for vocational trainers and medical personnel, therefore for all staff members having direct communication with inmates, and having assignments in enforcement, supervision and evaluation of individual treatment program of prison sentence. All the aforementioned programmes promote the approach complied with generally adopted international standards. The following programmes will be carried out in October 2004: the application of medium-force; programmed recreation (communication skills with elements of anti-stress programme) for judicial police officers and vocational trainers. Various models of education have been carried out in the Centre since its establishment. The first course for forty employees was aimed for prospective trainers. Other forms of education attended the total of 1119 prison staff members involving 502 judicial police officers, 282 treatment employees, 28 medical personnel, 284 vocational trainers and all governors of penitentiaries, prisons and juvenile correctional institutions (23) attended the course regarding management skills.

77. We accept the Committee's recommendation. The training of employees is one of the safeguards for legality of work. The education and training of prison staff will continue in the Training Centre in accordance with the Regulations for training of employees in penitentiaries and prisons of Prison Administration, having been in force from 9 July 2002.

78. Regarding the recommendation dealing with carrying firearms in premises for detention of prisoners, as well as with carrying batons in prisons and penitentiaries, we have already reported about a written order (Reference: 053-01/04-01/20, Reg. No: 514-08-01-04-4 dated on 12 February 2004) forbidding the prison personnel to carry firearms when having direct contact with prisoners, and to carry batons in the course of work on prison wards. This was brought to attention of all governors in the letter from 4 October 2004, Reference: 720-01/04-01/1, Reg. No. 514-08-01-04-11. Please find attached the aforementioned letter.

We would also like to report on the exchange of the uniforms for judicial police officers. New uniforms have a sewn in pocket for batons and they will no longer be visible. The exchange of uniforms has already been carried out in most penitentiaries and prisons, and the rest of the procedure will be accomplished during 2005.

3. Material conditions

79. Reconstruction of accommodation premises in Wing B of the Penitentiary in Lepoglava were completed in December 2003. The inmates moved in at the end of December 2003. Twenty-two inmates are on so called section 1B (intensified supervision), forty-five inmates are on section 2B, forty-six inmates are on section 3B, and thirty-eight inmates are on section 4B (prisoners convicted for war crime, mostly of Serbian nationality). This wing is also provided with a room for gym for prisoners, and it has just been adequately equipped. Each section has two living rooms, and two TV rooms, as well as availability for preparing simple refreshments and a table-tennis area.

80. We accept the comment and the recommendation regarding accommodation of prisoners in rooms within Penitentiary in Lepoglava. Neither the administration of the Penitentiary, nor the Central Office are satisfied with the situation in which an increased number of prisoners must be accommodated in rooms, resulting in failure to comply with stipulated standards. However, the insufficient capacities in closed establishments for enforcing prison sentence force us to make such arrangements. The State Budget for 2005 should provide for financial resources to construct a new accommodation premises for approximately 240 inmates within Penitentiary in Glina. This would also be a closed institution and would relieve the pressure over Penitentiary in Lepoglava.

82. We accept the recommendation regarding separation of sanitary annexes within Split County Prison, but the shortage of financial resources for prison system in past few years disabled any such actions. For a couple of years the Central Office has been planning a reconstruction of the floor in this Prison in order to reduce insufficient accommodation capacities, but the State Budget still does not allow financial resources for this purpose. However, all those plans shall be realized as soon as minimum financial possibilities allow it. In addition, the Central Office shall not give up the need for construction of a new penitentiary in Dalmatia, near Šibenik, as was presented to the Government of the Republic of Croatia. As for now, city of Šibenik recognized our need and incorporated it in respective Regional Plan on the location "Podi".

83. We accept the recommendation. The governors of penitentiaries, prisons and juvenile correctional institutions were given instructions in the letter dated on 4 October 2004, Reference: 720-01/04-01/1, Reg. No. 514-08-01-04-11.

84. We accept the Committee's comment regarding the increased number of prisoners accommodated in rooms of Osijek County Prison. However, as was already said, this situation is caused with insufficient accommodation capacities. The Central Office puts efforts in increasing the level of accommodation standards, but the result depends on financial possibilities.

We are aware of the risk caused in inability of communication between inmates in rooms and judicial police officers, and we accept the recommendation to fit them with call system.

4. Activities

86. In compliance with the Committee's request, Penitentiary in Lepoglava will report on all activities for inmates in the intensified supervision unit, and this report will be forwarded along with the next report of the Central Office.

87. The Central Office accepts Committee's recommendation, because the prisons themselves have problems given the fact that laws in force determining the position of remand prisoners authorise solely courts to pass all decisions. Therefore, the Committee's Report was forwarded to the Criminal Law Administration and to the Administration for Organisation and Personnel, both within the Ministry of Justice, and having authority in proposing changes of criminal legislation and in estimating the needs for education of judges. In addition, the aforementioned letter from 4 October 2004 instructed the governors to determine and suggest possible activities for remand prisoners in accordance with regulations applicable on remand prison regime.

5. Section D1 of Penitentiary in Lepoglava

89. We accept the comment regarding accommodation of inmates in rooms of the Penitentiary in Lepoglava. We are also aware that we do not provide for accommodation of inmates as is stipulated and as they should have. However, there are no other accommodation possibilities so far. Again, we repeat the plans of the Central Office to construct new accommodation premises in Penitentiary in Glina and a new penitentiary in Dalmatia. The realisation of those plans entirely depends on provided financial resources that have been insufficient for years now and therefore caused the debt of prison system increasing up to 20 million Kuna for basic functioning in this year.

6. Health care

93. The recruitment of a new medical technician in the Penitentiary in Lepoglava has just been completed. We shall report on his commencement on work in the next report.

94. Osijek County Prison was instructed to employ a physician for purpose of ensuring health care of inmates. The letter from 4 October 2004 instructed Osijek County Prison, as well as other prisons, penitentiaries and juvenile correctional institutions to make records in medical files of prisoners: of all diagnostic findings and anamnesis and of remarks regarding each conducted specialist exam; of detailed statements given by a prisoner that are of importance for medical exam, as well as detailed medical findings and the doctor's conclusion; to securely store medical files in a manner guaranteeing confidentiality; to forward a medical file in case of inmate's transfer; to provide a copy of medical documentation for an inmate; to organize work of medical personnel in shifts in penitentiaries and prisons with several employees of this profession; to conduct a medical exam of newly arrived prisoners within twenty-four hours.

95. The recruitment of a new medical technician is ongoing in Split County Prison.

96. We accept the comment regarding dental care of inmates in Split County Prison. This problem has been persisting for several years now, and the Prison management puts considerable efforts in finding a dentist who will provide dental care for inmates. There is a specific problem of escorting remand prisoners to dentist, for a competent judge must approve of each procedure with remand prisoners.

97. In order to achieve the aim of the recommendation regarding storage of prisoners' medical files, penitentiaries, prisons and juvenile correctional institutions will provide data for necessary equipment that will be obtained for at the beginning of 2005, as soon as the State Budget is passed.

The letter from 12 February 2004, as the one from 4 October 2004, have been instructing governors of penitentiaries, prisons and juvenile correctional institutions on obligations to ensure confidentiality of communication between a doctor and a prisoner and on conducting a medical exam in absence of a judicial police office. They were also obligated to warn medical staff regarding the fact that a judicial police officer may attend to a medical exam only if a doctor so requires, and that this fact must be put in record in prisoner's medical file.

98. The governors were also informed regarding the obligation of a doctor to thoroughly note details of all observed injuries, as well as statement of prisoner regarding injuries.

99. We accepted the recommendation and forwarded the same on to governors of penitentiaries, prisons and juvenile correctional institutions for the purpose of its implementation (the letter from 4 October 2004).

100. Refusal of an inmate to take tests on narcotic or psychoactive substances and contagious diseases is a serious disciplinary offence. In compliance with Article 135, Paragraph 2, Point 8, such tests are special measures for maintaining order and security. Should a prisoner refuse to take tests, it is allowed to apply a special measure of maintaining order and security by restraining a prisoner. The measure of restraining may be applied promptly for the purpose of taking blood and urine samples due to medical regulations. Any further application of this measure is unauthorised. This measure cannot be applied as continuing punishment. The disciplinary procedure against a prisoner who refuses to take tests may start and proceed in stipulated terms; a disciplinary measure may be ordered, but under no circumstances may this be any of special measures for maintaining order and security. Such a measure may only be one of the disciplinary measures stipulated in the Article 146 of the Law. In a case like this, the Law stipulates the application of a special measure for maintaining order and security by restraint only as an option for preventing infectious disease if such a danger exists.

It should be pointed out, that although a legal background for restraining as a special measure for maintaining order and security in cases of refusing tests has been existing, the same has never been effectuated within prison system for those reasons. Rather than that, prisoners were disciplinary pursued. The Committee's recommendation will be taken in account in process of amending the Law on the Enforcement of Prison Sentence.

101. Our next report will address the data regarding medical exams of remand prisoners, conducted by physicians of their choice. As regarding inmates, the Article 107 of the Law on the Enforcement of Prison Sentence stipulates the right of an inmate to request a medical exam of a specialist, unless such an exam prescribed a prison doctor. The next report will also provide data regarding the exercise of this right.

102. Within the prison system, the treatment of addicts in Penitentiary in Lepoglava is ongoing under the permanent supervision of experts coming from the Clinic hospital of "The Sisters of Mercy" in Zagreb, and in Zagreb County Prison where a treatment of addicts is registered as a scientific project and involves participation of experts and students of the Educational and Rehabilitation School, as well as of Centres for prevention of addictions. The induction of programme and the education of employees are ongoing in the Penitentiary in Glina and in Šibenik County Prison. Inmates- addicts who are in semi-open and in open-type penitentiaries already achieved some progress either in closed institutions, or were involved in treatment programmes in freedom, so that the treatment continues in co-operation with centres for prevention of addiction in social community. Therefore, these inmates are granted benefits of therapeutic leaves in accordance with Regulations upon benefits of inmates. All the other prisons having treatment personnel implement individual programmes and co-operate with outside institutions.

7. Discipline

104. The Central Office accepted the Committee's recommendation and in its letter from 4 October 2004 instructed governors of penitentiaries, prisons and juvenile correctional institutions to conduct likewise.

This recommendation will be taken in account in process of amending the Law.

105. The letter from 4 October 2004 instructed governors to equip solitary confinements with items stipulated in the Law and which is in compliance with the Committee's recommendation.

8. Staff

106. We accept the opinion and the suggestion. In future, employees of prison system will be involved in various models of education, which will certainly contribute to quality of work and to professional relationship between employees and prisoners. The admission of new employees approved of by the Government of the Republic of Croatia in 2005 will reduce the necessity for overtime working hours and affect the security level throughout the prison system.

107. Given the fact that the Government of the Republic of Croatia forbade admission of new employees, this reflected in vacancies of working posts and resulted in overtime working hours. The Government approved of new appointments to places in prison system throughout 2005, so that thirty judicial police officers will be employed next year and part of them will be posted in Penitentiary in Lepoglava.

108. We accept the recommendation. In accordance with financial possibilities, efforts shall be made to provide for psychological support for prison employees from experts in outside institutions. Given the existing financial disabilities, and due to estimated needs of prison employees, the Training Centre organises the aforementioned course for programmed recreation with elements of anti-stress programme.

9. Contacts with outside world

110. The following report will address possibilities for amendments and actions due to Committee's recommendation regarding contacts of family members with prisoners from Dalmatia who serve prison sentence in Penitentiary in Lepoglava.

111. We accept the recommendation. The Central Office addressed these issues for several times and at each amendment of the Criminal Procedure Act pointed out the same. The respective Criminal Law Administration and the Administration for Organisation and Personnel having competence in initiating and preparation amendments of criminal law stipulations were acquainted with the CPT's Report and recommendation.

112. The Criminal Law Administration of the Ministry of Justice having competence in proposing amendments of Criminal Procedure Act was acquainted with the Committee's recommendation and Report.

115. In addition to accepting recommendation, the Central Office, in its letter from 4 October 2004, instructed governors of prisons to provide for visits of judges to remand prisoners and their communication in absence of prison officers.

This recommendation was forwarded to the Administration for Organisation and Personnel of the Ministry of Justice, having competence in organisation of courts' work.

116. The requested reports will be forwarded with the following report.

GENERAL DIRECTOR

Ivan Damjanović, M.A.

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

**SUBJECT: Report on the visit of the representative of the
European Committee on Prevention of Torture
(CPT) to the Republic of Croatia**

~ Comment ~

Related to your CPT Report, it is obvious that some comments derived on account of the lack of understanding or bad translation of certain terminology contained in some legal provisions. This terminology is specifically defined in each of these provisions and it is our intention to render clarification in this Comment.

Point no. 8

Under the Criminal Procedure Act, the police is not authorised for the imprisonment or detention of suspects. The police have the powers of arrest, without a court order, of individuals found in the act of committing a crime and of prosecuting them ex officio as well as of the individuals under reasonable doubt of having committed a crime that is prosecuted ex officio, all in cases where there are grounds for remanding in custody.

The police have to bring an arrested person before an investigating judge **immediately, or within 24 hours at least**, or release him/her. The investigating judge remands a suspect to a detention prison in the premises under the Ministry of Justice.

Point no. 9

Under the Misdemeanour Act the police are not authorised to decide on detention. If the police find a person in an act of committing a misdemeanour and believe that there are grounds for detaining him/her, they may bring this person before a magistrate without any delay. Nevertheless, the police detain persons in some exceptional cases but are obliged to bring them before a judge, such cases being: where the identity of a person has to be established; in case it is presumed that he/she might flee; in case where the place of residence or abode do not match the place of commitment of a misdemeanour; if he/she continues committing misdemeanours regardless of a police warning or tries to repeat it, or if the police consider that there is reason to believe that he/she would continue committing misdemeanours.

Furthermore, Article 147 of the said Act lays down the police powers to detain a person until he/she sobers up, 12 hours being the maximum in cases where he/she is found committing misdemeanours under the influence of narcotic substances and if it is believed that he/she would continue with the same behaviour while in the state of intoxication.

The matter of detention for which a judge is authorized under Article 146 of the said Act does not stand for police powers but only the power of the judge. The circumstances of police practical detention in police custody are explicitly laid down in the Act.

Moreover, pursuant to Article 147 of the said Act, before the police decide on detention, they have to arrange for a medical check by a competent doctor and establish, according to the doctor's report, whether the person to be detained is under the influence of narcotic substances. If the person is intoxicated by alcohol, the police may perform an breath test if the he/she consents to it.

The Aliens Act (Official Gazette 109/03 – hereinafter “OG”) entered into force on July 2, 2003 and is being implemented since January 1, 2004. Upon the implementation of this Act a number of provisions of the Act on Movement and Stay of Aliens – applied since October 8, 1991 came out of force. In drafting the Aliens Act, the best experiences and practices of the European states were used so that most provisions of the said Act are now in harmony with the EU acquis.

Being our intention to illustrate the area of interest as clearly as possible, we should point out Article 58 of the said Act which makes it possible to arrest and detain an alien in police station custody suite up to 12 hours all for the purpose of forced removal.

Although Article 56, paragraph 2 of the said Act lays down that prompt forcible removal is to take place of an alien who has been pronounced a protective and security measure of refoulement, as well as of the alien who has to be returned on grounds of an international agreement, the case is that forced removal cannot often be executed promptly on account of the fact that such a procedure often requires comprehensive preparations and some unexpected obstacles might appear. In this period of up to 12 hours, all necessary preparations have to be completed and the escort to the state border has to be arranged.

Respectively, Article 57 does not prescribe forced removal of aliens to a state where his/her life or freedom would be endangered on account of his/her racial, religious or national affiliation, affiliation to a specific social group, or on grounds of political opinions, or to a state where he/she might be subjected to torture or inhuman or degrading treatment. The content of this Article is almost completely identical to Article 3 of the Asylum Act (“OG” 103/03) applied since July 1, 2004.

Regarding the interpretation of Article 146, paragraph 3 of the Misdemeanour Act that lays down time limits for detention, the term “detention” is used instead of “remand” and instead of the wording “deciding on detention and prolonging detention” the terms “order or extend” are used. Just as well, the wording “adoption of a decision on imprisonment” is used instead of the wording “adopting a decision of custodial sentence” and the wording “remand may last until custodial sentence commences” instead of the wording “detention may last until the beginning of serving custodial sentence”.

Point no. 10

We feel that the term “detention” has been wrongly interpreted. Thus, in compliance with the Criminal Procedure Act and the Misdemeanour Act the notion of arrest accounts for police powers to, upon a court order or ex officio, arrest a person found in commitment of a misdemeanour or an ex officio persecuted crime, or a person under reasonable doubt to have committed an ex officio persecuted crime in case there are grounds for deciding on remand.

Under the terms of Articles 49 and 50 of the Police Act, arrest of a person does not stand for an arrest of a suspect for a misdemeanour or a crime. Article 49 of the said Act provides for the police power of restriction of freedom of movement of a person under reasonable doubt of being in possession of an object/objects that might serve as evidence in criminal or misdemeanour proceedings for the purpose of securing such object/objects until the moment a search warrant is acquired. This is to say that the detention does not aim at arresting a person but at preventing a detainee to destroy such objects or, in any other way deprive the court of the possibility to use them as evidence.

Article 49 of the said Act lays down the 6 hour time limit for the detention of searched persons in cases where there is a reasonable doubt that they are in possession of an object/objects that might serve as evidence in criminal or misdemeanour proceedings. Here, the term “detention” is being used instead of the term “remand”.

Article 50 of the said Act also does not constitute powers of arrest, but it provides for restriction of movement of a person who is considered to be able to render information relevant for solving a case or information relevant for rescue activities when it is believed that such information could not be obtained later on, or when the presence of an individual who would perform rescue activities could not be otherwise ensured.

Point no. 11

Article 25, paragraph 1 of the Act on Disorder Prevention at Sports Events (“OC” 117/03) lays down that the police have the power to detain persons who declare themselves as supporters at the event for two hours after the event, in cases when their misbehaviour provokes reasonable doubt that they are intoxicated by alcohol or narcotic drugs, or if they behave wrongfully in some other way.

Furthermore, Article 27, paragraph 1 of the said Act lays down that these persons may be detained by the police in police custody suite or in other appropriate premises and paragraph 2 defines that these appropriate rooms are those having sanitary and water supply facilities and that can provide for safe sojourn of individuals and a number of people for a few hours.

It has to be noted that the same procedure is applied to the supporters detained in police custody suit under the terms of the Act on Disorder Prevention at Sports Events, Article 25, as to other detainees in these premises.

Detention of supporters in other appropriate premises, for example within a sports facility, is, within the meaning of Article 27, paragraph 2 of the said Act possible only in the premises that ensure safe sojourn for a few hours and which meet sanitary and water supply preconditions. It has to be noted that up to now, the police has not used their powers to detain individuals in such premises.

Point no. 12

The General Police Directorate has up to now undertaken necessary measures together with the Internal Control Department with a view to conduct control and collect information related to every report against police officers in which they are suspected of ill-treatment of persons on whom police powers had been applied. The control was conducted on the basis of written and verbal grievances from certain individuals, anonymous complaints and on the basis of otherwise received information on the existence of reasonable doubt about police officers misconduct or overstepping police powers resulting in ill-treatment of citizens.

Likewise, each and every case of the use of force by police officers are being examined and evaluated. Where during such a procedure the information leads to conclude that there is a reasonable doubt that a police officer tortured or ill-treated persons on whom he/she used police powers, appropriate proceedings were undertaken which is clearly presented by this report data. Since in the stated point there are neither concrete personal data on injured persons nor the data on suspected police officers, it is not possible to say whether it is about the cases related to which necessary measures have already been taken against, or about the cases that have not yet been brought to open.

Consistent with the effective regulations, the police provide citizens with the protection of their fundamental constitutional rights and freedoms and the protection of other values enshrined in the Constitution. Any deviation of police conduct from these regulations constitutes a grave breach of discipline and a criminal act as well.

Point no. 13

We believe that the measures taken so far have already caused the downsizing of cases of ill-treatment in executing police powers, but we welcome the recommendation to introduce preventive measures through the education of police officers with a view of building awareness regarding the concept that any kind of ill-treatment or excessive use of force in policing is unacceptable and liable to penalty. To this effect and in compliance with the CPT recommendation, the General Police Directorate will draft a directive and bring it to the attention of every police officer. The directive will impose demands on leadership staff to pay extra attention to this problem area.

Point no. 14

In compliance with the CPT recommendation, great attention is continually paid to police training. All training programs are continually monitored, evaluated and revised. They include basic police training, professional training, college training and university training. In order to adapt programs and organization of different levels of police training to the current needs of policing and community requirements, a new concept of police training at the Police Academy was presented at the senior management meeting on July 19, 2004 and was adopted by the Minister's Decision on July 23, 2004.

The demand to see interpersonal communication skills as the key criteria in candidates selection for future police officers, was realized in the course August, September and October in the framework of Internship Application Procedure for the posts requiring college or university degree. Annexed to this text is the outline of candidates selection procedure together with instructions for semi-structured motivation interview adopted in the framework of this procedure that was focused on the interpersonal communication skills.

Point no. 15

Since January 1, to December 31, 2003, 12 disciplinary procedures were instituted before the Ministry of the Interior Disciplinary Court on account of grave breach of duty. These breaches were qualified as ill-treatment. Out of these 12 cases, 5 were found groundless, on the basis of which the involved police officers were cleared and 7 were found well grounded, so that the police officers involved were passed the following disciplinary measures:

- 1 was suspended from civil service;
- 1 was suspended from civil service on probation;
- 5 were fined;

In the period of January 1 to June 30, 2004, the procedures for grave breach of duty were instituted against 10 police officers. These breaches were qualified as ill-treatment on duty. 5 of the cases are pending, 3 were terminated by acquittal and for 3 cases the following disciplinary measures were passed to the officers involved:

- 1 was suspended from civil service on probation;
- 1 was fined.

Regarding this Report query related to the disciplinary sanctions outline, please refer to Article 49, paragraph 2 of the Civil Servants and Employees Act ("OG" no. 27/01) that envisages the following sanctions for grave breach of duty:

1. fine payable in one to six months where monthly instalment of the fine may not exceed 20% of the salary of the month in which the sanction was imposed.
2. secondment to another less demanding work post that requires the same qualification.

Besides, on grounds of Article 123, of the Police Act ("OG" no. 129/00), a police officer may be sanctioned with a disciplinary measure of termination of service in cases of grave breach of duty.

Article 118 of the said Act lays down that a disciplinary sanction of termination of service on probation of 3 to 12 months might be imposed on a police officer for a grave breach of duty.

It also has to be noted that the existing Civil Servants and Employees Act specifies the increase of fines range so that compared to the previous regulation according to which grave breach of service entailed a court decision of a fine amounting to 20% of an officer's one month salary, the fine may now amount to 20% of six salaries.

This way the court has at its disposal a considerably wider choice of disciplinary sanctions depending on gravity of a committed breach of duty and also on the level of responsibility (INDIVIDUALIZATION).

Point no. 16

Annexed to this text are the overview of the project activities "Police use of compulsory measures" and reports on the realization of this research project presented by the in-house publication "Police College Research Days of 2001 and 2002".

Point no. 17

Firstly, a few facts regarding the treatment of aliens in the Republic of Croatia should be mentioned. The basis of aliens treatment includes the gathering of relevant information. This information is necessary so as to determine the relevant facts concerning the way of illegal state border crossing, illegal movement and stay on the territory of the Republic of Croatia etc., on the basis of which judicial proceedings and possible readmission return procedure are conducted later on.

As these procedures are conducted by the judicial authority and competent authorities of other states, and given the fact that they include interviews with aliens, police requirements must be based on the facts. In order to determine relevant facts, the information gathering procedure must be executed in a language familiar to the alien, which in most cases requires an interpreter's assistance. Thus, a procedure cannot be conducted in a language the alien does not understand.

Article 46, paragraph 1 of the Book of Rules on Travel Documents for Aliens, Visas, Border Passes and on Treatment of Aliens ("OG" 202/03), which elaborates certain provisions of the Aliens Act, obliges the competent body to secure necessary health care to an alien being forcibly removed while obtaining consent for forced removal and conducting forced removal procedure. This had to be regulated, as it was determined that, when captured, a certain number of illegal migrants are found to be exhausted, thirsty and starved. For covering the expenses that can arise from providing necessary health care, the Ministry of Interior has foreseen adequate financial means under the item concerning forced removals.

Furthermore, Article 58, paragraph 3 of the Aliens Act proscribes that an alien who could not, owing to medical or other special needs, be placed in the Aliens Reception Centre, where aliens are accommodated during the forced removal procedure, should be accommodated in some other appropriate manner. This Article also regulates previous practice used in a certain number of cases when aliens were in need of medical treatment in an appropriate medical institution. Moreover, aliens accommodated at the Reception Centre could, if needed, also be referred to a medical institution. The mere mode of charging medical expenses is regulated by the Act on Aliens Health Care in the Republic of Croatia ("OG" 114/97), which has been in force since October 25, 1997.

In Article 1 of the said Act, among other categories of aliens who enjoy the right to health care are stateless persons, persons whose extradition is not possible due to serious medical conditions and juveniles found in the Republic of Croatia without parental escort. Article 2, paragraph 1 of the said Act stipulates that health care of aliens is to be provided in the same mode and under the same conditions as it is provided to Croatian nationals.

Children and juveniles without escort are, in cooperation with the competent Social Welfare Centre, accommodated in the nearest institution for accommodation of children and juveniles. In this connection, as juveniles lack business capacity, prior to initiating the official procedure towards them, a police officer is obliged to inform the competent Social Welfare Centre. It is only possible to conduct the procedure after a guardian has been appointed to a juvenile for a special case. Besides possible judicial proceedings, the presence of a guardian is also necessary when conducting forced removal.

Points no. 18 and 19

On May 17, 2003, the Official Gazette No. 81 published a Book of Rules on Police Conduct, Article 81 which stipulates the manner and the content of the oral instruction a police officer is obliged to issue to an arrested person. This instruction goes as follows: "You are under arrest for (the criminal act for which he/she is arrested), you have the right to remain silent, to have access to a defence lawyer and to notify your family".

Pursuant to that, and based on the mentioned provision of the Book of Rules and the provisions of the Criminal Procedure Act and Misdemeanor Act, the General Police Directorate drafted a report form on arrest and bringing in procedure. This report is already used by the police organisational units, and is signed by and contains all rights of an arrested person.

The remarks concerning the need for precise legal definition of this problem shall be taken into consideration during the next act amendment.

As illegal migrants do not have relatives in the Republic of Croatia, starting from the fact that they are foreign nationals and following relevant international standards, notifying the competent consular body on aliens treatment has proven to be the most appropriate practice. Exercising of this right includes giving aliens verbal notification of their right to consular protection, based on Article 36 of the Vienna Convention on Consular Relations in cases where the procedure involves limitation of constitutionally guaranteed rights and freedoms. In the case of a positive reply, a short resume on the overall conduct is drafted and forwarded to the Ministry of Foreign Affairs at earliest date. As a safeguard that an alien has been informed of his/her rights under Article 36 of the Vienna Convention, a Statement to the Record is used. It includes all the information important for the procedure and is co-signed by the recording officer, the officer in charge of the procedure, the alien and the interpreter, if the alien does not speak Croatian. When supervising the work of the organisational units at the lower hierarchical level, the officers of the Ministry at the Headquarters pay special attention to the fact whether the alien has been informed of his/her rights from the said Article.

We are not familiar with the practice of other states regarding the recommendation on elaboration of multilingual forms for informing aliens of their rights during the procedure. As a specific number of illegal migrants are illiterate, in other words are not literate at the functional level, the said recommendation is not sufficiently based on the actual situation. We believe the present practice to be far more appropriate as, bearing in mind interpreter's services, it leaves little room for the lack of understanding, and with it, to the possibility of non exercising procedural rights of the alien. In the end, we would like to point out that notifying the competent consular body has for a number of years been one of the basic standards in the treatment of aliens in the Republic of Croatia.

Points no. 20, 21, 22, 23 and 24

The provisions of the Misdemeanour Act and Criminal Procedure Act stipulate the right to a defence lawyer, as well as the possibility of *ex officio* appointment of a defence lawyer to a person who is not in the position to cover the defence expenses according to his/her income.

As to the conduct of the police, your recommendations shall be observed while conducting the upcoming amendments to the Police Act and the Book of Rules on Police Conduct. The form of summons shall be amended immediately, as to have your recommendations implemented as soon as possible, and this very recommendation shall be included in an instruction on police conduct. The General Police Directorate shall forward this instruction to all police organisational units.

Pertaining to referred points no. 22 and 23, given very mild sentences, the purpose of summoning a defence lawyer in proceedings against illegal migrants is not clear. Furthermore, in the case of juvenile aliens, we are of the opinion that the interests of juvenile aliens are much better protected by the present practice of involving the competent Social Welfare Centre and appointing a guardian for the special cases.

Points no. 25, 26, 27 and 28

As to the remarks related to the unaltered practice regarding the right of the arrested person to a doctor, we would like to inform you that the General Police Directorate shall pass the Instruction and endeavour to undertake other necessary measures for the relevant regulations to be implemented as soon as possible.

Point no. 29

As already stated, the Report on Arrest Procedure is already used in practice. It contains information on the rights of arrested persons and is signed by the arrested person.

A special form containing all enumerated rights of the arrested person, which shall be available to every arrested person, shall be drafted and translated into several languages. This would comply with the recommendation that the arrested person is informed of his/her rights immediately upon arrest.

We would like to stress that the present practice was such that an interpreter during the first interview informed the arrested of his/her rights. Of course, this was not possible during arrest procedure, as it took some time for the summoned interpreter to come.

Point no. 30

Pertaining to your recommendations on police interrogations, drafting the Code of Police Conduct during interviews or interrogation of suspects is underway and we hope it would be enacted soon.

Point No. 31

The Police Service Reference Book containing, among other things, the instructions for police officers on how to use certain police powers and how to communicate with citizens in various situations was published in July last year by the Police Academy of the Ministry of Interior of the Republic of Croatia. This Reference Book is intended as the basic police service handbook for every police officer. The Reference Book on Police Criminal Pre-investigation Procedure has also been drafted, but is not ready for publishing, mostly because of financial reasons.

The Reference Book on Police Principles and Procedures, representing the end product of the cooperation of the MoI and the ICITAP experts was published in May this year. This Reference Book has been published in a sufficient number of copies for every police officer, and partly deals with the topic of information gathering and conducting interviews.

Point no. 32

As to the records of the detainees, we would like to state that such uniform record keeping is organised in all police stations operations rooms duty centres of the police stations. We believe that the problems do not relate to the record keeping itself, but mostly to deciding on detention, as it is mentioned under point no. 35, where it is stated that for the persons brought to the police station, detention has not yet been decided on and therefore sojourn in inadequate conditions for a longer period of time.

Point no. 33

There are neither obstacles for the prosecuting/judicial authorities, nor for the Ombudsman to visit police detention suits under the jurisdiction of the MoI of the Republic of Croatia and to contact detainees and inspect the detention records. However, it has to be noted that there are a small number of recorded cases in which the aforementioned bodies used such powers.

Points no. 34, 35, 36 and 37

Pertaining to the mentioned points, we would like to state that the General Police Directorate has assessed the state of detainment facilities in all organisational units across the state. Consequently, the Material and Financial Affairs Directorate has been forwarded the Renovation Proposal, that is an instruction to consider priorities and, if possible, to ensure budget resources for this purpose in the course of next years.

Thus, we would like to state that the detention facilities of the Detention and Escort Unit of the Zagreb County Police Administration have been renovated. As such, they comply with the detention standards requirements, which has already been concluded under point no. 37 of the Report by the CPT representatives.

Point no. 38

The allegation that the Border Police do not dispose of accommodation facilities for aliens denied entry into the country is not true. According to the positive legal regulations of the Republic of Croatia (State Border Protection Act, Article 14), an airport operator is obliged to secure facilities for the sojourn of these persons (and not the area, which is unacceptable from the terminology point of view). Thus, the fact remains that the airport operator has not secured a special area and is using part of the transit area, which does not suit these purposes.

The Border Police continuously endeavour to build such an area. This has resulted in producing plans and projects of the airport operator, which foresee a special area, pursuant to the relevant standards for this purpose. The construction of this area is expected to be finished by the first half of 2005.

Point no. 39

It is a fact that the specific procedures did not exist, as the Asylum Act has recently entered into force under the terms of implementation postponement, precisely for defining the procedure. In the meantime, the procedure has been defined in agreement with international norms and the Asylum Act. The preparation of the airport operator with the aim of securing an area for sojourn of such persons has been completed as well, this being in agreement with the relevant obligations deriving from the positive legal regulations.

Point no. 40

In the first half of 2004, the renovation of the Aliens Reception Centre was completed. It included facilities for the Centre police officers, two toilet blocks with separate staircases in the basement and separate male and female bedrooms upstairs. The overall capacity of the Centre is limited to 108 places. Facilities for female persons have been specially arranged, and one room for the possible accommodation of family is always kept ready. Aliens are no longer accommodated in the container facilities. One part of the container capacity has been temporarily ceded to the MoI organisational unit dealing with asylum. The stay of aliens in the renovated facilities is to a significant extent more comfortable than it was during the CPT's delegation visit.

Article 58, paragraph 2 of the Aliens Act foresees the accommodation at the Reception Centre of an alien who it has not been possible to forcibly remove or whose identity could not be established. We would like to place special emphasis to the fact that, in agreement with previously said paragraph 2, Article 56, the procedure of forced removal is possible to be carried out only if the final court protection or security measure of expelling has been imposed to the alien.

It is important to emphasise here that the Aliens Act recognises the institutes that in certain cases enable appropriately milder mode of aliens treatment, whereby forced removal becomes the measure of the last resort. Thus, according to Articles 45 and 50, aliens who have been granted one of the possible valid stay statuses in the Republic of Croatia can have their stay in the Republic of Croatia cancelled. Moreover, for aliens whose stay is illegal and who are in the possession of a valid travel document, and where the nature of the offence enables such procedure, the deadline for leaving the Republic of Croatia based on Article 53 can be decided upon. In both cases an adequately long deadline is decided upon, in which the alien is obliged to leave the territory of the Republic of Croatia on his/her own. Only after the alien has not obeyed the instruction, can the forced removal procedure be initiated.

Article 59, paragraph 1 restricts the accommodation of the alien in the Centre until the moment of forced removal, where the overall time period spent in the Centre cannot exceed the period of 90 days. Paragraph 2 of the said Article foresees three situations in which the alien can be accommodated again at the Centre, that is, his/her stay there can be renewed to another period of 90 days at the most. After that time period, there are no grounds for further stay of aliens at the Centre.

On the other hand, paragraph 3 of the same Article enables the release of the alien from the Centre, for whom it is justly expected that it is not possible to be forcibly removed before the expiry of a 90-day time frame.

The mentioned provisions have been entered into the Aliens Act, because, among other things, the Act on Movement and Stay of Aliens no longer contained provisions that would allow for earlier release of the alien from the Centre.

Point no. 41

It has to be stated that even after the beginning of the implementation of the Asylum Act, the asylum seekers are those persons found as illegal migrants. As the greatest number of aliens file the asylum applications at the Reception Centre, the proceedings against these aliens in the competent courts have been conducted in an earlier proceeding. In agreement to that, these aliens have not used the possibility of non-punishment deriving from Article 9 of the Asylum Act. This Article provides that a refugee who illegally enters the Republic of Croatia, coming directly from the territory where his/her life or freedom is endangered, shall not be punished for illegal entry or stay if he/she submits the asylum application form to the Ministry without delay, alongside valid reasons for the illegal entry or stay. Therefore, we can freely say that your allegations cannot be regarded as procedural failures of the Ministry, rather as a widely spread phenomena in Europe of asylum institute abuse. The room for abuse emerges with the obligation of the states to make a record of every asylum application and decide on it in the relevant procedure.

After the asylum application has been filed, the alien is accommodated for another couple of days at the Reception Centre, after which he/she is transferred to a special premises in Šašina Greda near Sisak, jointly led by the Ministry and the Croatian Red Cross. The setting up of such accommodation is a temporary solution, until an Asylum Home is established and put into use.

Point no. 42

The cited Article and paragraph is from the Asylum Act. It is true that almost the same text is found under Article 3, paragraph 2 of the Asylum Act. As these texts in the mentioned Articles are taken from other legislation and are harmonised with the accepted international norms, we are of the opinion that the danger of violating the European Convention on Human Rights does not exist. The cited provision represents an internationally accepted instrument, by which the sovereign states protect their public and legal order, this undoubtedly being the basic principle of sovereignty. On the other hand, the implementation of the measure of forced removal does not imply that the alien shall be removed to a state where his/her life is seriously threatened. The alien can be removed to some other state willing to receive him/her.

Point no. 43, 44 and 45

At the Aliens Reception Centre there is no ill-treatment of aliens on any grounds, especially on the grounds of race. More so, the choices of meal as well as religious holidays are observed, so that an alien may practice his/her religious customs. Also, given the medical reasons, and under the doctor's recommendation, special meals are prepared for these aliens. Criteria pertaining to the securing of order in the Centre and aliens treatment do not differ as regards day or night shifts. The shift leaders are made aware of the necessity of placing police officers who are mentally and physically most fit in the bedroom corridors.

Concerning the incident that occurred in November 2003 at the Ježevo Aliens Reception Centre and the allegations from the report on the possible physical ill-treatment of certain aliens, an investigation and criminal analysis of the overall case was undertaken by the Legality of Conduct Division of the Zagreb County Police Administration in cooperation with the General Crime Department. The undertaken measures and procedures have not confirmed the allegations of the Center's wards.

Furthermore, in relation to the above stated, the Zagreb County Police Administration suggests that responses be given immediately to the CPT concerning all the necessary measures and procedures which have been undertaken immediately in order to eliminate future subjective (record keeping), and objective (non existence of facilities in police stations) failures, which meet the standards for detention of persons. The CPT delegation also needs to be informed that the necessary measures and procedures have been undertaken in relation to the information on the alleged physical ill-treatment of foreign nationals by police officers, and these allegations have not been confirmed. The competent Municipal General Attorney's Office has been informed of this so as to undertake measures under its jurisdiction.

Point no. 46

We appreciate the CPT's recommendation that the accommodation conditions of detention at the Reception Centre be improved, but with the minimum means that are offered, we are investing maximum effort for the improvement of the conditions. For now we feel that we have not completely succeeded in that regard, but the accommodation conditions would considerably improve if the CARDS 2001 Program is realized.

Point no. 47

To supplement aforementioned information, access to washrooms is provided considering that the rooms in which women reside in have sanitary facilities with functional toilets, and for men, there is one facility on each floor with a sanitary area that they may use during the night. It is still not possible to completely fulfil the needs that the aliens should have while residing at the Centre, and by this we mean daily activities and outside training facilities, because the current facility and the level of equipment of the Centre do not offer those possibilities.

Point no. 48

For now we do not have the possibility to increase the number of medical staff because this matter is under the authority of the Ministry of Health. A doctor and a nurse work in the Centre every day for half the working day (4 hours), and the Dugo Selo Medical Centre is at their disposal 24 hours a day for emergencies. Furthermore, the Centre also has two employees for psychological care who tend to the needs of the aliens.

Point no. 49

All aliens must undergo a medical examination at their arrival at the Centre.

Point no. 50

The medical team at the Centre, the doctor and the nurse, have two facilities at their disposal for conducting examinations. Those same facilities are at the moment equipped very modestly. However, equipment upgrading is underway. The aliens' medical care is completely secured. They receive their medication by a prescription from a general practitioner. All drugs and medical care at the hospitals are free of charge for those aliens who do not have financial means, and the costs are covered by the budget of the MoI and the Croatian Medical Health Insurance Institute of the Republic of Croatia.

Point no. 51

We feel that the information concerning the quality and quantity of the food is false because expert services prepare the menu while also taking into consideration religious customs of the aliens accommodated at the Centre. The food is prepared in a well-equipped kitchen by a professional staff. All complaints from the aliens to change the variety of food are accepted. The aliens may request the quantity of food and their requests are always fulfilled. Equally, special attention is given to persons with medical difficulties, and a special menu is prepared for them according to doctor's recommendations.

Point no. 52

According to Article 58, paragraph 2 of the Book of Rules on Travel Documents for Aliens, Visas, Border Passes and on Treatment of Aliens, the Head of the Alien Reception Centre passes the House Rules. Pursuant to Article 60, paragraph 1 of the Aliens Act every alien must also follow the rules of residence at the Centre, which are available in 10 languages and posted for everyone on two information boards. Similarly, the employees of the Reception Centre orally explain the rules to them that they do not understand and inform them of the removal procedure. A request for misdemeanour procedure for not abiding to the rules of the Centre can be lodged against an alien before the magistrate court, which will decide on the sanctions. Except for the increased supervision, which the court may order pursuant to the Aliens Act, other measures are not applied in the Centre.

Furthermore, pursuant to Article 59, paragraph 1 of the Book of Rules on Travel Documents for Aliens, Visas, Border Passes and on Treatment of Aliens; an alien has the right to a pre announced visit for the duration of 30 minutes, with the consent of the Head of the Centre. Visits are held at a specifically determined facility. Visits can be denied only when the determined procedure is not complied with. This means that denying visits is not a measure that a police officer may wilfully decide on as a form of punishing an alien.

Points no. 53, 54 and 55

In 2005, according to the curriculum and training program, additional education and professional training of the Reception Centre officers is foreseen. A concrete education plan has been constructed and verified by an expert service of this Ministry (Department for Professional Training and Specialization).

Currently five female police officers are employed at the Centre. We agree with the remark that that number is insufficient, but with the expected systematisation, which we foresee at the end of 2004, it is planned to employ at least five more female police officers.

Point no. 56

We would like to emphasize that the November 2003 incident was an isolated case, and that the officers of the Centre conduct 24-hour security every day. Only in extraordinary situations are officers of the Riots Police Unit from the Zagreb County Police Administration called (incidents of larger proportion).

Point no. 57

The police officers that secure the Centre are divided into outdoor and indoor security. Officers appointed to outdoor security carry rubber batons and firearms, which they may only use pursuant to the Police Act. Officers appointed to indoor security, who circulate among the aliens, do not carry firearms.

Points no. 58 and 59

Included under point no. 52.

Points no. 60 and 61

Aliens may have contact with the outside world via letters and two public telephone booths, and they have the right to two free telephone calls when they arrive at the Centre. Along with valuables and objects suitable for harming and self-harming, mobile phones, which are often stolen among aliens, are also temporarily taken from all aliens and deposited. At the aliens' request, his/her mobile phone is returned for temporary use, with the obligation to deposit it again until his/her departure from the Centre. Furthermore, we allow them to receive letters, packages and financial means via the Dugo Selo Postal Office. Visits – under point no. 52, paragraph 2.

CANDIDATE SELECTION PROCEDURE
FOR INTERNSHIP APPLICATION PROCEDURE

1. General application conditions →

(level of education, regulated army duty, not completed internship)

2a) For Crime-Investigation Experts and Graduate Crime-Investigation Experts:

Grades transcript and grade point average while studying at the Police College

→ is ranked

2.b) For Crime Investigation Centre:

Language proficiency testing for English and computer skills

→ is ranked

3. Security Check → elimination criteria

4. Psychological Testing of Candidates → elimination criteria, is given points

(Standard part of medical examination – testing of fluidity intelligence, examination of dimension of character important for conducting concrete work)

On the basis of the grade point average/test results of the English proficiency test, computer skills and results of the psychological-test, a 1st ranking list is made (for Crime-Investigation Experts and Graduate Crime-Investigation Experts and at Police Directorates/Administrations), according to which candidates are asked to a motivation interview.

Twice the number of Crime-Investigation and Graduate Crime-Investigation Expert candidates is invited from the ranking list in comparison to the number of interns that are accepted to particular police directorates/administrations.

5. Motivational Interview → is given points

On the basis of the results of the motivational interview, a 2nd ranking list is made according to which the candidates are asked to a medical examination. In the case of candidates being tied, preference is given to those candidates that graduated earlier.

6. Medical Health Ability Testing → elimination criteria

Guidelines for Half-Structured Motivational Interview

1.1. **Introductory interview** – short, informal part in which one must begin the interview, present himself/herself, indicate course of procedure, not give opinions

1.2. **Self-presentation of candidates**– on request candidate takes a few minutes to present himself/herself

1.3. **Interview connected to self-presentation according to which candidates are evaluated**
(Example questions):

A. Professional competence: speaking knowledge of foreign language etc.

- What is your professional competence? Explain.
- What was the topic of your diploma thesis? What motivated you to choose that topic? What were the results and conclusions that you reached in your diploma paper?
- What skills have you achieved outside your studies?

B. Opinion of personal status and perspective:

- What work would you wish to do? Why? Explain.
- What work would you wish to begin with? Why? Explain.
- How do you picture your position at work within the next 5 years?

C. Candidate merit system:

- Which characteristics do you feel are most important for fulfilling the job that you are competing for?
- How would you rank the following traits: intelligence, persistence, diligence, teamwork, composure. Why?
- What are for you the most important values one should strive for in life? Explain?
- What lead you to choose this profession?

D. Comparative advantages/disadvantages of candidate and his/her insight into it:

- List your best traits. What makes you aware of them? In which situations have they been distinguished?
- List your disadvantages. How do your disadvantages pose limits for you? What do people complain about you for?
- What type of work do you prefer? Individual or teamwork? Why?
- How do you handle working under pressure? Psychological pressure? On what basis have you come to this conclusion?

E. Candidate motivation and his/her perception of possible positive and negative motivational factors (purpose is to assess what motivates a candidate to do his/her job correctly, is it more intrinsic or extrinsic, is the candidate's perception of the motivational/frustrating factors that they are going through at work realistic and to which extent consistent with the candidate's expectations?)

- What do you think is the main reason people do the job?
- What motivates you to do the job?
- What do you expect to gain (psychologically) if you will be doing the job?
- What do you believe is the psychological gain of successfully fulfilling the job?
- What is, in your opinion, is the main source of satisfaction at the job?
- What is, in your opinion, is the downside of the job?
- What are the good things about the job?

F. Readiness to invest extra effort for enhancing capabilities.

- Do you expect that you will need extra education for the job?
- Do you believe that you should improve your qualifications on your own or should that be something your executive should initiate?
- How much time are you willing to invest?
- Do you believe that a part of your free time should be set aside for extra improvement/familiarization with the job? Yes or no? Why?

G. Depending on the position, subjects that are important for doing the job are incorporated in the motivational interview.

Relation to the Citizens (For Crime-Investigation Experts and Graduate Crime-Investigation Experts).

- What, according to your opinion, is the role of the police?
- What should be the role of a crime-investigation expert in relation to a citizen? Express in detail.
- What should be the role of a crime-investigation expert in relation to a suspect? Express in detail.
- How should one approach the citizen? Why?

UTILISATION DES MOYENS COERCITIFS DE POLICE

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Sommaire

En temps récents les recherches sont dirigées vers l'étude des facteurs d'utilisation du pouvoir de police. Nous présentons ci-dessous un part de recherche qui a été mise en oeuvre dans le cadre du projet commencé en 1999. La recherche a été mise en oeuvre durant l'année 2001 auprès les Pénitentiaires de Lepoglava et Požega, et les interrogés ont été de deux sexes. La perception du traitement de police, ainsi que la perception de l'utilisation des moyens coercitifs dépend aussi des caractéristiques de population, telles que la gravité du comportement criminel et agressif, ce que démontre cette recherche.

1. Introduction

Jusqu'à présent le projet "L'utilisation des moyens coercitifs" a enveloppé la recherche concernant les connaissances des règles relatives aux fonctionnaires de police et la recherche sur la fréquence et les conditions de l'application de la force de police, dont nous avons donné déjà le rapport. Mais, la partie importante, incluse à la recherche sur l'application de la force policière, est présentée par la recherche portant la perception du comportement de police, c'est à dire la perception de l'application de force policière. Cela veut dire que l'image de la police, dont dispose le public, dépend dans sa majorité du mode de perception du comportement de police et y correspondante l'application de force.

De l'autre part, il est connu que la perception dépend des attitudes d'observateur vers la personne qui est soumise à une observation. Les recherches démontrent qu'on a des impressions plus négatives du comportement de police en relation avec un tiers, au cas d'un observateur avec une prise de position négative vers la police en générale, que dans le cas contraire (l'attitude positive vers la police).

Il est bien fondé à supposer que l'effet en dérivant soit plus forte quand il s'agit des personnes qui ont l'expérience antérieure avec ces traitements de police.

Par conséquent, li était prévu, dans le cadre de la recherche sur l'application de force de la part de police, d'interroger les personnes qui ont déjà subi les traitements de police et leur perception de ce traitement, cela veut dire l'utilisation des moyens coercitifs.

Le but de cette recherche était d'examiner la perception de prisonniers relative au traitement de police et à l'application du pouvoir de policier.

JOUR DE RECHERCHE - RECUEIL DES TRAVAUX

2. Méthodes de travail

2.1. Echantillon

L'échantillon était composé de 98 interrogés provenant du Pénitencier de Požega (54 hommes contre 44 femmes), 42 interrogés provenant du Pénitencier de Lepoglava – le type semi-ouvert de la sanction pénale d'emprisonnement (les interrogés –les hommes au total) et 218 interrogés provenant du Pénitencier de Lepoglava - le type fermé de purger la sanction pénale (les interrogés –les hommes au total).

L'âge moyenne du sous - échantillon masculin faisait 38 ans (38.9+/-12.72), avec l'étendue de 20-80 ans. L'âge moyenne du sous – échantillon féminin faisait 37 ans (37.2+/-11.06), avec l'étendue de 19 jusqu'au maximum de 68 ans).

Les faits punissables pour les quels les prisonniers ont été condamnés étaient : les délits de sang (36 %), les délits contre les biens (25.8 %), l'abus des substances narcotiques (14.9 %), l'atteinte au corps grave (5.0%), les délits sexuels (3.7%), les opérations dangereuses en générale (1.2%), les crimes économiques (3.4%), la contrefaçon (0.6%) et le reste des crimes (9.3%).

2.2. Instrumentarium

En fonction de recherche un instrumentarium a été construit et il embrassait plusieurs unités :

- a) Les variables relatives au traitement de police perçu vers la personne suspectée (durant l'interrogatoire, au cours de l'acte d'arrestation et durant la détention à la poste de police). La perception du traitement de police a été mesurée selon l'échelle divisée en 3 degrés (bien, moyen, mauvais).*
- b) Les variables relatives à l'application de force perçue de la part de police (durant l'interrogatoire, au cours l'acte d'arrestation et durant la détention à la poste de police). Les interrogés ont été questionnés sur l'application de force envers eux – mêmes, dans telles situations et ils pouvaient viser les conséquences corporelles provoquées par l'application de force physique.*
- c) Les variables relatives aux "faux aveux" (le "faux aveu" / définie en tant que faux aveu mentionné, au moins, une fois par la personne en question devant la police/, la pression psychologique mesurée sur l'échelle divisée en trois degrés, la force physique perçue).*
- d) Les variables du personnage (BPAQ questionnaire sur l'agressivité, l'existence des entraves psychopathologiques, le fonctionnement social).*
- e) Les variables criminologiques (la sorte de fait punissable pour le quel l'interrogé est en purgation de la peine de prison, l'information sur le récidive).*
- f) Les variables sociaux - démographiques (l'âge, le sexe, l'état civil).*

3. Résultats

La perception sur le traitement de police concernant les personnes condamnées à une peine de prison, pour l'échantillon entier des interrogés, est présentée par la Table 1.

UTILISATION DES MOYENS COERCITIFS DE POLICE

Tableau 1. La perception sur le traitement de police de la part des prisonniers

| <i>Situation de police</i> | <i>Perception du traitement de police (% interrogés)</i> | | |
|---|--|--------------|----------------|
| | <i>bien</i> | <i>moyen</i> | <i>mauvais</i> |
| <i>Traitement au cours de l'interrogatoire (N=354)</i> | 31,4 | 22,0 | 46,6 |
| <i>Traitement au cours de l'arrestation (N=352)</i> | 35,8 | 25,0 | 39,2 |
| <i>Traitement au cours de la détention au poste de police (N=337)</i> | 29,1 | 24,3 | 46,6 |

Les résultats indiquent que la majorité d'interrogés considère le traitement de police comme bien ou moyen, 54% d'interrogés sont d'opinion que le traitement de police durant l'interrogatoire est bien ou moyen, 60,8% pensent le même pour la situation durant l'arrestation et 54,4 % entre eux donnent les mêmes caractéristiques au traitement vers eux au cours la détention à la poste de police.

Conformément à l'attente, on a trouvé que la perception des prisonniers sur le traitement de police dépend de la population criminelle. Plus la population criminelle est plus grave, connectée avec un niveau plus haut de la menace sociale (ce qu'est devenu opérationnel à travers l'application d'une peine plus rigoureuse, bien visible selon la forme réglée du traitement pénal portant la purge de la peine de prison), plus la perception du traitement de police est mauvaise (les différences entre les groupes ont l'importance dans le sens statistique). Autrement dire, les personnes qui se trouvent en purge de peine dans une institution du type semi-ouvert et ceux qui n'entrent pas à la catégorie de récidivistes ont l'opinion plus favorable en se référant au traitement de police, par rapport à ceux qui ont le type de traitement fermé et qui sont récidivistes.

Nous avons souhaité sonder aussi la perception sur l'application de la force physique de la part des personnes en purge de la peine de prison en situation d'un traitement par un fonctionnaire de police vers eux.

Les prisonniers déclarent que la force physique a été appliquée dans un certain niveau (ce que peut signifier un niveau modéré et faible) le plus souvent au cours de la garde à vue à la poste de police (56% d'entre eux le déclarent), elle a été moins significative durant l'acte d'arrestation (38,4 confirment d'être éprouvé l'application de la force physique durant l'arrestation).

Il faut souligner que la perception ne doit pas refléter nécessairement la réalité objective, voire, les interrogés peuvent s'exprimer sur ses impression, mais cela ne doit pas signifier toujours d'avoir vraiment et objectivement éprouvé. La recherche présente ne correspond pas à ce problème, puisque nous n'avons pas été orientés à des caractéristiques objectives du comportement de police en situations mentionnées (généralement c'est difficilement réalisable). En outre la notion "application des moyens coercitifs" couvre et sous-entend le recours à l'utilisation des différents modes et niveaux de moyens coercitifs. Si on prend en considération seulement la force physique ayant entraîné certaines conséquences, selon les dépositions des prisonniers cette force a été appliquée en envergure de 5.9% de cas, jusqu'à 29.7% de cas, en corrélation avec la situation spécifique et en se basant sur la population criminelle. Le plus souvent ces mesures ont été employées après les prisonniers appartenant à la catégorie de population criminelle la plus grave. (Pénitenciaire Lepoglava-le type d'institution fermée) (important au sens statistique).

Les faits parlent en faveur à une hypothèse réactive, c'est à dire tout indique que la force de police a été en premier lieu appliquée aux prisonniers appartenant à la population criminelle la plus grave, liée au niveau haut de manifestation agressive.

La présentation plus détaillée de la perception relative au traitement de police et de l'application de force policière, conditionnée par la gradation de la gravité criminelle et par la menace, est exposé dans un travail scientifique particulier (sous presse).

De ceux données nous ne pouvons pas tirer les conclusions sur la justification de l'application de force physique ou sur sa forme démesurée et excessive. Il ne faut pas oublier que la police est une institution sociale étatique autorisée d'avoir, sous certaines conditions dûment octroyées, la compétence de recours à l'application de force. En outre, le discours ou la conclusion sur l'application excessive de force sont en générale liés aux difficultés. Même dans les cas où l'on a eu l'apparition de l'application de force dans la mesure augmentée, accompagnée d'un vidéo enregistrement (le cas de Rodney King gravement battu), les membres du jury criminel et les experts ne pouvaient pas se mettre en d'accord autour la question de la force – la justifier ou la qualifier comme outre mesure (selon Phillips et Smith, 2000).

Le sondage en matière des "faux aveux" prétendus, selon les dépositions des même prisonniers, a démontré que la population criminelle grave incline à une fréquence plus haute des faux aveux, conformément à l'hypothèse supposant que cette problématique fait part d'un style criminel et à la littérature étrangère (Sigurdsson et Gudjonsson, 2001).

4. Conclusion

Les résultats de recherche ont démontré que la perception du comportement de police de la part de population criminelle grave est moins favorable que celle de la part de population criminelle moins problématique. Selon les dépositions de prisonniers, il est évident que l'application de la force de police est plus fréquente quand il s'agit de la population criminelle grave et elle est étroitement liée à l'attitude agressive très exprimée de la population incarcérée.

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La liste des activités relatives au projet "L'utilisation des moyens coercitifs de police"

Le projet "L'utilisation des moyens coercitifs de police" a démarré vers la fin de l'année 1999. A cet effet on a établi un texte le quel devait servir en guise de vérification des connaissances que possèdent les fonctionnaires de police aux services actives concernant les règles positives sur l'utilisation des mesures coercitives. Le test était destiné aux policiers de la Préfecture de police à Zagreb. Le test a couvert aussi les employeurs du Commissariat de police Centar, Commissariat de police no vii de Tresnjevka, Commissariat de police no iii de Dubrava et Commissariat de police no xi de Zapresic, ainsi que les cadets de l'Ecole de police et les étudiants ordinaires et extraordinaires de l'Ecole Supérieure de police. Au total, 418 de sujets ont été impliqués.

Les données obtenus durant l'enquête ont été traités pendant la première moitié de l'année 2000. Selon le plan de la recherche, il était prévu d'envelopper aussi un échantillon des employeurs au niveau du Ministère de l'Intérieur de la République de Croatie, c'est à dire de mettre en oeuvre la même enquête-investigation à la Préfecture de Split-Dalmatie, de Osijek-Baranja et à la Préfecture maritime-montagneuse, en deux postes de police appartenant à chaque Préfecture, l'une à caractère urbain et l'autre rural. La partie de recherche sur le terrain est constituée par l'investigation des employeurs de police en appliquant les questionnaires d'enquête. L'enquête a eu lieu les 27 et 28 septembre 2000 à la Préfecture d'Osijek-Baranja et les 5 et 6 octobre 2000 a la Préfecture de Split-Dalmatie.

L'enquête a été effectuée au moment de transmission de service avec l'effet de pouvoir renfermer les employeurs de deux roulements. Les questionnaires ont été remplis par les employeurs de la police administrative et de la police criminelle (judiciaire), trouvés sur place, mis sous la surveillance et suivant les indications des employeurs de l'Académie de police. L'enquête a été menée entre les sujets de manière égale, quel que soit leur age, sexe, ancienneté et les autres caractéristiques qui auraient pu en quelque mode faire différencier les sujets. L'enquête a été mise en oeuvre par rapport un module à remplir où les participants ont du inscrire les données demandées.

Le questionnaire consiste de six parties eu égard le type de questions:

La première partie comporte les dates générales sur le fonctionnaire de police concerné (sexe, l'an de naissance, la durée de service, qualification, le service où il travaille, grade).

La seconde partie comporte des informations générales concernant la réglementation en matière de moyens coercitifs à la République de Croatie (La loi portant sur l'organisation de la police nationale, La loi sur la procédure pénale, le Règlement d'application provisoire de la loi sur l'Organisation de la police nationale, le Code pénal.)

La troisième partie demande de citer les motifs pour l'utilisation de moyens coercitifs qui sont réglé dans la "législation policière". Il fallait donc citer les motifs pour l'utilisation de la force physique, du bâton, de l'arme à feu et des menottes.

La quatrième partie demande une explication de trois termes qui sont liés à l'utilisation de moyens coercitifs: torture, traitements humiliants ou dégradants.

La cinquième partie demande de donner son propre avis concernant l'état de la réglementation des moyens coercitifs en Croatie et aussi de constater le niveau de la connaissance le concernant.

La sixième partie pose la question de savoir si le fonctionnaire questionné a jamais utilisé des moyens coercitifs, et, le cas échéant, il a dû spécifier ces moyens, quelles en étaient les conséquences et si l'utilisation a été jugée justifiée.

En conclusion, une hypothèse a été émise, selon laquelle le niveau de connaissance sur le sujet en Croatie est insuffisant.

Les participants devaient proposer une solution pour résoudre ce problème.

Le deuxième volet de la recherche porte sur les fonctionnaires ayant fait recours à ces moyens en 1999. Les données recherchées ont été recueillies par le biais d'un questionnaire soumis à des fonctionnaires de police. Le procédé consistait à faire parvenir le questionnaire à ces fonctionnaires qui ont fait usage de moyens coercitifs en 1999 et cela en fonction des fichiers portant sur l'utilisation de moyens coercitifs.

Les questionnaires, dûment remplis, ont été retournés à l'Académie de police" pour le traitement. Le nombre de questionnaires a été établi par référence aux fichiers existants.

Les questionnaires ont été envoyés vers toutes les 18 directions de police et jusqu'à présent, tous les questionnaires sont retournés à part ceux qui étaient destinés à la direction de police de Split.

Le questionnaire comporte 23 questions, répartis en 4 volets:

- renseignements concernant les fonctionnaires
- renseignements concernant les personnes étant objet d'un moyen de contrainte
- données concernant l'utilisation de moyens coercitifs
- avis de fonctionnaires de police.

La première partie comporte les données concernant les fonctionnaires. Ces données portent sur l'année de naissance, les années de service au sein du Ministère, la titularisation, ensuite concernant la qualification et le poste de travail occupé et sa titularisation.

La deuxième partie traite des personnes qui étaient l'objet d'un moyen de contrainte et ces renseignements sont donnés par les fonctionnaires. Elles portent sur le sexe, l'âge et d'autres données sur ces personnes qui sont portés sur les fichiers spécialisés.

La plus importante partie est celle où on parle des moyens coercitifs en particulier. L'intention était de donner les circonstances aussi détaillées que possible de l'utilisation d'un moyen, ainsi quelles en étaient les conséquences pour la personne en question ainsi que pour le fonctionnaire qui en a fait usage.

La quatrième partie nous rapporte les avis des fonctionnaires. On a demandé aux fonctionnaires d'avancer leurs opinions concernant la réglementation au sujet de ces moyens à la République de Croatie, de juger leurs connaissances de cette réglementation et de donner leurs suggestions.

Une continuation de la recherche est envisagée, où il faudra élaborer le profil psychologique des fonctionnaires ayant utilisé des moyens coercitifs. Ensuite, il est envisagé d'interroger les personnes qui ont été l'objet d'une telle mesure et de leur demander leur point de vue en ce qui concerne l'intervention policière c.-à-d. l'utilisation de moyens coercitifs. A cette fin, on fera une recherche avec des prisonniers. En vue de la modification de la législation sur la police envisagée, on reprendra l'enquête au sujet de la connaissance de cette matière afin d'obtenir les données sur le niveau de connaissance de la nouvelle réglementation après quelques mois de son entrée en vigueur.

1. Analyse du questionnaire - connaissances sur les règlements

Ce questionnaire a été rempli par 173 participants venant de quatre commissariats de police de Zagreb, ainsi que 35 participants de deux commissariats de police du département Primorsko-goranska, 43 personnes de deux commissariats de police du département Osječko-baranjska, 47 participants de deux commissariats de police du département Splitsko-dalmatinska, 57 élèves de l'Ecole policière normale et 13 étudiants du V^{ème} semestre de l'Ecole de police supérieure et 50 étudiants de la Haute école de police.

| No | Service | Nombre de personnes questionnées | Pourcentage |
|-------|--|----------------------------------|-------------|
| 1. | Commissariat de police no i Centre | 61 | 14,59 |
| 2. | Commissariat de police no vii Tresnjevka | 60 | 14,35 |
| 3. | Commissariat de police no iii Dubrava | 32 | 7,66 |
| 4. | Commissariat de police no xi Zapresic | 20 | 4,78 |
| 5. | Commissariat de police no i Rijeka | 17 | 4,07 |
| 6. | Commissariat de police no. iv Rijeka | 18 | 4,31 |
| 7. | Commissariat de police no i Osijek | 28 | 6,7 |
| 8. | Commissariat de police no vii Valpovo | 15 | 3,59 |
| 9. | Commissariat de police no i Split | 31 | 7,42 |
| 10. | Commissariat de police no x Sinj | 16 | 3,83 |
| 11. | le V. semestre | 13 | 3,11 |
| 12. | la iv-eme année | 50 | 11,96 |
| 13. | le département I | 32 | 7,66 |
| 14. | le département N | 25 | 5,98 |
| Total | | 418 | 100 |

Dans le nombre de personnes questionnées, 359 étaient des hommes et 55 des femmes. Quatre personnes n'ont pas donné de ce renseignement.

| SEXE | | | | | | | |
|--------|-------|--------|-------|---------|------|-------------|---------|
| HOMMES | % | FEMMES | % | INCONNU | % | POURCENTAGE | |
| 359 | 85,88 | 55 | 13,16 | 4 | 0,96 | 418 | 100,00% |

Suivant l'âge des fonctionnaires ils sont répartis en 5 tranches d'âge:

| AGE | | | | | | |
|-------------|-------|-------|-------|-----------------|----------|---------|
| 39 ans et + | 35-39 | 30-34 | 25-29 | moins de 25 ans | inconnus | total |
| 15 | 55 | 95 | 85 | 158 | 10 | 418 |
| 3,59 | 13,16 | 22,73 | 20,33 | 37,80 | 2,39 | 100,00% |

Pour ce qui est d'années de service, ils sont répartis en 4 groupes:

| ANNEES DE SERVICE | | | | | | |
|-------------------|------|-------|------------|-------|-----------|---------|
| moins de 3 | 3-5 | 5-10 | 10 et plus | 0 | inconnues | Total |
| 85 | 39 | 139 | 55 | 90 | 10 | 418 |
| 20,33 | 9,33 | 33,25 | 13,16 | 21,53 | 2,39 | 100,00% |

Concernant le statut de fonctionnaire titularisé:

| FONCTIONNAIRES TITULARISEES | | | | | |
|-----------------------------|-------|-------|------------|-----------------|---------|
| moins de 3 | 3-5 | 5-10 | 10 et plus | non titularisés | Total |
| 40 | 42 | 129 | 48 | 159 | 418 |
| 9,57 | 10,05 | 30,86 | 11,48 | 38,04 | 100,00% |

La plupart des participants ont une formation égale au niveau du BAC, soit 274 personnes, alors que 47 personnes seulement ont le niveau de formation dans la tranche des cycles I et II. 68 personnes n'ont pas précisé leur niveau de formation.

| NIVEAU DE FORMATION | | | | |
|---------------------|-----------------------|-------------------------|---------|---------|
| BAC | I ^{er} CYCLE | II ^{ème} CYCLE | inconnu | TOTAL |
| 274 | 47 | 29 | 68 | 418 |
| 65,55 | 11,24 | 6,94 | 16,27 | 100,00% |

Trois quarts de participants sont employés au sein de la police en tenue:

| POSTE | | |
|-------------------|------------------|---------|
| police en tenue | 315 participants | 75,35% |
| police criminelle | 103 participants | 24,65 % |

1.1 Des généralités concernant la réglementation visant les moyens coercitifs

Les personnes questionnées devaient donner les réponses à huit questions ayant pour but vérifier le niveau de leur connaissance de la réglementation qui était en vigueur à cette époque-là et qui est appliquée par eux dans leur travail quotidien. Ils disposaient de quatre mentions possibles: entièrement pertinent, presque entièrement pertinent, partiellement pertinent et non pertinent.

A la question "Citer les lois réglementant l'utilisation des moyens coercitifs par la police à la République de Croatie", la plupart des fonctionnaires ont donné la réponse La loi portant sur l'organisation de la police nationale, ensuite, en ordre décroissant, La loi sur la procédure pénale, le Règlement d'application provisoire de la loi sur l'Organisation de la police nationale, et la moindre pertinence a été attribuée au Code pénal. Il faut bien noter qu'il s'agit des lois qui étaient en vigueur en 1999 et en 2000.

| SOURCE LEGALE | | | | |
|---------------|--------------|--------|---------------|----------|
| CODE PENAL | CODE PPENALE | LOI MI | REGLEMENT D'A | POSSIBLE |
| 206 | 258 | 333 | 220 | 418 |
| 49,28 | 61,72 | 79,66 | 52,63 | 100,00% |

Plus que 90,19 % de personnes questionnées ne connaissent pas l'existence de la stipulation du Code pénal qui exclue l'illégalité au cas où ces moyens coercitifs auraient été employés conformément à des réglementations spéciales.

| REPOSE ARTICLE 32 DU CODE PENAL | | | | | |
|---------------------------------|-------------------------------|-------------------------|---------------|---------|---------|
| entièrement pertinent | presque entièrement pertinent | partiellement pertinent | non pertinent | inconnu | total |
| 10 | 3 | 0 | 377 | 28 | 418 |
| 2,39 | 0,72 | 0,00 | 90,19 | 6,70 | 100,00% |

Les participants ont dû définir la personne qui a été pris en flagrant délit suivant la stipulation de l'article 94, alinéa 2 de la Loi sur la procédure pénale de la République de Croatie. 44,22 % de fonctionnaires ont donné une définition impertinente.

| REPOSE | | | | | |
|-----------------------|-------------------------------|-------------------------|---------------|---------|---------|
| entièrement pertinent | presque entièrement pertinent | partiellement pertinent | non pertinent | inconnu | total |
| 33 | 59 | 118 | 189 | 19 | 418 |
| 7,89 | 14,11 | 28,23 | 45,22 | 4,55 | 100,00% |

A la question de savoir quand un fonctionnaire de police doit utiliser un moyen de contrainte susceptible de provoquer la mort ou nuire grièvement à la santé de la personne arrêtée, 56,22 % de fonctionnaire a donné une réponse erronée.

| REPOSE ARTICLE 96 AL. 3 DU CODE DE LA PROCEDURE PENALE | | | | | |
|--|-------------------------------|-------------------------|---------------|---------|---------|
| entièrement pertinent | presque entièrement pertinent | partiellement pertinent | non pertinent | inconnu | total |
| 22 | 46 | 109 | 235 | 6 | 418 |
| 5,26 | 11,00 | 26,08 | 56,22 | 1,44 | 100,00% |

Il a fallu préciser les conditions d'utilisation de la force physique et de du bâton conformément les articles 153 et 158 du Règlement d'application provisoire de la loi sur l'Organisation de la police nationale, ce qui a été fait correctement de 19,68 % de participants.

| REPOSE ARTICLES 153 ET 158 DU REGLEMENT D'APPLICATION | | | | | |
|---|-------------------------------|-------------------------|---------------|---------|---------|
| entièrement pertinent | presque entièrement pertinent | partiellement pertinent | non pertinent | inconnu | total |
| 31 | 52 | 89 | 230 | 16 | 418 |
| 7,42 | 12,44 | 21,29 | 55,02 | 3,83 | 100,00% |

Les cas d'utilisation d'une arme à feu conformément à la Loi sur l'organisation de la police nationale ont été énumérés par 36.15 % de fonctionnaires.

| REPOSE ARTICLE 42 DE LA LOI SUR L'ORGANISATION DE LA POLICE NATIONALE | | | | | |
|---|-------------------------------|-------------------------|---------------|---------|---------|
| entièrement pertinent | presque entièrement pertinent | partiellement pertinent | non pertinent | inconnu | total |
| 101 | 50 | 86 | 169 | 12 | 418 |
| 24,16 | 11,96 | 20,57 | 40,43 | 2,87 | 100,00% |

Les conditions pour passer une menotte à une personne, conformément aux articles 153 et 301 du Règlement provisoire ont été citées par 21,77 % de fonctionnaires.

| REPOSE ARTICLES 152 ET 301 DU REGLEMENT D'APPLICATION | | | | | |
|---|-------------------------------|-------------------------|---------------|---------|---------|
| entièrement pertinent | presque entièrement pertinent | partiellement pertinent | non pertinent | inconnu | total |
| 21 | 70 | 127 | 187 | 13 | 418 |
| 5,02 | 16,75 | 30,38 | 44,74 | 3,11 | 100,00% |

Les participants ont dû expliquer les termes comme **torture ou traitement inhumain, humiliant ou dégradant** tels qu'ils sont définis dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants de 1984, de manière que les définitions ne sortent pas du cadre donné par la Convention.

| REPOSE CONVENTION | | | | | |
|-----------------------|-------------------------------|-------------------------|---------------|---------|---------|
| entièrement pertinent | presque entièrement pertinent | partiellement pertinent | non pertinent | inconnu | total |
| 6 | 43 | 57 | 272 | 40 | 418 |
| 1,44 | 10,29 | 13,67 | 65,07 | 9,57 | 100,00% |

1.2 Les points de vue personnels

Les participants ont été demandés de donner leurs propres opinions concernant certaines questions liées à la réglementation en matière de moyens coercitifs en Croatie.

| L'utilisation de moyens coercitifs est réglementée en Croatie | | | | |
|---|---|-------|-----------|---------|
| Pas suffisamment et pas trop clair | Suffisamment, mais des améliorations sont possibles | Bien | Pas connu | Total |
| 112 | 231 | 58 | 17 | 418 |
| 26,79 | 55,26 | 13,86 | 4,07 | 100,00% |

| Je juge mes connaissances sur les moyens coercitifs étant | | | | | | |
|---|---------------|-------------------------|---|---------|---------------|---------|
| suffisantes | insuffisantes | possible de faire mieux | ces connaissances ne sont pas nécessaires | inconnu | deux réponses | total |
| 146 | 44 | 206 | 7 | 14 | 1 | 418 |
| 34,93 | 10,53 | 49,28 | 1,67 | 3,35 | 0,24 | 100,00% |

On a voulu constater si quelqu'un entre les participants avait utilisé des moyens coercitifs et quelle était la note de supérieurs ou du tribunal eu regard la légalité de l'intervention.

| utilisation de moyens coercitifs | | | | |
|----------------------------------|----------------|------------------|---------|---------|
| non | oui, justifiée | oui, injustifiée | inconnu | total |
| 260 | 147 | 2 | 9 | 418 |
| 62,20 | 35,17 | 0,48 | 2,15 | 100,00% |

L'hypothèse de la recherche était que le niveau de connaissance de la réglementation concernant les moyens coercitifs par les fonctionnaires de la République de Croatie était insuffisant. Les participants devaient émettre leur avis pour ce qui est de résoudre ce problème.

| avis | nombre | % |
|---|--------|--------|
| il faudrait publier des instructions concernant les moyens coercitifs, qui réuniraient toutes les règles qui se trouvent dans de différentes sources et qui manquent d'explications systématiques | 209 | 50,00 |
| il faudrait soumettre les fonctionnaires à des tests et organiser la formation pour ceux qui n'ont pas les connaissances nécessaires | 89 | 21,29 |
| c'est à chacun fonctionnaire de veiller au niveau de connaissances acquises, car chacun est responsable pour ses actes | 24 | 5,74 |
| deux réponses | 39 | 9,33 |
| sans réponse | 57 | 13,64 |
| total | 418 | 100,00 |

L'analyse de l'enquête - le recours à des moyens coercitifs

Le questionnaire a été rempli par les fonctionnaires de police qui ont fait usage de moyens coercitifs contre des citoyens. 706 fonctionnaires ont été questionnés, et les chiffres de la direction de police de Zagreb sont donnés séparément. Il faut noter que les chiffres de la direction de police de Zagreb portent sur le premier semestre de 1999. Les chiffres des autres directions de police portent sur la totalité de l'année 1999. Les chiffres pour la direction de police splitsko-dalmatinska ne sont pas pris en considération vu que les questionnaires portant sur cette direction n'étaient pas parvenus avant la date du 01. janvier 2001. Les pourcentages portant sur les autres directions en dehors de celle de Zagreb sont représentés par les chiffres (exactes) qui étaient corrigés pour les dates manquantes.

| âge | Nombre de fonctionnaires | | | |
|--------------|-------------------------------|---------|---------------------------------|---------|
| | direction de police de Zagreb | | les autres directions de police | |
| plus que 40 | 3 | 3,23% | 28 | 4,60% |
| 35-39 | 16 | 17,20% | 91 | 14,80% |
| 30-34 | 41 | 44,09% | 234 | 38,20% |
| 25-29 | 27 | 29,03% | 171 | 27,90% |
| moins que 25 | 5 | 5,38% | 64 | 10,40% |
| inconnu | 1 | 1,08% | 25 | 4,10% |
| | 93 | 100,00% | 613 | 100,00% |
| MI - total | 706 | | | |

Il faut bien noter que seulement quatre personnes de l'ensemble des personnes questionnées sont des femmes.

| années de service | Nombre de fonctionnaires | | | |
|-------------------|-------------------------------|--------|---------------------------------|--------|
| | direction de police de Zagreb | | les autres directions de police | |
| moins que 3 | 3 | 3,23% | 28 | 4,60% |
| 3-5 | 8 | 8,60% | 69 | 11,30% |
| 5-10 | 77 | 82,80% | 287 | 46,80% |
| plus que 10 | 5 | 5,38% | 194 | 31,60% |
| inconnus | 0 | | 35 | 5,70% |

En ce qui concerne la durée de service, la plupart de fonctionnaires appartiennent à la tranche de plus de 5 ans de service. 91,78 de personnes questionnées étaient des fonctionnaires de police.

| la qualification des fonctionnaires - direction de police de Zagreb | | |
|---|------------------|-----|
| BAC | Ecole supérieure | DEA |
| 90 | 3 | 0 |
| 96,77% | 3,23% | 0 |

| la qualification des fonctionnaires - les autres directions de police | | | |
|---|------------------|------|----------|
| BAC | Ecole supérieure | DEA | inconnue |
| 544 | 19 | 5 | 45 |
| 88,7% | 3,1% | 0,8% | 7,3% |

Eu égard le niveau de formation, la plupart des personnes étaient des personnes ayant le niveau de baccalauréat soit 95,91 pour cent.

| EN POSTE A | | | | | |
|---|--------------------------|--------|---|--------------------------|-------|
| | nombre de fonctionnaires | | | nombre de fonctionnaires | |
| Direction de police de Zagreb - police en tenue | 86 | 92,45% | Direction de police de Zagreb - police criminelle | 7 | 7,55% |
| Les autres directions - police en tenue | 490 | 79,90% | Les autres directions - police criminelle | 56 | 10,30 |
| total | 576 | 90,14% | total | 63 | 9,85% |

Concernant le secteur de police dans lequel les participants sont employés, on voit que 90,14 % de fonctionnaires appartient à la police en tenue et 9,85 % à la police criminelle. Pour la plupart (86,49), ils sont des policiers.

2.1 Les chiffres sur les personnes faisant objet de moyens coercitifs

| INTERVENTIONS DP ZAGREB | | INTERVENTIONS AUTRES DIRECTIONS | |
|-------------------------|--------|---------------------------------|--------|
| hommes | femmes | hommes | femmes |
| 90 | 3 | 583 | 8 |
| 96,77% | 3,23% | 98,6% | 1,4% |

Concernant le sexe de la personne ayant été l'objet d'un moyen de contrainte, on peut constater que des contraintes ont été utilisées contre des femmes dans 1,60 % des cas. Si on considère l'âge de ces personnes, on constate que ces contraintes ont été utilisées contre des personnes âgées de 17 à 70 ans. L'âge moyen est de 33 ans, mais la plupart des personnes est comprise dans la tranche d'âge allant de 23 à 43 ans.

2.2 Interprétation de l'utilisation de moyens coercitifs

En ce qui concerne le temps où les moyens coercitifs ont été utilisés, tous les cas relevant de la direction de police de Zagreb sont intervenus pendant les heures de service. Dans les autres directions de police, on a constaté 10 cas d'utilisation de ces moyens en dehors des heures de service, ce qui représente 1,7 % de tous les cas.

| Le lieu où un moyen a été utilisé | | | | | | | | |
|-----------------------------------|-----------|--------|------------|-------|--------------|--------|--------|-------|
| | en public | | à domicile | | commissariat | | autres | |
| DP de Zg | 76 | 81,72% | 6 | 6,45% | 10 | 10,75% | 1 | 1,08% |
| autres directions | 474 | 82,30% | 45 | 7,80% | 36 | 6,30% | 21 | 3,60% |
| total | 550 | 72,17% | 51 | 6,69% | 46 | 6,03% | 22 | 2,88 |

Les moyens coercitifs sont utilisés en public dans 72,17 % des cas, et à domicile de la personne concernée dans 6,69 des cas.

En ce qui concerne le port d'uniforme, 86,33 % des fonctionnaires portait l'uniforme au moment de l'intervention, et 13,44 % des fonctionnaires sont intervenu en civil.

A peu près 55 % de fonctionnaires ont utilisé des moyens coercitifs aussi avant l'an 1999, pour lequel on a recueilli les données.

| UTILISATION DE MOYENS COERCITIFS EN SERVICE | | | | | | | | | | |
|---|-------|--------|------|--------|------|--------|--------|-------|------------|-------|
| | 0-2 h | | 2-5h | | 5-8h | | 8-10 h | | 10 et plus | |
| fonctionnaires DP Zagreb | 1 | 17,20% | 50 | 53,76% | 18 | 19,35% | 4 | 4,30% | 5 | 5,38% |
| fonctionnaires - autres Dir | 8 | 15,1% | 269 | 46,3% | 167 | 28,7% | 38 | 6,5 | 19 | 3,3% |
| total | 104 | 15,43% | 319 | 47,32% | 185 | 27,44% | 42 | 6,23% | 24 | 3,56% |

Les moyens coercitifs sont utilisés pour la plupart entre la deuxième et la huitième heure en service, soit 74,77 % des cas.

| LIEU D'INTERVENTION | | | | | | |
|----------------------------|-------|--------|----------|--------|--------------------------|-------|
| | ville | | campagne | | en dehors d'une localité | |
| interventions DP Zagreb | 77 | 82,80% | 11 | 11,83% | 5 | 5,37% |
| interventions - autres Dir | 361 | 61,4% | 180 | 30,6% | 47 | 8% |
| total | 438 | 64,31% | 191 | 28,04% | 52 | 7,63% |

La plupart des cas où des moyens coercitifs ont été utilisés sont intervenus dans des zones urbaines, soit 64,31 %. Dans plus de 90 % des cas, des moyens ont été utilisés contre une seule personne. Les personnes contre lesquelles des moyens coercitifs ont été utilisés portaient une arme ou un objet susceptible d'être utilisés contre le fonctionnaire intervenant dans 17,8 % des cas. Dans 72,48 % des cas les fonctionnaires ont averti la personne concernée que des moyens coercitifs seront utilisés, et dans 27,06 % des cas on a tiré un tir de sommation. Des mesures de sommation n'ont pas pu être utilisées dans 24,81 des cas.

| MOTIF D'UNE UTILISATION D'UN MOYENS COERCITIFS | | | | | | | | | | |
|--|--|--------|--|--------|--|-------|-------------------------------------|--------|---------|-------|
| | repousser une attaque contre soi-même ou contre une autre personne | | empêcher le délinquant en flagrant délit de fuir | | Autres cas où on a empêché un délinquant de fuir | | Autres cas d'utilisation d'un moyen | | Inconnu | |
| DP de Zagreb | 33 | 35,48% | 28 | 30,10% | 7 | 7,53% | 21 | 22,58% | 2 | 2,15% |
| Autres directions | 312 | 50,9% | 90 | 14,7% | 40 | 6,5% | 122 | 19,9% | 49 | 8% |
| Total | 345 | 49% | 118 | 16,76% | 47 | 6,67% | 143 | 20,31% | 51 | 7,24% |

| 16,76% TYPES DE MOYENS COERCITIFSS UTILISES | | | | | | | | |
|---|----------------|--------|------------------|-------|----------|--------|------------|-------|
| | Force physique | | Bâton caoutchouc | | Menottes | | Arme à feu | |
| DP de Zagreb | 74 | 54,41% | 8 | 5,81% | 47 | 34,56% | 0 | 0% |
| Autres directions | 235 | 38,3% | 19 | 3,33% | 305 | 53,51% | 8 | 1,40% |
| Total | 309 | 43,76% | 27 | 3,82% | 352 | 49,85% | 8 | 1,13% |

Il est important de voir quels moyens coercitifs sont le plus souvent utilisés lors d'une intervention. Les résultats nous montrent que la force physique et les menottes, séparément ou en combinaison, sont intervenus le plus souvent. Il faut bien noter que le moyen le plus important - utilisation d'une arme - n'est intervenu que dans 1,13 % des cas. Dans le premier semestre de 1999, on n'a aucun cas d'utilisation d'une arme.

| CONSEQUENCE D'UTILISATION D'UN MOYEN DE CONTRAINTE | | | | | | | | | | | | |
|--|-------|-------|----------|-------|---------------------|--------|----------------------------|--------|-----------------|-------|---------|-------|
| | Décès | | Blessure | | Blessure corporelle | | Sans blessures corporelles | | Domage matériel | | Inconnu | |
| DP Zg | 0 | 0% | 0 | 0% | 33 | 35,49% | 50 | 53,76% | 6 | 6,45% | 4 | 4,30% |
| Autres DP | 1 | 0,2% | 8 | 1,3% | 13 | 21,4% | 43 | 71,1% | 10 | 1,6% | 27 | 4,4% |
| Total | 1 | 0,14% | 8 | 1,13% | 16 | 23,22% | 48 | 68,83% | 16 | 2,26% | 31 | 4,39% |
| | | | | | 4 | % | 6 | % | | | | |

Le service de contrôle interne du Ministère de l'Intérieur donne son avis au sujet de l'utilisation d'un moyen de contrainte et si elle a été justifiée. Au cas de besoin, l'utilisation est soumise à des contrôles supplémentaires par les autorités judiciaires.

Une plainte a été déposée contre des policiers ayant abusé de moyens coercitifs dans 2,15 % des cas dans la direction de police de Zagreb et 3,9 % des cas dans les autres directions, soit 3,66 % au total.

Les fonctionnaires questionnés ont été demandés de donner leur avis concernant la pertinence de la législation en matière de moyens coercitifs. 24 % de fonctionnaires considèrent que la réglementation est insuffisante et pas tout à fait claire. Par contre, plus que 90 % de fonctionnaires ayant fait recours à un moyen de contrainte ont affirmé de connaître à fond la réglementation en matière de ces moyens. Il en est de même avec le jugement de leur intervention: ils considèrent (à taux de 98,5%) qu'ils ont agi conformément à la législation en vigueur.