



CPT/Inf (2002) 37

**Response of the Slovenian 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 Slovenia**

**from 16 to 27 September 2001**

The Slovenian Government has requested the publication of the CPT's report on the visit to Slovenia in September 2001 (see CPT/Inf (2002) 36) and of its response. The response is set out in this document.

Strasbourg, 18 December 2002



REPUBLIC OF SLOVENIA  
THE GOVERNMENT

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**RESPONSE FROM THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA TO THE  
REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE,  
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT ON ITS VISIT TO THE  
REPUBLIC OF SLOVENIA BETWEEN 16 AND 27 SEPTEMBER 2001**

INTRODUCTION

On the basis of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: CPT) visited Slovenia from 16 to 27 September 2001.

The Government of the Republic of Slovenia expresses its gratitude for the openness and cooperation between the CPT and representatives of the government during their meeting. The Government of the Republic of Slovenia underlines the need for impartiality and transparency in the functioning of the individual institutions visited by the CPT, in order to ensure a basis for open and constructive debate on the problems in individual sectors.

In compliance with Article 10, paragraph one of the European Convention, the CPT confirmed the report on its visit to Slovenia from 16 to 27 September 2001 and forwarded it to the Government of the Republic of Slovenia. In this report the CPT described various stages of the visit and the problems which it identified.

On the basis of findings and of the remarks from people whom it met during its visit, in the report the CPT drew up recommendations for the Slovenian government, requested further information and clarifications, and asked the Slovenian government to provide within six months a response setting out the measures taken upon its report. The CPT desires that in addition to information on the proposed methods for implementing its recommendations and possible measures already carried out, the report includes remarks and requests for information as set out in its report.

In its session of 14 November 2002, the Government of the Republic of Slovenia adopted the decision to acquaint the public with the report.

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

### A. Police establishments

#### 1. Preliminary remarks

##### Point 9, paragraph 2

Police detention of persons is currently regulated in Slovenia by four main laws:

**Secondly: in compliance with Article 43 of the Police Act (ZP) of 1998, the police may detain a person who is disturbing or endangering public order and peace for a maximum of 24 hours. In accordance with this provision, the police may hold for up to 48 hours a person that has been handed over to them by foreign security bodies, in order for that person to be handed over to the competent authorities. In both cases the detained person must receive official written notification if the detention lasts longer than 6 hours.**

##### *Further clarification of the CPT finding:*

The statement made in the final sentence of Point 9, paragraph 2, that in both described cases (detention of person disturbing or endangering public order; detention of person handed over by foreign security bodies) the detained person must receive official written notification, if the detention lasts longer than 6 hours, is not correct. In this connection we would wish to explain that in both described cases the detained person must receive official written notification, issued and served, within 6 hours, **irrespective of the duration of detention.**

##### Point 9, paragraph 4

**To open up the possibility for foreign citizens detained in compliance with the provisions of the Aliens Act of the courts deciding rapidly on the legality of their detention.**

##### **Response:**

In paragraph 4 the CPT summarises the provision of the Aliens Act (Chapter 5 –deportation), specifically the provision on measures aimed at ensuring the successful and efficient deportation of aliens from the country. It also summarises the provisions on the possibility of appealing against the decision to place a foreigner in a centre for aliens (or under strict police supervision), something decided upon by the interior minister, but no mention is made of the possibility of instigating an administrative dispute – judicial protection (supervision) on the justification of such decision by the police.

The CPT requests information deriving from the provision of Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which speaks about those cases where it is permissible to deprive someone of their liberty (subparagraph f.: the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition – the category of foreigners placed in the foreigner detention centres). An important provision of this article is contained in point 4, which defines what is termed the **principle of speedy judicial protection**.

Judicial supervision/protection regarding the police decision on restricting the movements of persons in the procedure of deportation from the country most certainly does exist, but we cannot assert that this thereby fulfils the presumption deriving from the convention, specifically Article 5, point 4, which provides: “Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided **speedily** by a court and his release ordered if the detention is not lawful”.

The principle of rapid judicial protection was proposed to those drafting the amendments to the Aliens Act, but this has not for the moment been incorporated into the current amendments. In view of the CPT suggestion we will re-examine the proposed amendment.

### **Point 12**

**Nevertheless, during the visit we received some allegations of rough physical treatment by police officers, which in fact related to the disproportionate use of force in detaining a person. In certain individual cases, physical suffering was also alleged to have been inflicted during the placing of persons into the police vehicle and during police interrogation. These cases of rough treatment supposedly involved mainly slaps, punches and kicks.**

#### ***Further clarification to the CPT finding:***

Since the cases mentioned above have not been specified, we would like to point out that Slovenian positive legal acts define in considerable detail those cases in which police officers may use means of restraint, and that in compliance with international documents, this must incorporate the principles of legality, proportionality and professionalism.

The Ministry of the Interior and the directors of the Slovenian Police are striving to prevent all forms of illegal or unprofessional rough treatment by police officers against persons involved in police procedures, and are taking consistent action against police officers if such treatment is discovered.

### **Point 13**

**The delegation heard several allegations of rough treatment and threats – including verbal attacks – on the part of guards at the Detention Centre for Foreigners in Postojna. Apparently such behaviour stopped a few days before the CPT visit. The CPT was also concerned to discover that the guards at this establishment openly carried firearms and truncheons within the accommodation area; in the Committee’s opinion this constitutes intimidation and potentially dangerous practices. In complete contrast to this, the delegation observed that relations between staff and foreign citizens at the COT in Ljubljana were relaxed and even friendly.**

#### ***Further clarification and commentary on the CPT opinion***

Since April 2002, the Department for Strict Police Supervision of the Aliens Centre (the Detention Centre for Foreigners/COT) has no longer been operating in Postojna. The building is now being renovated and the Postojna branch of the COT will probably start operating again in this building from 1 September 2002. The areas that will be occupied by foreigners after being moved to Postojna will be frequented chiefly only by personnel of the Medical and Social Service, i.e. medical and social services staff.

***Further clarifications in connection with the CPT findings are provided in greater detail in the response to point 14, paragraph 2.***

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

### **Point 14, paragraph 1**

**The CPT is convinced that the Slovenian authorities will appropriately and regularly advise police officers that inflicting suffering on persons in their protection is not acceptable and that this will be the subject of severe sanctions.**

#### **Response:**

In the annual guidelines and obligatory instructions for the preparation of the annual police operational plans which it issues, the Ministry of the Interior pays special attention to the respect of human rights in police procedures, with particular emphasis on prohibiting torture. The guidelines issued for 2002 dealt mainly with the lawfulness of police procedures linked to deprivation of liberty, with consistent observance of the provisions of the Convention on the Prevention of Torture, Inhuman or Degrading Treatment or Punishment. In November 2002 staff from the Bureau for Guidance and Oversight of the Police will carry out as part of its regular oversight, monitoring of the lawfulness and professionalism of the police use of means of restraint.

Since 1996, the police force has provided what is called guided self-defence and practical procedure training, and this is obligatory for all police officers. In the theoretical part (obligatory four hours per month), which is conducted by assistants to the commanders at police stations, police officers are familiarised with real cases and are advised of irregularities and violations in the exercising of police authority, and especially of means of restraint. Great emphasis is laid on consistent respect for the principles of lawfulness, professionalism, humanity and proportionality in the use of means of restraint. Since the principle of proportionality is the most frequently violated principle in police procedures, police officers are most often advised that they may use only those means of restraint that fulfil the assignment with the least harmful consequences for the person against whom the means are used, and above all they must stop using means of restraint as soon as the reasons for their use cease to exist.

In addition to the theoretical part, police officers are trained in practical procedures and self-defence by instructors at police administration centres (obligatory four hours per month), practicing procedures such as establishing identity, security checks, apprehension, basic self-defence techniques and similar.

In carrying out official duties the police make use of means of restraint only where it is essential, and this is confirmed by statistics. In 2001 the police performed a total of 888,782 repressive measures (fines, preferring misdemeanour charges, referring criminal information, emergency intervention and so forth), and means of restraint were used against 4,275 persons. Of these, 3,792 persons were handcuffed, this being the mildest form of restraint, incorporating the principle of gradation.

In the last two years special attention has been devoted to communication between the police officer and the person involved in police procedures, since it was found that in certain cases there had been unnecessary use of means of restraint, this having been a consequence of an inappropriate approach by the police officer or of the officer's attitude to the person involved.

This failing can be eliminated only through continuous professional education and training of police officers in carrying out police duties and practical procedures. Police officers must in particular become versed in appropriate communication abilities, and perfect their social skills so that they can establish appropriate contact and relations with persons in police procedures.

At the Detention Centre for Foreigners various educational programmes have been conducted over the past two years, and are still ongoing. In this way, police officers and other personnel have attended a variety of lectures:

- on Kurdistan and Iran (given by graduating history student Nikola Klačnjak, third secretary at the Turkish Embassy in Slovenia, Ms. Tina Yucel, and Mr. Hashem Salih, an Iraqi Kurd living in Slovenia);
- members of the Society of Catholic Teachers of Slovenia (DKPS) and the Jesuit Refugee Service (JRS) also provide a programme of their own, aimed at staff of the centre and the foreigners housed there. The programme includes work on stressful situations, basic communication and conversation, familiarity with religions and a presentation of the DKPS and JRS;

- in November 2001 police officers at the centre were given a programme of training on the subject of “Deporting aliens”, and this covered a presentation of the legal basis for deporting aliens and respect of human rights in procedures, security on aircraft, procedures at airports on entry and departure and action on aircraft, and the use of martial arts in deportation procedures;
- a socio-political presentation of the countries of origin of aliens, religions of the world, a practical presentation of the procedure for deporting aliens, basic communication and conflict resolution, basic stress management and first aid;
- the annual education plan for staff at the Aliens Centre ran from June 2000 to May 2001, and covered the following topics: a round table on the police and refugees; a presentation of education and practical procedure (self-defence); a UNHCR workshop on the subject of “Police and refugees”; the Aliens ACT and Asylum Act; a presentation of non-governmental organisations – Slovenska filantropija, Amnesty International, GEA 2000, VOX, SOROS, KUD France Prešeren, Helsinki Monitor; lectures on types of drugs and various infectious diseases; a seminar on police escorts for aliens on aircraft, held in Vienna; learning of foreign languages (Arabic, Russian and Chinese); lectures on Hinduism and Buddhism; and a professional visit was made to the centre for aliens in Budapest;
- like all uniformed officers, the police officers at the Aliens Centre regularly practice the practical procedure, while they also receive training under a special programme (primarily theoretical), which incorporates all the features of working with aliens;
- an annual operational plan of education for staff at the Aliens Centre for 2002 (in cooperation with various organisations such as the JRS, DKPS, Amnesty International, IOM and UNHCR), covering: the practical procedure of self-defence, cooperation with the Murska Sobota local association of the Red Cross and Caritas (humanitarian aid); lectures on the crime of illegally crossing the state border; police powers and the use of means of restraint; familiarity with religions; laws and regulations relating to work at the Aliens Centre.

#### **Point 14, paragraph 2**

**To end the practice of openly carrying firearms and truncheons within the accommodation areas of the strict supervision COT facility in Postojna;**

#### **Response:**

Following the visit by the CPT delegation, the directors of the Slovenian police studied several possibilities regarding the work and equipping of police officers, chiefly in respect of the open carrying of firearms and batons within the accommodation areas. By the start of renovation work on the premises of the Postojna branch of the Aliens Centre, police officers were no longer carrying batons inside the accommodation areas. Here it should be pointed out that in deciding on how police officers are equipped while they are frequenting the accommodation areas of the Aliens Centre, account will be taken of the need to ensure the safety of these officers, since there have already been several cases of attacks on police officers with dangerous objects, and in one case an alien who was temporarily accommodated at the centre was murdered. This applies especially to citizens of risk countries, who are as a rule accommodated in the strict supervision section of the COT.

In order to settle comprehensively the issue of carrying firearms and other means of restraint within the accommodation areas at the Aliens Centre, and particularly at the strict supervision section, the competent services within the general police administration will draw up appropriate solutions by **30 September 2002**.

**Point 15, paragraph 2**

**Information received by the Committee indicates that the current syllabus for the new generation of police officers incorporates the new approach, which attempts to link the theoretical courses on human rights with practical training in containing extraordinarily dangerous situations (such as arrest and interrogation of suspects), as well as special training in the area of psychology and development of interpersonal communication abilities. It appears for the moment, however, that those police officers already employed do not participate in ongoing systematic training founded on this new approach. The Committee recommends that this gap be filled.**

- **Police officers who are already working should gain experience in the systematic training that is currently being provided and which is based on the new approach set out in point 15**

**Response:**

**More or less all the training programmes embraced in the 2002 Catalogue and intended for police officers who are already on full active service, devote attention and concern to respect and protection of human dignity and ensuring and respecting the human rights of all.**

Special attention is devoted to this area in the basic training programmes aimed at police officers who are already on full active service. These programmes are:

- criminal investigation course,
- a programme for exercising police powers,
- a programme of training for the heads of police districts,
- traffic course,
- a programme of training for surveillance of the state border,
- training for work in international peace-keeping operations conducted under the prescribed UN programme (Department of peace-keeping operations).

Special attention is additionally devoted to this area in the continuing and general programmes, such as communication and conflict management for police officers, and conflict management for police officers (parts 1 and 2).

In 2003 the police will initiate an updated programme of Communication and Conflict Management. The programme will contain the following syllabus goals:

- understanding one's own behaviour and the behaviour of others in mutual interaction;
- conflict management and
- adopting appropriate behaviour relative to different communication situations, and increasing their effectiveness in reaching understandings and in their work



The programme will also include elements of protection and ensuring of human rights and freedoms. The programme will be especially aimed at older police officers.

Most importantly, the theory and practice for police officers who are already on full active service are provided as part of the regular monthly training for self-defence and practical procedure. This marks a continuation of the systematic training in this area, with specific cases of police action being dealt with. In all the education and training programmes, special attention is devoted to dealing with complaints about police actions and removing the causes that justify such complaints. In cooperation with the NPT Bramshill in the United Kingdom, in February 2002 we held a week-long training course on "Human rights, ethics and community-orientated work".

### **Point 15, paragraph 3**

**Moreover it is clear that constant exposure to highly stressful or violent situations can trigger psychological responses and disproportionate behaviour. The Committee would like to be informed of all preventive measures taken to provide support for police officers exposed to such situations.**

- **Any kind of preventive measures taken with the intention of providing support for police officers who are exposed to stressful or violent situations.**

#### **Response:**

For police officers and police staff who are constantly or very frequently exposed to stressful situations, the police force has for two years now been providing **an anti-stress programme for police officers – a workshop** conducted by representatives of the Art of Living Foundation. This is also the officially confirmed anti-stress programme of the UN World Health Organisation. The content of the programme is based on identifying stress and on the method or methods of reducing stress, on the importance of breathing as a means of inner calming and energy raising, effective breathing techniques, the value of correct physical activity and proper food. Based on this content, the following syllabus aims are set:

- programme participants will be capable physically and psychologically of calming themselves, reducing the effect of stress factors and achieving greater efficiency and creativity in their everyday lives and at work;
- participants master breathing techniques for physical and psychological relaxation;
- participants learn special physical exercises for relaxing the body and increasing the mobility and capacity of the body, which in connection with breathing raises powers of concentration.

Another programme aimed at police officers is that of Communication and conflict management for police officers, which is based on:

- elements, laws and methods of communication, life circumstances, self-awareness, methods of listening, and methods of offering and accepting criticism;
- transactions or how we influence others and others influence us, working styles, mutual conflicts and methods of resolving them;
- stress and stress prevention.

A new stress management programme is being drawn up, and this will be applied even more for the specific needs of police officers.

The special unit of the Slovenian Police has since 1995 employed a psychologist, who performs the following work for the needs of special unit members:

- planning, organising and coordinating anti-stress training;
- performing psycho-therapeutic activities with police officers who have been involved in traumatic situations;
- performing selection of candidates for special unit members and monitoring candidates in the teaching group for acceptance into the special unit in psychological terms.

By the end of 2002 a special programme of help for police officers will also begin in various fields. The programme will include both legal and social assistance and will be aimed at the entire force of police officers in Slovenia.

#### **Point 16, paragraph 2**

**The CPT recommends that every time someone suspected of a crime who is brought before a judge after being held in police custody and alleges ill-treatment by the police, the judge should immediately note down all such allegations, immediately order a forensic medical examination and do everything necessary to ensure appropriate investigation of such allegations/claims. Such an approach should be adopted every time, irrespective of whether the affected person bears visible external injuries or not. Furthermore, in the event of there being no clear claim of rough treatment by a person, the judge should still request a forensic medical examination if other signs exist indicating that the person before the judge could have been a victim of rough treatment.**

#### **Response:**

In connection with the recommendation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in Slovenia, relating to cases where suspects of crimes brought before a judge after being held in police custody state that the police have treated them roughly, the Slovenian Ministry of Justice referred the recommendation to Slovenia's Supreme Court. The Ministry anticipates that the recommendation will be accommodated.

#### **Point 17, paragraph 1**

**During its second visit the CPT delegation received detailed information on the new police complaints procedure, introduced in 2000. Complaints against the police are now investigated by special police units; every complaint, for which it has been established that it contains a criminal act, is referred to the relevant judicial body for further investigation. Disciplinary infractions by police officers are dealt with by a special senate, composed of: the chairperson (director-general of police, director of the regional police authority or a person appointed by the director), a representative of the police union and a member of the civil society. It was explained to the delegation that the prosecutor and/or his representative receives a court authorisation granting him the right to attend the discussion of the case and to express his opinion.**

*Further clarifications and comments on the CPT opinion*

It may be concluded from the content of point 17, paragraph 1 of the CPT Report that the complaints, disciplinary and judicial procedures are being unified. For this reason we offer a complete or comprehensive explanation regarding the currently valid procedure for dealing with complaints about the work of the police and regarding the disciplinary procedure:

**a) Procedure for dealing with complaints:**

**The system of justice in the Republic of Slovenia offers numerous options for protecting the individual's rights and freedoms. Everyone who "believes that through police actions or omissions their rights or freedoms have been violated", can within 30 days of the police officer's official procedure (in specific cases the deadline runs from the day the complainant discovers that their rights or freedoms have been violated) submit a written complaint to any organisational unit of the police (Article 28 of the Police Act, Uradni list RS, nos. 49/98, 66/98 and 93/01).**

The resolving of complaints is governed by the Instructions for Resolving Complaints (Uradni list RS, no. 103/2000), issued by the interior minister on the basis of Article 28, paragraph four of the Police Act, whereby:

The individual (hereinafter complainant) must submit a written complaint, while account shall also be taken of complaints received by the police via electronic media with a full identification address (we do not deal with anonymous complaints). In the complaint the individual must describe the action or omission of the police officer and the right or freedom which the police officer has thereby violated. If this is not clear from the complaint, the competent body shall request from the complainant that they supplement the complaint. If within 8 days the complaint is not supplemented, the competent body shall consider the complainant to have been dropped. This also applies in cases where on the request of the competent body for written confirmation of a complaint submitted by electronic media, the complainant does not confirm the complaint.

If the complaint meets the described requirements, the process is taken further with the verification of the allegations in the complaint. The competent member of staff at the police authority or at the general police authority (hereinafter authorised officer) may in determining the actual situation: conduct interviews with police officers, the complainant, witnesses and with persons who are in any way connected to the police officer's official procedure; request a copy or transcript of the recorded conversation that is the subject of the complaint, in compliance with the act governing this field of work; bring the police officer and complainant, or police officers, face to face; request from the competent authorities a professional opinion; conduct an inspection of the scene of the incident; perform a reconstruction of the incident and take other measures necessary for determining the actual situation.

The authorised officer may decide to call in the complainant for an interview. If during the interview the complainant establishes that the police officer did not violate their rights or freedoms, they may drop the complaint, in writing or orally. In this case the procedure for resolving the complaint is terminated. The procedure is also terminated when in verifying the actual situation it is established that this involves a complaint which has already been decided upon in a complaints procedure, when the matter subject to complaint has already been ruled upon in a final legal judgement, when the complaint has been submitted too late or when the complaint has been submitted by an ineligible person. The complainant is informed in writing of the termination of the procedure.

If in resolving the complaint the authorised officer determines that the police officer's actions also bear the signs of a criminal act which is prosecuted *ex officio*, the complaints procedure is temporarily suspended and the complainant is informed of this. The authorised officer starts gathering information pursuant to Article 148 of the Criminal Procedure Act (Uradni list RS, no. 63/94 with amendments and supplements) and according to his findings refers criminal information or a report to the District Public Prosecutor with jurisdiction. After this the complaints procedure is recontinued and appropriately concluded.

On the basis of information collected in the complaints procedure the authorised officer composes a report on his findings and for each reason or point of the complaint offers an assessment of its justification. He also drafts a written response to the complainant. All available documentation on the complaint in question is referred to the director of the police authority or the general police authority, who forwards it to the chair of the panel if another police staff member has been appointed to head the panel session.

Every complaint is addressed at a panel session, in which a representative of the public and a representative of the police union also participate.

Representatives of the public who participate in resolving disputes at the police authority level, are appointed and dismissed by the director of the police authority on the recommendation of the local communities from the area of the individual police authority, while the union representatives are appointed and dismissed on the recommendation of the Police Union of Slovenia.

On the level of the general police authority the experts and police union representatives are appointed and dismissed by the director general of police on the recommendation of professional associations and the Police Union of Slovenia respectively.

At the panel session called by the chair of the panel (i.e. the police authority or general police authority director, or person empowered to chair senate sessions) the complaint is examined from all aspects. On the basis of all the established facts, circumstances, evidence and opinions from the panel members, the chair of the panel decides on the justification of the complaint and on the content of the response to the complainant. Minutes are kept of the panel session, and are signed by all members of the panel and the person keeping the minutes. All members of the panel are bound to express a view on all the reasons for the complaint, and they have the right to pose questions and to suggest the taking of further steps.

At the panel session the response to the complainant is also received, and this must be composed within the framework of the reasons for the complaint. If the complaint was dealt with at a police authority, the response is signed by the police authority director, and if it was dealt with at the general police authority, the response is signed by the director general of police. These two persons are indeed responsible for resolving complaints at the police authority or general police authority level.

The response is sent to the complainant, and also to the police officer to whom the complaint relates, and the unit to which the officer belongs.

The deadline for resolving a complaint is 30 days. If the complaint is not resolved within the prescribed deadline (owing for example to the number of actions required to establish the actual situation), the complainant is informed of this in an interim response.

In the event of the complaint not fulfilling the elements required under Article 28 of the Police Act and the Instructions for Resolving Complaints, we nevertheless verify the allegations, and in the event of establishing possible disciplinary liability on the part of a police officer or a violation of the Police Code of Ethics, we take appropriate measures. We inform the complainant of our findings.

#### **b) Progress of disciplinary procedures**

In view of the statements in point 17 of the report we would point out and stress that the *disciplinary procedure* and *complaints procedure* are two entirely separate procedures independent of each other.

In compliance with the provisions of Article 49 of the Employees in State Bodies Act, the disciplinary procedure begins on the basis of the head of department's own decision or on the request of the head of the organisational unit or senior administrative employee.

Disciplinary liability is decided upon in the first instance by:

- the police authority director or staff member authorised by him for police authority staff,
- the director general of police or a staff member authorised by him for general police authority staff.

The request for instigation of disciplinary procedures and the disciplinary liability of an employee are decided upon in an oral hearing. The presence of the employee in the procedure must be ensured at the oral hearing, and the employee must also be questioned. In the procedure the opinion of the trade union must be obtained and a view taken on it. The person who submitted the complaint against the police officer may be called to the oral hearing as a witness, if the disciplinary body of first instance assesses such evidence as necessary.

The employee in the procedure has the right to defend himself against the decision of the head of department of the first instance, and this is then resolved by the Police Disciplinary Commission. The Police Disciplinary Commission is appointed by the interior minister on the recommendation of the director general of police, and comprises 10 members. The Police Disciplinary Commission makes decisions in a panel of three members, with one member being external (not a police employee). The Police Disciplinary Commission panel makes decisions in a session. The employee in the procedure, his authorised representative and a representative are called to the session.

The employee in the procedure may reject the decision of the Police Disciplinary Commission and take the case to the Labour Court.

**Point 17, paragraph 2**

**Introduction of the aforementioned procedure undoubtedly reflects the decision of the Slovenian authorities to ensure “the highest level of objectivity in dealing with complaints” (NOTE: See Report on the Work of the Police 2000, p. 46). Nevertheless the CPT believes that if it is to be truly effective, the complaints procedure must also be clearly independent and impartial; in line with this the CPT was interested to learn that within the Ministry of the Interior a working group has been set up, which was recently entrusted with drafting proposals for transferring the mechanism of complaints against the police outside the police force itself. The CPT would like to receive further information on this project and on the timeframes within which it should be carried out.**

**Response:**

1. The purpose and aim of the changes to the complaints procedure being drafted by the working group appointed by the interior minister are primarily as follows:

- to ensure more objective resolving of complaints about police work, of course in that area relating to Article 28 of the Police Act;
- to increase the influence and oversight of the public in police work.

2. The changes to the instructions have been drafted in the following sections:

a) in the appointment of representatives of the public to complaints panels, special emphasis being given to those making the recommendations also being representatives of the civil society (they are currently appointed by the director general of police, and following the recommendation they should be appointed by the minister);

b) the proposal of a reconciliation procedure – of course in matters not involving a crime, misdemeanour or violation of professional discipline by the police officer (the procedure being shortened whereby on receipt of such a complaint the head of department is bound to call in the complainant and police officer for an interview, to verify all the circumstances and, with the agreement of the complainant, to conclude the procedure – otherwise the regular procedure of verification and hearing by a panel is continued);

c) the public nature of the panel’s work, unless reasons of protection of confidentiality determine otherwise – all those involved in the procedure, the police officer, complainant and so on are called in, and they have the possibility prior to the panel’s decision, of giving comments, presenting new evidence and so forth;

d) equality of votes of panel members in deciding on the justification or otherwise of the complaint, which however does not release the head of department from the obligation to take action if a crime, misdemeanour or violation of professional discipline has been committed;

e) the duty to inform the minister in all cases of complaints being made as set out in Article 7 of the current Instructions (use of firearms resulting in death or grievous bodily harm, massive use of means of restraint, cases with public notoriety and so forth);

f) the ministry oversees the resolving of complaints from the preceding point – the duty to report on completion of the procedure (a report) and in all cases required by the minister.

3. The time for adoption of the above changes will depend on the decision whether it will be necessary first to amend the provision of Article 28 of the Police Act, which sets out the right to complaint. In the event of this provision not requiring amendment, the above changes could be brought in towards the end of 2002, and otherwise during 2003.

**Point 18, paragraph 2, first indent**

**The CPT requests the Slovenian authorities to provide the following information for 2001 and for the first half of 2002:**

- (a) the number and type of complaints against police officers owing to rough treatment and**
- (b) the number of criminal/disciplinary procedures instigated as a consequence;**

**Response:**

In *2001* we received a total of *1240 complaints* against police officers in all areas of operation, in which a total of *2192 reasons for complaint* were given. (The number of reasons for complaint is greater, since one complaint can contain several reasons for complaint) In the *period from 1 January to 30 June 2002* we received a total of *588 complaints*, containing *961* reasons for complaint. With reference to the request in the CPT report, we offer the following details:

**a) Number and type of reasons for complaint owing to the use of means of restraint**

MEANS OF RESTRAINT	2001				1 January to 30 June 2002			
	TOTAL	UNJUSTIFIED	JUSTIFIED	% JUSTIFIED	TOTAL	UNJUSTIFIED	JUSTIFIED	% JUSTIFIED
Handcuffs and restraints	69	68	1	1.4	21	18	3	14.3
Gas sprays	3	2	1	33.3	/	/	/	/
Physical force	92	89	3	3.3	27	23	4	14.8
Other	7	7	/	/	/	/	/	/
<b>TOTAL</b>	<b>171</b>	<b>166</b>	<b>5</b>	<b>2.9</b>	<b>48</b>	<b>41</b>	<b>7</b>	<b>14.6</b>

As the table indicates, owing to the use of means of restraint a total of 171 reasons for complaint were submitted *in 2001*, of which 5 or 2.9% were justified, while *in the first half of 2002* a total of 48 reasons were submitted, 7 of which or 14.6% were justified. Owing to the use of handcuffs and restraints there were 68 reasons for complaint, of which 1, or 1.4%, was justified, while in the first half of 2001 there were 21, of which 3 or 14.3% were justified. The greatest number of reasons for complaint in 2001 were owing to the use of physical force, with 92 given, of which 3 or 3.3% were justified, and the same goes for the first half of 2002, when 27 reasons were given, 4 of which or 14.8% were justified. From the statistics we may ascertain that the number of reasons for complaint is falling. In the first half of 2002, compared to the first half of 2001 there was an increase in the percentage of justification of reasons for complaint, by 10.5%. We are aware that the use of force is a serious encroachment on human rights and freedoms, so where the complaint was justified we took immediate appropriate action. We immediately examined the causes of the individual's unprofessional or unlawful actions (objectionable behaviour for personal reasons, unprofessional assessment of the least amount of physical force used, continuing to apply physical force when the need for its use has ended and so forth), and instigated appropriate procedures in line with existing legislation, dealing with the established deficiencies in various forms of education and practical training. A comprehensive assessment of the causes of the rise in justification can be formulated after more thorough analysis of individual cases at the end of the year, when they will also be statistically and professionally more comparable.

**b) The number of criminal/disciplinary procedures instigated as a consequence of complaints from the public and the number of procedures instigated where the police themselves detected rough treatment by police officers**

In 2001 based on complaints submitted a total of 13 disciplinary procedures were instigated as a result of all complaints by members of the public about the work of police officers. In four cases, following complaint criminal cases were referred for prosecution in addition to the instigation of disciplinary procedures. One disciplinary procedure was instigated owing to the "rough" behaviour of a police officer, following complaint from a member of the public.

In 2001, on the basis of our own detection of criminal acts, in addition to the instigation of disciplinary procedures we referred 38 criminal cases against police officers, of which five were for rough treatment. In these cases no complaints from the public were involved.

In the period from 1 January to 30 June 2002, following complaints about the work of police officers a total of five disciplinary procedures were instigated, and in two cases criminal cases were also referred. Owing to the rough behaviour of police officers, one disciplinary procedure was instigated as a result of a complaint from the public.

From 1 January to 30 June 2002, through its own detection of criminal acts, in addition to the instigation of disciplinary procedures the police referred 16 criminal cases against police officers, of which three were for rough treatment. In these cases no complaint from the public was involved.



**Point 18, paragraph 2, second indent**

**The CPT requests the Slovenian authorities to provide the following information for 2001 and the first half of 2002:**

**a report on the penal/disciplinary sanctions ordered following complaints about rough treatment by police officers.**

**Response:**

Taken from information provided by the Police Personnel Service, *in 2001* the following *penal/disciplinary sanctions* were imposed:

- Following complaint from a member of the public concerning rough treatment by police officers:
  - 1 conditional termination of employment (one case, one police officer, violations 1 and 5 of Article 45 of the Employees in State Bodies Act – the ZDDO)
- in five disciplinary procedures following the establishment of criminal acts (rough treatment) through police detection:
  - case suspended owing to lack of evidence (one case, two police officers, violations 1 and 5 of ZDDO Article 45)
  - case suspended since there was no evidence that the employee committed a disciplinary infraction (one case, one police officer, violations 1 and 5 of ZDDO Article 45)
  - case suspended by decision of the disciplinary commission owing to statute of limitation on the procedure (one case, one police officer, violation 1 of ZDDO Article 45)
  - case suspended since the action did not constitute a disciplinary infraction (one case, one police officer, violation 1 of ZDDO Article 45)
  - case suspended owing to statute of limitation on the procedure (one case, three police officers, violation 1 of ZDDO Article 45)
- **in the first half of 2002, from 1 January 2002 to 30 June 2002:**
  - in a disciplinary procedure following complaint from a member of the public owing to rough treatment by police officers:
    - conditional termination of employment, and following the decision of the disciplinary commission confirmed termination of employment (one case, two police officers, violation 6 of Police Act Article 99)
  - in three disciplinary procedures following establishment of a criminal act (rough treatment) through police detection:
    - procedure not yet concluded (one case, one police officer, violation 6 of Police Act Article 99)
    - case suspended owing to statute of limitation on the procedure (one case, one police officer, 6 of Police Act Article 99)
    - procedure not yet concluded (one case, one police officer, violation 6 of Police Act Article 99)

### **3. Conditions of detention**

#### **a. Introduction**

##### **Point 20, paragraph 2**

**The Slovenian authorities should continue their efforts to ensure implementation of the Regulations for construction, adaptation and maintenance of detention premises in their entirety;**

##### **Response:**

At the Ministry of the Interior and the Police we are aware that deprivation of liberty is a grave encroachment on human rights and freedoms, and we therefore devote very special attention to this area. Indeed for this very reason Ministry employees from the Bureau for Guidance and Oversight of the Police, in cooperation with representatives of the police carried out extraordinary oversight of the lawfulness and professionalism of police detention in 2001. One of the findings of the overseers was that the Slovenian police force has a small number of detention facilities which would meet the prescribed technical standards for detention lasting more than 12 hours. In order to eliminate this deficiency the interior minister ordered that detention in unsuitable premises may not be carried out, and that renovation of unsuitable premises must be commenced.

On the basis of the aforementioned guidelines the director general of police set up on 22 August 2001 a special working group to draw up a proposal for a comprehensive solution to the problem related to detention facilities. The working group compiled a complete review of all the detention facilities owned by the police or the justice ministry. On the basis of an assessment of the state of affairs and in view of the operational problem, a plan was drawn up for the construction of new facilities and renovation of existing detention facilities from 2002 to 2005.

In view of the limited financial resources the renovation work will last several years, but priority will be given to resolving the problems identified. For 2002 and 2003 a total of 20 million SIT for each year has been earmarked for renovation, and for priority renovation work in 2002 a further 10 million SIT was allocated. In addition to this, within the investment budget considerable financial resources have been earmarked for new construction.

As the CPT delegation could learn directly, in the entire programme of new construction we are incorporating the prescribed standards, and in all adaptation work we are also ensuring the same standards as with new constructions.

In order to eliminate certain deficiencies and drawbacks in terms of the living conditions for detained persons, the General Police Authority set up a working group to draft supplements to internal regulations governing new construction and adaptation of detention facilities. In this account will also be taken of the CPT recommendations and those of Slovenia's Human Rights Ombudsman. The purpose of supplementing an internal regulation setting out the standards for detention facilities is in no way to allow a deterioration of conditions for detained persons. The regulations are expected to be adopted by October 2002.

**b. Police stations and police cells**

**Point 22, paragraph 2**

**Deficiencies relating to the conditions of detention in the police stations visited should be eliminated;**

**Response:**

The regulations for construction and adaptation of detention facilities set out precisely the conditions regarding natural and artificial lighting. In the new constructions and also converted facilities, we are endeavouring to provide the detention areas with natural lighting, so that during the day detained persons can read.

In the detention facilities where the CPT delegation found inappropriate artificial lighting, lighting will be installed in compliance with the prescribed standards.

In order to eliminate irregularities regarding cleanliness and tidiness of the detention facilities, all police units were ordered to regularly maintain cleanliness in the detention facilities. Special attention is also focused on this by the General Police Authority and the Bureau for Guidance and Oversight of the Police at the Ministry of the Interior, which perform direct oversight of police units, and also by the Human Rights Ombudsman.

**Point 23**

**The CPT is convinced that the Slovenian authorities will strive to find solutions whereby they will avoid future situations when large groups of foreign citizens will have to be detained in police stations, including overnight;**

**Response:**

In view of the acute problem of illegal migration in 2000 and partly in 2001, the interior ministry issued relevant guidelines to the police, whereby owing to the overcapacity of facilities they should try to resolve this problem by auxiliary means as permitted by legislation governing aliens. The police observed the recommendations.

The police also adopted the CPT recommendations and devised criteria that are observed by police units in the detention of large numbers of people, and these were discussed at the broad collegium held by the director of Uniformed Police at the General Police Authority on 22 February 2002. According to these criteria, a large group is deemed to be a group of people containing 30 to 100 persons. Where there is a need to contain an incident and at the same time detain more than 100 people, according to these criteria the police do not resort to detaining people, but in line with the law they restrict access to the scene of the violation. This in fact involves very rare and exceptional cases where the police provide security containment of an event (mass unrest, football hooliganism and so forth) and large numbers of violators must be detained for a very short time.

Since the influx of illegal migrants is much smaller than in 2000, when such detentions were a problem, there are currently no such difficulties. Moreover, we will also resolve such problems by immediately returning aliens (after a few hours) to foreign security bodies, or they will be immediately (again after a few hours) taken to the Aliens Centre. In 2000 the problem was that aliens were held at police stations owing to procedures at the misdemeanours court, with for example a group of 40 aliens being processed by the court over an entire day, and then all of them being taken to the Aliens Centre. With the amendments to the Misdemeanours Act, these aliens now do not need to be brought before the misdemeanours court, and police officers can simply give them a written caution and then return them to foreign security bodies or take them to the Centre. In this way the time of detention is considerably reduced. Furthermore, there have been no large groups of aliens apprehended recently, since they generally make illegal border crossings in much smaller groups (on average 5-6).

**Point 24, paragraph 2**

**We call upon the Slovenian authorities to improve lighting and ventilation in the cells at Ljubljana – Povšetova and at Maribor I**

**Response:**

The detention facilities at Maribor I Police Station were completely renovated following the CPT delegation visit, and have been in use since the end of 2001. Following the CPT delegation visit, priority renovation was also carried out on the detention facilities at Nova Gorica, Sežana and Postojna police stations. Enclosed with this report is a CD with photographs showing the measures taken by the police to renovate and reconstruct the detention facilities (the CD also contains the ASDSEE software programme with which the photos can be opened and viewed).

**Regarding the detention facilities at 5 Povšetova Street in Ljubljana, we wish to report that the police are expected to return these facilities to the Ministry of Justice between 2003 and 2004. During this time a new building for the Ljubljana Moste Police Station will be constructed, and within this there will be a special centre for detention, which will be built to the highest standards and will have the capacity to hold up to 40 persons. This will serve to eliminate certain other deficiencies in the detention facilities at all police stations in the city of Ljubljana.**

**c. Facilities for detaining foreign citizens awaiting deportation**

**Point 28 (also point 37 – first indent)**

**The Slovenian authorities should:**

- **eliminate the deficiencies in terms of material conditions at the Detention Centre for Foreigners in Ljubljana and in Postojna, stressed in points 28 and 29 of the report; urgent measures are needed to eliminate the problem of overcrowding in the room for adult men in the reception/transit area of the Centre in Ljubljana;**

**Response:**

Prior to the Committee's visit the interior ministry issued to the police appropriate guidelines whereby the Aliens Centre (COT) in Ljubljana should be moved to a more suitable location outside Ljubljana.

From 1 September 2002 the Aliens Centre should no longer use the building on Celovška Street in Ljubljana. In comparison with the past two years, the number of aliens received there has fallen dramatically, and the existing premises have no longer been fully occupied in 2002. On average there are around 50 persons housed in the Aliens Centre building in Ljubljana. The maximum capacity of 70 persons was exceeded only for a few days this year, and normally this situation was resolved on the same day with the removal of aliens to the Centre's branches at Prosenjakovci or Vidonci. Currently there are at most four people occupying each room, and owing to the reduced numbers of incoming aliens as a rule there are two persons per room.

**Point 29 (also point 37 – first indent)**

**The Slovenian authorities should:**

- **eliminate the deficiencies in terms of material conditions at the Detention Centre for Foreigners in Ljubljana and in Postojna, stressed in points 28 and 29 of the report; urgent measures are needed to eliminate the problem of overcrowding in the room for adult men in the reception/transit area of the Centre in Ljubljana;**

**Response:**

Following renovation and arranging of the accommodation capacities at the Aliens Centre in Postojna, aliens will be housed by categories in separate sections for minors, unaccompanied children, vulnerable categories, single men and families. Beds and cupboards will be installed in the rooms. There will be adequate natural light in the rooms, and there will also be adequate ventilation and artificial lighting.

The reception areas at Postojna will be separate for men and women, and there will also be a separated isolation section for the sick who have been diagnosed upon admission as carrying infectious diseases. The area intended for reception of men measures 55.70 m<sup>2</sup>, and that for reception of women 28.25 m<sup>2</sup>, while the isolation section for the sick is 15.25 m<sup>2</sup>. These areas will also be provided with adequate natural daytime light, artificial lighting and ventilation.

**Point 30 (also point 37 – second indent)**

**The Slovenian authorities should:**

- **ensure that the quantity of food provided at both centres is sufficient and that the nutritional requirements of the inmates are taken into account;**

**Response:**

At all the facilities operated by the Aliens Centre, food for the residents is provided in line with standards drawn up by a nutritionist and are in accordance with the standards applied for the feeding of aliens by the Asylum Sector and the Office for Migration and Refugees.

In the event of illness the Centre's doctors also prescribe special diets which are indeed followed in providing food to the residents in question.

**Point 31, paragraph 1**

**Regarding the regime, it must be said that by day the inmates at both centres were free to move around the accommodation centre. Unfortunately the possibility of exercising outside (two hours a day) was only provided at the Postojna centre. The Ljubljana COT provides no possibility for regular exercise outside, except for minors, who were taken twice a week by members of an NGO to a children's playground. The majority of the adult inmates therefore spent all their time in the rooms at the centre (with the exception of approximately a third of inmates, who had permission to leave the centre during the day). At the end of the visit the delegation requested the Slovenian authorities as a matter of urgency to ensure at least one hour a day of exercise outside for all inmates of the Ljubljana COT. The CPT was encouraged to learn in a letter from the Slovenian authorities of 10 December 2001 that they had now also provided this possibility.**

***Further clarification to the CPT finding***

At the Aliens Centre facility in Ljubljana, exercise is provided regularly for the aliens in the form of daily recreation, which is taken in the afternoon for at least one hour. Following removal of the branch facility to Postojna, there will be a hall devoted to recreation, and this will be furnished with a sports court for playing a variety of games, and it will be available for use by all aliens throughout the duration of daytime activities. Those aliens ordered to be accommodated under strict police supervision will be able to exercise for at least two hours a day.

**Point 32 (also point 37 – third indent)**

**The Slovenian authorities should:**

- **continue in their efforts to improve inmates' contact with the outside world, especially at the strict supervision centre at Postojna;**

**Response:**

The directors of the Aliens Centre are indeed endeavouring to improve the resident foreigners' contact with the outside world, in line with the CPT delegation recommendation.

In addition to the permitted visits every working day between 14.30 and 16.00, foreigners held at the Centre may also leave the facility with a permit issued by the aliens inspector. Within the framework of the "Market" project, which functions under the aegis of the Jesuit Refugee Service (JRS), foreigners are also able through the services of staff and volunteers to purchase magazines, newspapers and other necessities, while in what is called the club room they can watch television and a variety of cultural events are organised.

The Society for the Development of Family Life organised a concert entitled "Concert of Life for Children and Vulnerable Groups", at which the children of the concert organisers and children of the centre's staff played music, danced and gave gifts to the children and older people housed at the centre. On the Slovenian cultural holiday, a concert was held in Postojna for the foreigners and representatives of local authorities. On 20 June 2002 an event was organised under the heading of "Open Day", which was aimed at familiarisation with the national characteristics of the foreigners from different countries, and at raising the tolerance of local community residents towards the persons housed in the Aliens Centre, and a presentation was also given of the work performed at the centre and by the non-governmental organisations who assist in this. The foreigners housed in the centre also actively cooperated in organising the open day, making up some of their own typical products and displaying them, while it was also possible to try the typical dishes of some countries. Foreigners from the centre also displayed their wares at an exhibition in Ljubljana City Hall to mark International Women's Day.

**Point 33 (also point 37 – fourth indent)**

**The Slovenian authorities should:**

- **take further steps to ensure that inmates are properly informed about the nature and status of the procedures in their cases;**

**Response:**

Despite the numerous activities already discovered and cited by the CPT delegation in its report, the directors of the Aliens Centre will make further efforts to ensure that the foreigners housed there are properly informed of the nature and status of the procedures relating to their cases.

As has already been mentioned, the number of foreigners accommodated has fallen considerably in 2002. Nevertheless a greater number of aliens inspectors has been employed. This will facilitate a higher quality of individual treatment of aliens (each inspector assumes responsibility for settling the status of a specific foreigner or group), whereby the foreigner can be more precisely familiarised with his situation, the progress of the procedure and be supplied with other necessary information.

**Point 34 (also point 37 – fifth indent)**

**The Slovenian authorities should:**

- **increase the hours when general practice doctors are present, and also the level of medical staff, at the strict supervision COT in Postojna. Attention should also be given to ensuring the presence of clinically trained staff during the night (if possible a nurse);**

**Response:**

Upon the termination of the Aliens Centre premises in Ljubljana and the renovation and placing of foreigners in the Postojna centre, three doctors are expected to be employed at Postojna from 1 September 2002, and this should significantly increase the time when doctors are available at the centre. This will also mean that medical staff will only need to serve one location and no longer two. Currently three of the five systemised posts of physician's assistant are occupied, and it is expected that the other two posts will also be taken shortly. Later, however, it will still not be possible to provide medical staff at the centre during the night, so in urgent cases foreigners will be taken to the appropriate medical establishment outside or doctors from the public health service will be assigned to the centre.

**Point 35 (also point 37 – sixth indent)**

**The Slovenian authorities should:**

- **ensure appropriate psychological/psychiatric help at both centres. A psychiatrist and/or psychologist should regularly visit the centre at Postojna;**

**Response:**

After the visit by the CPT delegation, in April 2002 a special group was set up to conduct interviews as part of the provision of adequate psychological help to persons housed at the centre, and especially in the strict police supervision section.

The assistance group for fugitives, working under the aegis of the Jesuit Refugee Service, has prioritised its participation in the interviews with foreigners housed in the strict police supervision section. This involves a group of adult volunteers from various professions (medical students, psychotherapists and social workers), who will be available for personal and group talks with the foreigners. The group comprises eight volunteers, and once a week two volunteers each will come to the centre to be available for these talks. Owing to the renovation works at the Postojna centre, the group should resume its work in October (see addendum – report on the plans and functioning of the JRS group for interviewing fugitives, June 2002) .

**Point 36 (also point 37 – sixth indent)**

**The Slovenian authorities should:**

- **fill all vacant posts at both centres and take steps to develop staff training in the light of comments made in point 36 of this report.**

**Response:**

The proposed systemisation of jobs at the Aliens Centre facilities came into force on 1 September 2001, and gradually vacancies are being filled with appropriate personnel. Owing to a general lack of police officers, the highest number of vacancies at both facilities is in the police sections, so these vacancies are still being filled by temporarily seconded police officers. All staff are provided with regular training to perform work at the Aliens Centre.



In the same way, the annual education plan provides training for other staff at the centre (cleaners, maintenance staff, kitchen staff, social services, inspectors and medical staff), something already mentioned under point 14. Some staff members are also taking foreign language courses. The vacant jobs are expected to be filled by the middle of 2003.

#### **4. Safeguards against ill-treatment of persons who have been deprived of their liberty**

##### **Point 39**

**Further information concerning whether senior police officers or public prosecutors assent to any kind of delay in giving information about detention;**

##### **Response:**

The Police Act and the Rules on Police Powers are the legal regulations which provide that the time of detention is counted from the moment the person is apprehended (Article 68 of the Rules). If the person apprehended is deprived of their liberty on suspicion of a criminal act or to carry out further detention, the police officer must **immediately** inform the person of their rights, these being the right to remain silent, the right to an attorney and to inform those close to them (Article 48). These rights are guaranteed to the detained person for the entire time they are deprived of liberty. The police officer carries out requests from the detained person to exercise any of these rights when the situation allows, this being most frequently at the police station, since it is only from that location that the detainee will be able to telephone an attorney or relative.

In view of the above it is understandable that the time when an attorney and those close to the detainee can be informed will depend on the circumstances, and is not always the same time as when the person is apprehended. The police inform the relevant people as soon as the suspect is brought to the police premises, since it is from there that the detainee will be able to communicate by telephone with an attorney and with those close to them. According to police data these persons are generally informed in 30 to 90 minutes.

Slovenian law does not permit omission or postponement in informing those close to the detainee about the detention. For this reason there is no rule prescribed whereby a superior police officer or public prosecutor must approve or confirm a possible delay in informing others about the detention.

##### **Point 40**

**Comments on allegations received in certain isolated cases that persons whom the police had detained had their first opportunity to contact an attorney only when they were brought before the examining judge;**

**Response:**

In line with the spirit of the Constitution, Article 157, paragraph three of the Criminal Procedure Act provides that a person who has been deprived of liberty must be immediately informed in their own language or in a language they understand, of the reasons for being deprived of liberty. The person must be immediately instructed that they are not bound to make any statement, that they have the right to the immediate legal assistance of an attorney of their own free choice, and that the competent authority is bound on their request to inform those closest to the person of the deprivation of liberty. Article 44 of the Police Act contains a similar provision.

The right of the detained person to speak in confidence with an attorney is provided by Article 65 of the Rules on Police Powers and in point 4 of chapter 1.2.3 of the Guidelines for Implementing Police Custody, no. 0211-1-221/318-00 of 30 November 2000. This point sets out that the detainee has the right freely, and without anyone else listening, to communicate with an attorney. The duty of the police extends to them being able to monitor the interview visually for security reasons.

In our assessment this provision is being consistently applied, something confirmed by the CPT findings.

It is not clear, however, from the CPT's mention of identified isolated complaints by persons whose first chance of meeting an attorney was when they were brought to the examining judge, which cases this involves, so we are unable to express a view on these cases.

In explanation we can state, however, that Article 157, paragraph one of the Criminal Procedure Act, which governs police detention, sets out the production of the person before the examining judge without delay. Article 203 of the same law, relating to the ordering of custody and interrogation before an examining judge, sets out the obligatory presence of an attorney, which is ensured by the examining judge. It is therefore possible that the person acquired an attorney indeed only with the examining judge, who must provide an attorney, if the production before the judge was carried out without delay. It is also possible that the person did not even request an attorney at the police station, but one was provided with the examining judge owing to the requirement for an attorney to be present.

We also ascertained that in the period from 1 January 2001 to 30 June 2002 no complaint was made relating to restriction of the right to confidential contact with an attorney.

**Point 41**

**Official provisions should be adopted whereby persons are ensured access to a doctor. These provisions should also set out:**

- **all medical examinations must be conducted out of the hearing and out of sight of the police officer – unless the doctor requests otherwise;**
- **the results of all examinations must be officially recorded, and the doctor must officially record all significant statements by the detainee and the medical findings, and make these available to the detainee and their attorney.**

**Response:**

The police drew up a new form for detention, in which it is set out that the detainee has the right to choose a doctor themselves, except where urgent medical attention is required. Moreover, we acquainted the competent health ministry of this issue in a letter (letter from the General Police Authority ref. 0021-4-0/511648-01 of 4 July 2001), since the settling of expenses for work performed by physicians and other obligations in the provision of medical services are within their jurisdiction.

Regarding the legal provisions governing the right of access to a doctor, the police adopted the CPT recommendation and in the Rules on Police Powers adopted in 2000 (published in the Uradni list RS, no. 51 of 9 June 2000) it introduced the provision of Article 74, which provides:

"A sick or injured person, for whom it is clear that they require medical attention, or a person who shows signs of serious poisoning with alcohol or some other substance, may not be held in detention facilities. The police officer conducting the detention must immediately provide for such person transport to a medical establishment in order to secure medical attention."

Whenever a detainee themselves request medical attention, the police officer shall facilitate appropriate medical attention in the detention facility or provide transport to the nearest medical establishment. The police officer must do everything necessary to ensure that during transport to the medical establishment or within the medical establishment the person is prevented from escaping."

This provision requires from the police officer the provision of medical attention, but in fact does not observe the recommendation set out by the CPT in its last report (that all medical examinations must be conducted beyond the hearing or sight of police officers, unless the doctor so requests, and that the doctor must officially record the results of any examination, as well as any relevant statement by the detainee to the doctor and any medical findings and make them available to the detainee and their attorney). We will study these recommendations together with the health ministry, and provide an appropriate legal framework for them.

**Point 42, paragraph 2**

**Confirmation of the information that forms relating to detention have now been introduced, and that they contain the explicitly stipulated right of the detainee to see a doctor.**

**Response:**

The CPT's information in this point is correct, the police have indeed been using the new form, which contains a section referring to the right of access to a doctor, since 1 October 2001.

**Point 44, paragraph 2**

**A code for conducting police interrogations should be drawn up.**

**Response:**

Regarding the CPT recommendation for the drawing up of a “code” for conducting interrogations, it should be reiterated that the gathering of information under the current Slovenian criminal justice system has no procedural value in court, and where information is gathered from detained suspects, pursuant to Article 157, paragraph three of the Criminal Procedure Act (ZKP) they are advised of their rights under Article 4 of the same act (see point 40).

With the anticipated amendments to the ZKP, which should provide the procedural value of “police interrogation”, and appropriate provisions on the guaranteed rights of such person and the method of interrogation, it will no doubt be necessary owing to the amendments to draw up additional material for training police officers. A working group will be set up by November 2002 to draw up the appropriate guidelines.

In its guidelines and recommendations to the police following special oversight in 2001, the Ministry of the Interior issued the same guideline, whereby the police must produce an appropriate manual (code of conduct) for carrying out gathering of information in what are called custodial procedures, where account is taken of the recommendations of the CPT recorded in its report from 1995.

**Point 45**

**Everything necessary should be done to ensure that there will be appropriately kept lists of detentions at all police stations (especially at Ljubljana – Vič and Murska Sobota).**

**Response:**

On the basis of findings from oversight at police stations, interior ministry representatives requested from the police that they keep updated records of detainees. In the oversight conducted by the police in 2002 it was established that these records are also kept in accordance with guidelines. In the future everything necessary will be done to eliminate deficiencies in the recording of data on detention of persons.

In addition to a register of detained persons, the police have for several years kept computer records on detainees, and for each detainee an official note is filled out on their apprehension and detention. In this way there are several methods of monitoring how long a person has been detained in an individual police station. The simplest method is to compare data from the register of detained persons with the official note on apprehension and detention. In view of the oversight conducted, the General Police Authority regularly brings the attention of police units to the proper keeping of detainee registers and other records relating to detention.

## **B. Prison establishments**

### **1. Preliminary remarks**

#### **Point 50**

**The CPT recommends that the Slovenian authorities strive to apply a broad range of measures to deal with prison overcrowding, including a policy that limits or balances the number of people being sent to prison. In this context, the Slovenian authorities should take account of Recommendation R (99) 22 of the Committee of Ministers of the Council of Europe, relating to prison overcrowding and the growth of the prison population.**

#### **Response:**

The Government of the Republic of Slovenia will continue to strive for the adoption of a wide variety of measures to overcome prison crowding, in line with Recommendation R (99) 22 of the Committee of Ministers of the Council of Europe, which relates to prison overcrowding and the growth of the prison population.

Alongside the constant observance of legislation and practices, efforts will be directed primarily towards:

- seeking new alternatives to custodial measures and greater use of possibilities already provided in law
- improving and increasing spatial capacities within existing prisons.

Some measures aimed at establishing alternative penal sanctions have already been taken in Slovenia. Article 107 of the Penal Code provides the possibility for the courts, instead of handing down prison sentences of up to three months, giving sentences of work for humanitarian organisations or for a local community, the execution of which has been provided by Article 13 of a new law governing execution of penal sanctions, and which is being applied in practice. The possibility will also be studied of alternative serving of sentences for convicts dependent on prohibited drugs.

The new misdemeanours act, which is in its reading in the Slovenian National Assembly, contains a proposal that in misdemeanour proceedings it will no longer be possible to sentence the perpetrator to prison, but only to fines and other sanctions. It is also proposed that the perpetrator of a misdemeanour who does not pay the sum or part of a fine within the specified deadline, be forced to make payment through punitive detention in prison until the fine is paid, but lasting no more than thirty days. Perpetrators of misdemeanours who lack sufficient means to pay the fine, may on their own proposal or with their agreement and until the start of punitive detention, be ordered by the competent court to substitute for the payment of the fine by performing certain tasks for the general good or for the benefit of the local community. Following the enactment of these regulations, we may justifiably anticipate a dramatic reduction in the number of persons imprisoned as a result of misdemeanour proceedings (in 2001 a total of 3,318 persons were thus imprisoned), especially in favour of facilitating the performance of certain tasks for the general good or for the benefit of the local community.

In Slovenia the number of convicted persons serving their entire prison sentence is falling, which is a result of the increasing incidence of probation and early release. In 2001 prison sentences were served in their entirety by 15.4% of convicts, and in 2000 by 18.5%.

Alongside the construction of a new auxiliary prison in Koper, a programme is being drawn up for the spatial development of the entire prison system, since improvements to facilities are needed at the majority of locations. The programme should be adopted before the next budget period.

### **Point 51**

**The CPT desires information on whether within the framework of existing treatment programmes there are possibilities provided for dealing with the transgressional behaviour of prisoners**

#### **Response:**

Dealing with the transgressions of convicts is a constituent part of the treatment regime which is conducted in individual, group and community programmes, and whose aim is to prepare imprisoned persons for life after release and to reintegrate them into society. It is based on a sociotherapeutic model which sets at the forefront the relationship with the imprisoned person, and with the help of knowledge in the area of group dynamics and with elements of reality therapy, transaction analysis, family therapy and so forth, it leads to an insight into one's own behaviour, to assuming responsibility for this and to a motivation for changing one's behaviour. A very important part is played in such treatment by small therapy groups of at most 15 people, who are heterogeneous and meet every week under the supervision of teachers.

The Penal Sanctions Authority will continue in its efforts towards developing programmes of prisoners learning social skills and towards offering programmes of various activities, including work, education and vocational training.

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

### **Point 53**

**The CPT recommends that on both the central and local levels the Slovenian authorities should continue to be vigilant and regularly draw the attention of prison staff to the fact that ill-treatment of prisoners is unacceptable and, if discovered, will be severely sanctioned.**

**The CPT desires information on the results of the research mentioned in point 52.**

#### **Response:**

The message that ill-treatment of prisoners is unacceptable, is already indirectly included in the regulations governing the area of prison sentences. And this requirement is particularly highlighted in the internal instructions for prison officers in exercising their powers, and in the internal instructions on the curriculum and professional principles for training prison officers, which were adopted in 2002. Provision has also been made for prison directors to bring the attention of officers to this requirement at specific regular intervals.

Further investigation of the case at Maribor Prison did not support the information of inappropriate treatment by a prison officer, who supposedly insulted a prisoner while escorting him. Owing to lack of evidence, the competent public prosecutor's office rejected the criminal information brought by the prisoner's father. For the same reason the disciplinary procedure imposed on the officer was also halted.

#### **Point 54**

**The CPT recommends that prison officers at Dob be reminded that force may only be used as a last resort for controlling violent and/or rebellious prisoners, and that no more physical force may be used than is absolutely necessary.**

#### **Response:**

The use of means of restraint is very precisely defined in the valid regulations, which also contain just such a caution. Slovenia's Penal Sanctions Authority (hereinafter the Authority) will instruct the directors of Dob Prison to caution prison officers regarding these restrictions in the use of physical force as an extreme measure for achieving one's aim. This caution will also be regularly disseminated to staff at other prisons, and at the same time all cases of the use of physical force will be very closely monitored.

#### **Point 55**

**The CPT encourages the Slovenian authorities to take steps to deal with the problem of violence and extortion among prisoners, and this should also include appropriate basic and further programmes of training for staff at all levels.**

#### **Response:**

On all cases of violence among imprisoned persons, the heads of prisons take immediate and determined action in line with the regulations, which provide several possibilities (solitary confinement of dangerous inmates, placing in specially secured sections or in areas with heightened supervision, removal to another cell, section or prison, disciplinary procedures and so forth). The Authority will in any event monitor this problem and take the necessary steps to limit violence. The CPT's proposal regarding the organisation of training for prison staff to prevent and contain violence among inmates has therefore been accommodated in its entirety.

### **3. General conditions in prisons**

#### **a. Repeat visits**

##### *i. Dob Prison*

#### **Point 56**

**The CPT recommends that steps be taken at Dob Prison to reduce the occupancy of the 60m<sup>2</sup> rooms, taking account of minimum standards (point 49). The CPT wishes to underline that smaller accommodation units for inmates are better than large units such as the 60m<sup>2</sup> rooms at Dob.**

**The CPT also recommends that steps be taken in terms of better partitioning of the sanitary areas in the single rooms in Section III.**

#### **Response:**

The Slovenian government agrees entirely with the recommendation that smaller accommodation units for inmates are better than large ones, and this has also been incorporated into the execution of penal sanctions act. The primary guideline is to gradually establish conditions in prisons whereby inmates will be accommodated in single rooms and only exceptionally in group rooms. To this end preparations are already under way on plans for a complete renovation of Dob Prison, which should be carried out gradually in the coming years, finances permitting. As part of these renovation works, the conditions (washbasin and toilet) will be improved in Section III, and the outdoor exercise area will be protected against inclement weather (point 58).

#### **Point 57**

**The CPT would like to receive more precise information on the project of educating inmates at Dob, including the number of inmates for who the programme is being developed. The CPT also encourages the Slovenian authorities to continue their development of activity programmes for all inmates at Dob (especially relating to work and education)**

#### **Response:**

In November 2001 Dob Prison implemented a programme for obtaining the fifth level of education in the vocation of catering technician. This programme could be attended by inmates with appropriate previous education (catering or nutrition vocational school), inmates with two years completed out of the four-year schooling and those who passed a prequalification test.

The fifth level programme began with 20 inmates, 16 of them continuing their education after having finished the fourth level of this vocational programme at the prison, while 4 inmates are doing prequalification. The education is being provided by an external institution.



The prison is also actively striving to secure for the inmates the widest job opportunities possible, both within the existing production and through the development of new programmes. In the semi-open and open sections of the prison, four new job vacancies have been created in the agricultural produce programme (in the greenhouse). With the renovation of existing buildings, production of prefabricated elements is envisaged, and this could employ 10 to 12 inmates. Attention is also being given to the possibility of new jobs in the prison kitchen, which would as a priority cover the employment of inmates for the period of their work experience related to the education programme.

The Penal Sanctions Authority, in cooperation with external education institutions, started in 2002 to introduce at Dob Prison the international Leonardo da Vinci pilot project "Exit – vocational training and social reintegration of convicts in postpenal treatment", financed by the EU, covering six phases and supposedly lasting two years. The Netherlands, Britain, Germany, Estonia and Slovenia are participating in the project. The main purpose of the project is the formulation and implementation of an experimental model of vocational training with parallel psychosocial motivational support of inmates involved, and with the active cooperation of professional staff at the prison, as well as of all the necessary external institutions. This would establish an effective network of different professional institutions, which will in future during the serving of sentences and in close cooperation with the professional service of the prison, contribute to the more rapid social and occupational reintegration of inmates after serving their sentences.

The first phase of the project has been carried out, and relates to determining the attitude of inmates and workers to education, in the form of a cross section of the situation in all Slovenian prisons. The other phases of the project will be conducted at Dob Prison.

### **Point 58**

**The CPT has a renewed comment, first made after the visit in 1995, that the outdoor exercise facilities at Dob Prison should be protected against inclement weather.**

Response and clarification already contained under points 56 and 66.

#### *ii. Ljubljana Prisons*

### **Point 59**

**The CPT again recommends that steps should be taken at Ljubljana Prison to reduce the number of inmates in cells measuring 18m<sup>2</sup> to four and in those of 8m<sup>2</sup> to just one person.**

#### **Response:**

At Ljubljana Prison the problem of overcrowding is more or less a permanent feature, since the number of imprisoned persons is higher than the prison's capacity, so it is currently impossible to reduce the numbers of inmates in the cells in terms of the recommendation. Given the trend in the number of inmates over recent years, it will be essential to acquire additional space. Plans have been drawn up for a renovation of the prison, and along with it the construction of additional space within the existing location, although for the moment there is still no agreement for this work forthcoming from the city authorities. The possibility of moving the prison to another more appropriate location is also being investigated.

### **Point 60**

**The CPT recommends that the Slovenian authorities take steps to develop activity programmes for prisoners in Ljubljana. This programmes must be orientated towards ensuring that all prisoners, including remand prisoners, spend a reasonable amount of time (eight hours or more a day) out of their cells and that they are involved in useful activities of varying content (work, education, sports, recreation). The comment on point 58, concerning spending time outside at Dob, also applies to Ljubljana.**

#### **Response:**

Within the framework of existing possibilities, Ljubljana Prison will strive to improve the existing programme of activities, to seek new opportunities for employment and to expand the possibilities for exercise and other activities for all inmates. Here the Authority will strive to obtain consent to the renovation of the prison or for the construction of a new prison at a substitute location, since only in this way will it be possible to effect a long-term solution to the burning issue of lack of space. A clarification to the same comment regarding external exercise facilities as deriving from point 58 is given in the response to point 66.

#### **b. Maribor Prisons**

### **Point 63**

#### **The CPT recommends:**

- **a reduction in the number of persons in 9m<sup>2</sup> large cells in Maribor Prison as a priority. In ideal circumstances a cell of this size should be used to accommodate just one person, and in any event two at the most;**
- **an improvement in the partitioning of the sanitary facilities in the 9m<sup>2</sup> cells;**
- **equipping all cells with a call system.**

#### **Response:**

Resolving the burning problem of lack of space at Maribor Prison is one of the priority tasks, since inmates here face the worst living conditions in the country. Plans have already been elaborated for rearranging the prison, involving an increase of capacity in the prison section, arranging sanitary facilities and their separation from the living quarters, installing a call system and other appropriate fittings, and this should all contribute to an improvement of the inmates' living conditions. This project will be carried out gradually in the coming years, depending on financial resources.

### **Point 64**

**The CPT would like the opinion of the Slovenian authorities in connection with the quality and quantity of food for prisoners and the poor space provision in the prison dining room in Maribor Prison.**

**Response:**

Food for imprisoned persons is prepared according to uniform standards valid for all prisons. These standards were devised by an external contractor two years ago on the instructions of the Penal Sanctions Authority, and an external physician also collaborated. In drawing up the standards they took into account the latest recommendations of international nutrition organisations, and the recommendations valid for special category people. The standards lay special emphasis on healthy food for imprisoned persons, who are characterised by less movement and by the digestive problems associated with this. The standards for prison food have been confirmed by the national health protection institute, which assessed them as being highly appropriate. Preparation of food at all prisons is under the regular oversight of sanitary and health inspectors. There are very few complaints regarding food, and these are resolved immediately. For the most part these complaints are unjustified and are linked to other problems suffered by inmates.

The Authority concurs with the CPT finding that the Maribor Prison canteen is an unsuitable location, and owing to special circumstances (outmoded drainage) in a poor state of repair. In 2002 certain urgently required maintenance work will be carried out, chiefly renovation of the drainage system, whereby the conditions there will be improved.

**Point 65**

**The recommendations from point 60, relating to prisoner activities in Ljubljana, apply equally to Maribor Prison.**

**Response:**

Within the scope of practical possibility, Maribor Prison will strive to improve the existing activity programmes, to seek new employment opportunities and to expand the possibilities for exercise and other activities for all inmates. It will strive especially to improve the prospects for remand prisoners, primarily through the acquisition of appropriate work programmes. At the time of the CPT visit, 3 remand prisoners were working, and now there are 10, which serves to confirm the prison's efforts.

**Point 66**

**The CPT recommends that immediate steps should be taken to ensure for all prisoners in Maribor Prison the possibility of spending time outside every day. As at Dob and Ljubljana prisons, provision must be made at Maribor Prison to ensure the possibility of spending time outside during bad weather, meaning that part of the courtyard should be covered.**

**Response:**

We know that all inmates of Maribor Prison should be provided with the opportunity of spending time outside every day, and that the time spent on sports and other physical activities should not detract from the time allocated for being outdoors. The Authority has already advised Maribor Prison of this obligation, and it is being observed.

Inmates at Dob, Maribor and Ljubljana prisons are able to spend time outside even in bad weather, but it is true that in these prisons, and indeed in the other prisons in Slovenia there are no appropriate constructions under which inmates could shelter during bad weather. There are plans to gradually arrange shelters at all locations, although in view of the limited financial resources, priority is currently being given to the arrangement of other more pressing spatial concerns.

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

##### **Point 68**

**The CPT recommends that the number of staff should be studied and the hours when medical staff are present at all three prisons visited. In particular, steps should be taken to ensure the presence of a general practice doctor for at least 30 hours a week in Ljubljana and Maribor. Regarding Dob and the location of the prison and number of inmates, provision must be made for a nurse to be permanently present at the establishment, including at night.**

**The CPT would like a clarification from the Slovenian authorities regarding the complaints made by numerous inmates of Ljubljana and Dob prisons in connection with the quality of medical care provided by general practice doctors, and in connection with Ljubljana Prison regarding the delays in access to specialist care.**

##### **Response:**

The time given in the CPT report for the presence of a general practice doctor at Ljubljana and Maribor prisons is not correct. At Ljubljana Prison the general practice doctor is on duty for an average of at least five hours a day, three times a week, giving a total of at least 15 hours a week, and not nine hours as is stated in the report. At Maribor Prison both general practice doctors are present four times a week, and on average for more than 30 hours a week and not eight as the report states. Nevertheless, Ljubljana Prison has the task of extending at the earliest opportunity the presence of a general practice doctor to at least 30 hours a week. At Maribor Prison a dentist should also be provided this year, or rather as soon as a new dentist's chair can be acquired.

With Maribor and Ljubljana prisons the Authority will study the possibility of extended presence of medical staff, and also the possibility of additional employment of nurses on contract. With the change of working hours at Dob Prison, a nurse is now provided every day for 12 hours. The presence of a nurse 24 hours a day will gradually be provided subject to the possibility of employing additional providers.

All the complaints relating to medical care of inmates are carefully investigated and resolved immediately. An agreement was reached with the Ministry of Health on the gradual introduction of systems of quality in the medical care of imprisoned persons. To this end, special instructions will be drawn up for doctors and medical staff in accordance with Council of Europe standards. The complaints procedures are important for the implementation of safety and quality standards in health care. An analysis of the complaints indicates certain characteristics of this category of people. It is evident that communication between patient and doctor in some cases is inappropriate, both on the part of the patient and probably also that of the doctor (transfer, contra-transfer). Patients may have associated psychosocial disorders, personality and behavioural disorders, and this can further impede communication with medical staff and cause both friction and often enough unrealistic demands.

The complaints about long waiting times to see doctors and for specialist examinations are generally unjustified. Prisoners frequently even have an advantage over other citizens in that medical criteria are considered in respect of the urgency of examinations. Over the past year the number of specialist examinations has significantly increased. Urgent cases are always seen immediately, and in the absence of a doctor they are dealt with by external emergency medical services. Waiting periods for the prison doctor are not common practice, but are necessary for those individuals who wish to be seen by the doctor every time he is in the surgery. Complaints at Ljubljana Prison about delays in being taken to medical establishments are also without foundation, since prisoners are taken for examinations when they have an appointment with a specialist.

In view of the sensitive nature of this area, the Ministry of Health will ensure closer scrutiny of the quality of doctors' work and the conclusion of the procedure for incorporating prison surgeries into the public health care system.

### **Point 69**

**The CPT recommends that the Slovenian authorities strengthen the resources of psychiatric/psychological help at Dob, Ljubljana and Maribor prisons**

#### **Response:**

The Authority will study the possibility of enhancing psychological assistance at all three prisons. Currently two new psychologists are being inducted at Dob Prison. With this expansion of staff, inmates at this prison will be offered satisfactory psychological assistance.

Based on the need of prisoners for psychiatric care and on the CPT recommendations, the Authority is striving to ensure an a suitable quality of psychiatric care at all locations. In concluding agreements and contracts with individual psychiatrists and psychiatric institutions the Authority is experiencing difficulty owing to the growing needs of Slovenia's population, since Slovenia has demonstrably unfavourable indicators of mental health and along with this a higher volume of regular work and greater workload for psychiatrists. The Authority experiencing difficulty finding psychiatrists who would be prepared additionally or fully to work in prisons, although it is continuing its efforts.

It is indeed true that none of the nurses have an psychiatric training for nurses, so provision will be made to include them in a training programme.

### **Point 70**

**The CPT recommends that immediate steps should be taken to ensure that mentally disturbed prisoners who require hospital psychiatric treatment, are admitted to appropriate institutions.**

**Response:**

The admission of psychiatric patients into psychiatric hospitals represents a major problem for all prisons. Serious psychiatric patients are always admitted and are hospitalised. For the majority, however, in addition to psychiatric problems they display after just a few days dissociative behavioural disorders and manipulative qualities, so the hospitals waste no time in sending them straight back, and such patients are constantly shuttling back and forth between the hospital and prison.

The Penal Sanctions Authority in cooperation with the Ministry of Health, or specifically the Studenec Psychiatric Hospital in Ljubljana, is preparing a solution to the problem through the establishment of a forensic ward. Premises have already been allocated within the psychiatric hospital itself. It has been agreed that the medical component of patient care, including medical staff, will be provided by the hospital, while security and the other logistics will be provided by the Authority. On the basis of the agreement we are now at the stage of arranging documentation in connection with the transfer of the facility into the jurisdiction of the Ministry of Justice. This will be followed by the drawing up of plans, with adaptation work envisaged in the coming years in line with available finances.

In connection with the case of the detainee at Ljubljana Prison who had serious anxiety problems, the prison offered an explanation to the CPT during the concluding talks. We may sum up again by stating that the detainee was undergoing psychiatric and psychological treatment, and in consultation with the prison psychiatrists the prison obtained the assurance that the detainee had been appropriately diagnosed, that he was receiving appropriate therapy and that hospitalisation was not necessary.

**Point 71**

**The CPT would like the opinion of the Slovenian authorities on the significant proportion of prisoners who are taking psychiatric medication.**

**Response:**

At prisons all psychiatric treatments are prescribed by external psychiatrists. Many people come to prison with already prescribed psychiatric treatment and these are continued within the prison. With the aim of avoiding duplication of treatment, there is an agreement between the general practice doctors and psychiatrists whereby psychiatric treatment in prisons is prescribed only by psychiatrists, and the general practice doctors do not change this. In this way the use of such medication has been significantly reduced compared to earlier years.

**Point 72**

**The CPT recommends that the record of the medical examination on the arrival of new prisoners contains:**

- (i) An exhaustive report on the statements given by the prisoner and which are important or the medical examination (including his description of his own state of health and any kinds of allegation of ill-treatment);**

- (ii) **An exhaustive report on the objective medical findings based on a thorough examination (including the type, location, size and specific features of any observed injury); and**
- (iii) **An assessment of the level of consistency between all the statements given and the objective medical findings. This will enable the responsible authorities and in particular the prosecutors to make an appropriate assessment of the information in the documentation. The same procedure is needed when a prisoner is medically examined owing to a violent event in the prison.**

**Furthermore, the results of the examination as well as the aforementioned statements and medical findings and conclusions must be accessible to the prisoner and his attorney.**

**Response:**

In the future the recommendations will be consistently applied in practice.

**Point 73**

**The CPT recommends that appropriate information should be provided both for staff and prisoners, especially regarding the methods of infection and means of protection.**

**Response:**

An active policy of prevention has been carried out for several years to prevent the spread of infectious diseases in prisons. As part of the programme of informing prison staff and inmates about the nature of individual infectious diseases (Aids, hepatitis), about the methods of transfer and possible protection from infection, which is conducted as part of a cycle of lectures and consultations in all prisons, in the last year information about tuberculosis has also been added.

The Penal Sanctions Authority organised a consultation between prison medical staff, the Health Protection Institute and Golnik Hospital, in which a blueprint was established for discovering and caring for tuberculosis patients and for protecting the environment from the spread of the disease in prisons. The active policy of discovering and treating tuberculosis involves:

- special attention focused on new inmates, especially those with a cough, from whom a cough culture is taken,
- the person must be examined by a doctor within 48 hours (taking account of weekends),
- suspicion of tuberculosis is confirmed by a specialist pulmonologist,
- patients with confirmed diagnosis are quarantined and also hospitalised,
- patients must be motivated to cooperate in the treatment process,
- the need to examine all persons who have been in contact with the infected person and under instruction from a pulmonologist preventive treatment must be provided.

Another point of agreement from the consultation is that leaflets on tuberculosis will be produced as educational and informative material for inmates and staff at prisons.

**Point 74**

**The CPT recommends that steps should be taken whereby all medical data relating to prisoners be handled in such a way as to ensure the strict confidentiality of such data.**

**Response:**

This recommendation is included in the medical records act and in the personal data protection act, so the strict confidentiality of medical data relating to prisoners is ensured.

**5. Other matters**

**a. prison staff**

**Point 75**

The CPT recommends that steps should be taken to fill the vacant regular jobs at all three establishments.

**Response:**

The shortage of staff, especially of prison officers and professional staff poses a serious problem, which given the general restriction on employing staff in the state administration may not be solved very soon. Within the framework of the permitted level of employment, the Penal Sanctions Authority is attending to the ongoing replacement of staff that leave, the gradual restructuring to make up for personnel shortages and a more balanced staffing level among individual prisons.

**Point 76**

**The CPT calls upon the Slovenian authorities to continue their efforts in the area of training prison staff, at the stage of introducing them to the job and also for those already in employment.**

**The CPT would like to receive further information on the content of the new training for prison officers.**

**Response:**

Activities to improve the training of the entire prison staff will of course be continued. A training programme for prison officers is prescribed in the rules on prison officer duties. Training is provided as initial training of newly accepted prison officers, and continuous training. Every prison must provide at least four hours of continuous training each month, and this is counted as part of the regular duties of the job. Training of new prison officers lasts six months and is divided up into the following sections:



- practical familiarisation with the imposition of prison sentences and detention, and especially with the work of the prison officer service – lasting one month,
- basic training with lectures, practical exercises and acquisition of physical abilities – lasting four months,
- practical training at the prison – lasting one month.

Prison officers must demonstrate their acquired knowledge and training in a test. The curriculum and professional basis for training prison officers are set out in the internal instructions by the director of the Authority. The curriculum comprises the following subjects:

- regulations in the field of imposing penal sanctions and detention
- prison officer's powers and practical procedures
- criminology
- use of firearms and other means of restraint
- sports training and self-defence
- the administrative procedure act
- occupational safety and fire safety
- penology
- communication skills
- the basis of professional treatment of prisoners
- first aid and preventive medicine at the workplace
- professional ethics

The conducting of the programme in line with regulations is directly linked to permission to employ new prison officers, which for the moment is still not possible, so until the securing of the necessary personnel and financial resources it will be conducted in an adapted and abridged form.

## **b. discipline**

### **Point 77**

**The CPT would like information on whether the procedural protection provisions valid for convicted prisoners also apply to remand prisoners, and above all, whether the bodies that decide on sanctions, interrogate remand prisoners personally and whether such prisoners have the right to appeal.**

**Response:**

The procedure for ordering disciplinary punishments to remand prisoners is regulated in law by the criminal procedure act and the rules on execution of detention. In compliance with these regulations remand prisoners may be given the disciplinary punishment of banning or restricting visits and correspondence for disciplinary infractions that are taxatively listed in the aforementioned act, by an examining judge or president of a panel of judges. The disciplinary measure of restricting or banning visits does not apply to visits by an attorney, doctor, human rights ombudsman or to diplomatic and consular representatives from the country of which the prisoner is a citizen. The disciplinary procedure begins on the proposal of the prison governor. An appeal may be lodged against the decision to impose disciplinary punishment within 24 hours of its receipt, at a panel of three judges from the district court of jurisdiction (a panel not involved in the trial). The decision to impose disciplinary punishment must be handed to the prisoner immediately, and the prison must send any possible appeal by the prisoner against such decision to the panel at the court of jurisdiction. Appeal does not stay the imposition of the disciplinary measure. From the above it may be unequivocally established that the procedural protection provisions that apply in disciplinary procedures for convicted persons, do not in their entirety apply to remand prisoners, since in the procedure for ordering disciplinary punishments and banning or restriction, remand prisoners are not governed by the execution of penal sanctions act, pursuant to which disciplinary punishments are ordered for convicts. The criminal procedure act does not explicitly provide that the examining judge or president of the panel must personally interrogate the prisoner in the disciplinary procedure, so in practice this is not done.

**Point 79**

**The CPT recommends that the Slovenian authorities re-examine the existing legal arrangements and practice regarding the role of the doctor in carrying out the disciplinary measure of being placed in solitary confinement in the light of the aforementioned remarks.**

**Response:**

The CPT has incorrectly interpreted the role of the doctor, since according to the valid regulations the doctor has no influence on the decision regarding disciplinary liability of the convict, or the nature and level of the disciplinary punishment ordered, since the doctor does not participate in the disciplinary procedure up until the imposition of the disciplinary measure of being placed in solitary confinement. According to the rules on the execution of prison sentences the prison doctor is bound twice a week to visit the inmate that has been punished by solitary confinement, but for the purpose of monitoring the inmate's state of health. If in this he establishes that continued imposition of solitary confinement would threaten the inmate's health, he informs the prison governor, who in turn decides on the termination of the disciplinary punishment. The doctor's role in this procedure is exclusively for the benefit of the inmate, since he is clearly protecting the inmate's health. There is a similar purpose behind the provision of the house rules whereby the prison doctor must examine the inmate before the start of the disciplinary punishment of solitary confinement, since solitary confinement will not be imposed on an inmate who for medical reasons would not be able to endure the punishment.

**Point 80**

**The CPT recommends that a call system be installed in the solitary cells in Dob and Maribor.**

**Response:**

This recommendation will also be carried out at the earliest possible time. The Authority plans to furnish all as yet unequipped accommodation rooms in the closed sections of all prisons with special call buttons, and this will be done as soon as the necessary finances are available.

In the CPT report there is an error in the statement that while undergoing the disciplinary punishment of solitary confinement inmates have the right to a one-hour visit of a closed nature. The correct information is two visits a week of one hour each (Article 73 of the execution of penal sanctions act).

**c. agitated or violent prisoners**

**Point 82**

**The CPT would like information from the Slovenian authorities on the nature of the current rules, practices and role of the doctor in measures of removing agitated or violent prisoners to a special area.**

**Response:**

The rules governing the measure of segregation to a special area are very precisely set out. If a person who is being segregated is sick or under the influence of psychoactive substances, the competent medical service must be immediately informed, and they in turn order the necessary measures to protect life and health. If the segregation involved the use of any kind of means of restraint, a doctor's examination is mandatory, in order to ascertain any possible injury or to offer the person necessary medical assistance. The examination must be performed within 24 hours at the latest, and in practice efforts are made to perform the examination in the shortest possible time. If the prisoner explicitly refuses to be examined, a written statement is obtained from them, or an official note is written up. The governor and commander of the prison officers must personally verify whether the legal and other conditions existed for segregation and possible use of means of restraint, and in every such case they must send a written report to the director of the Authority.

**Point 83**

**The CPT recommends that the deficiencies in the special areas for temporary segregation of prisoners be eliminated (ventilation, lighting, call system).**

**Response:**

At the beginning of 2002 special standards were prescribed governing the construction or adaptation of special rooms for segregation of imprisoned persons. On the basis of these standards, lighting in these rooms must amount to at least 50 lux. Ventilation of the special rooms may be effected by natural thermal circulation, but if this is not possible or not provided to a satisfactory quality, artificial powered ventilation is provided. The air must be changed four to eight times every hour. If the room has floor heating, in winter time air must be brought into the room at a temperature that is the same or higher than that of the air in the building's rooms. There are no call button systems envisaged for these rooms, since each segregated person must be under the constant supervision of a prison officer, this being effected directly through video monitoring, and if this is not provided, the prison officer must be permanently stationed in the corridor where the special room is located.

The cited deficiencies will be eliminated gradually in line with the available financial resources.

**d. "dangerous" prisoners**

**Point 85**

**The CPT recommends that in line with the comments the Slovenian authorities verify the regime in Dob Prison applied to “dangerous” inmates.**

**Response:**

Owing to the current spatial limitations, both “dangerous prisoners” (in 2001 four) and prisoners liable to attempt escape, or those who through their behaviour seriously disturb other prisoners or endanger them or are endangered by other prisoners (in 2001, 22) are placed in Section I of Dob Prison. The rooms of one and the other are usually separated.

In addition to being able to spend two hours outside they are also able to use the telephone, to have visits from their relatives and additional visitors from one to two hours each week, and to shower every day. For individual inmates, the individual programme of treatment provides other possibilities such as using the gym, performing simple assembly work in their rooms, involvement in education courses and along with this attending lectures and consultations with teachers, the use of a computer and TV in their rooms, attendance at group events (film shows, lectures, religious services), and participation in free-time activities. Professional staff conduct interviews with these inmates at least twice a week.

Although the inmates are accommodated in this section only temporarily, especially those who are placed in rooms with a strict regime, and are relocated back in the main section as soon as the reasons for which they were placed in the segregated section cease to exist, it will be necessary to provide them with greater opportunities to pursue activities from which they could derive self-affirmation. In this regard the Authority will closely examine the regime and the possibilities for improving the situation within the framework of the existing, inappropriate, provision of rooms, and a major advance may be possible as part of the aforementioned renovation of the prison over the coming years, which also envisages the urgently required rearrangement of this section.

**Point 86**

**The CPT wishes to be informed whether the aforementioned protective provisions in Slovenia exist for prisoners considered to be “dangerous”.**

**Response:**

The cited protection provisions are precisely set out in regulations, and are also regularly applied in practice.

In compliance with Article 98 of the execution of penal sanctions act, a prisoner who threatens the life or health of others may be ordered to undergo punishment in segregation from other prisoners. The restrictive use of this measure of isolation undoubtedly derives from the substance of the law. Isolation must be ended as soon as the reasons for isolation have ended, and also in the event of a doctor determining that the state of the prisoner’s mental and physical health would not allow further isolation. Restrictions in ordering this measure also derive from the provision whereby the director of the Authority is empowered to decide on this measure and not the prison governor. The governor submits a recommendation, and then the opinion of the doctor is obtained as to whether the prisoner would be medically fit to endure the measure of isolation. In making his decision the director is not bound to accommodate the recommendation of the governor. Each such measure must be monitored by the central authority, which is bound every six months to assess whether there still exist reasons for isolation (in 2001 the measure of isolation was ordered for only one prisoner, and this was only for the hours of free time).

Article 206 (point 3) of the execution of penal sanctions act provides that for prisoners who are “dangerous” a special secure section may be arranged within the prison, but at the same time it limits the possibility of wider use of this security measure, providing a detailed procedure for placement in such a section. The prison governor allocates “dangerous” prisoners to this section, but only after obtaining the consent of the director of the Authority (in 2001, nine prisoners were placed in the special secure section).

Since in both cases it involves a restriction on the opportunities for the prisoner to exercise, an official decision must be issued, against which appeal may be lodged at the justice ministry.

Article 6 of the rules on execution of prison sentences provides that on a closed prison or section areas can be designated for a strict regime, for the accommodation of prisoners who are clearly liable to escape or who through their behaviour seriously disturb other prisoners and prisoners who threaten or are threatened by other prisoners. Before being placed in the regime, the prisoner is informed of the decision and reasons given for placement in the strict regime, the decision taken by the governor on the recommendation of an expert group and written into the prisoner’s individual programme of treatment. The expert group then regularly monitors and assesses the need for such a measure. The prisoner has the right to lodge an appeal against the decision to be placed in a strict punishment regime at all those bodies that protect his rights and legal interests (in 2001 a total of 51 prisoners were placed in strict regime areas).

**e. complaints and inspection procedures**

**Point 87**

The CPT would like information from the Slovenian authorities regarding the fact that the great majority of prisoners were not informed of the possibility of being able to communicate with the CPT via confidential letters.

**Response:**

Article 85 of the execution of penal sanctions act provides prisoners with the formal legal right to communicate with the CPT through confidential letters, since it provides that prisoners have the right to complain about violations of their rights or about other irregularities to other bodies that oversee prisons, so therefore including the CPT. At the same time Article 70 of the act provides that prisoners receive letters from and send applications for the protection of their rights and legal interests to external bodies through the prison in sealed envelopes.

Although prisoners have access to all the regulations in the area of penal sanctions, including the European Convention on the Prevention of Torture, Inhuman or Degrading Treatment or Punishment and other international acts, so that among other things they may familiarise themselves with their rights and obligations, we admit the possibility that individual prisoners have not been acquainted with their right to communicate with the CPT. The Authority will see to it that this possibility is noted in the house rules of all prisons, and prison directors will bring the attention of prisoners to this.

**Point 88**

**The CPT calls upon the Slovenian authorities to familiarise all judges who are responsible for overseeing penal establishments with these comments.**

**Response:**

The duty to perform oversight, which is also borne by the president of the district court in the area of the prison, and the procedure for performing oversight, are prescribed in detail in the execution of penal sanctions act, the criminal procedure act and the rules on execution of prison sentences and on execution of custody.

The Ministry of Justice will send a circular to all courts with jurisdiction for overseeing penal establishments, requesting that they consistently implement the legal provisions and the CPT recommendations.

**f. contact with the outside world**

**Point 91**

**In the light of statements in point 90 the CPT recommends that the Slovenian authorities:**

- **strive to extend the duration of visits for remand prisoners; the aim should be a minimum of one hour a week;**
- **to take steps to increase the capacity and improve the arrangement of the visiting area for remand prisoners in Ljubljana and Maribor;**
- **to strive for more visits of the open type for remand prisoners, whereby they should use the arrangements at Ljubljana remand centre as a model.**

**Response:**

The arrangements for visits to remand prisoners will be examined again, both from the regulatory aspect, especially the provision whereby visits to remand prisoners are conducted as a rule behind glass screens, and in terms of the possibility of extending the duration of visits within the framework of spatial and staffing resources. The Authority will seek to ensure a more standardised provision of visits in all remand centres and will instruct the directors of Maribor prison to progress immediately to a differentiated method of providing visits.

Project plans for the rearrangement of Ljubljana and Maribor prisons envisage an expansion and improvement of the areas designated for visits, although it will only be possible to effect this in the long term, given the available financial resources.

**Point 92**

**The CPT repeats its request that the Slovenian authorities verify whether there are any unjustified delays affecting remand prisoners' mail in Ljubljana.**

**Response:**

In line with the new version of the criminal procedure act of 2001 and the new version of the rules on execution of custody of 2002, faster correspondence with persons outside the prison has been facilitated for remand prisoners, since letters no longer have to be sent to the courts for inspection. Remand prisoners can correspond without any limitation and without surveillance, except those for whom the examining judge orders surveillance of their mail. The prison is bound to send remand prisoners' letters to the addressee on the same day or on the very next working day. We admit the possibility that there have been delays in the sending and receiving of prisoners' mail in individual cases at Ljubljana Prison, and such isolated cases have also been occasionally detected in some other prisons, but our assessment is that with the amendment of the law the possibility of this will be significantly reduced, something ultimately confirmed by the fact that since the entry into force of the new version of the law there have been no such complaints.

**Point 93**

**The CPT recommends that the Slovenian authorities strive to find ways of improving the prospects for remand prisoners to have telephone conversations with their families.**

**Response:**

Following adoption of the new version of the criminal procedure act of 2001 and the amendments and supplements to the rules on execution of custody of 2002, there has been a significant increase in the possibilities for remand prisoners to have telephone calls with the outside world, since court permission is no longer required for such communication. All prisoners can make calls without surveillance, except those prisoners for whom the examining judge prohibits this or orders surveillance of their telephone conversations. In practice there are very few restrictions of this nature. For contacts with persons outside the prison, remand prisoners use the prison telephone at their own expense. The time and duration of telephone calls are set out in the house rules. The house rules are currently being changed, and the duration of telephone conversations with the prisoner's close family members will be extended.

**g. use of handcuffs and transportation of prisoners**

**Point 94**

**The CPT wishes to obtain confirmation that prisoners (and this applies especially to remand prisoners) are no longer routinely handcuffed when they are being escorted outside the prison.**

**Response:**

The new rules on prison officer duties has set out more precisely the rules for handcuffing prisoners, and these provide that handcuffs should not be used on prisoners who are assessed as not being liable to exploit their escort to escape. In the same way it is generally not permissible to handcuff evidently sick, old and incapacitated prisoners, those with a clearly serious disability and pregnant women. It also provided that the use of handcuffs may only be ordered by senior officers, as well as what must be taken into account in deciding on the need to use handcuffs (individual approach). The Penal Sanctions Authority will attend to the consistent and standardised implementation of the new rules in practice, and especially to ensuring that there will be no routine handcuffing, which is counter to the new regulations.

**Point 95**

**The CPT recommends that in line with the aforementioned comments the Slovenian authorities look into the existing arrangements for the transport of prisoners.**

**Response:**

There is a total availability of 46 vehicles at all prisons for the transport of prisoners. Of these, 14 vehicles are equipped as noted by the CPT in its report. The remainder are ordinary personal cars, vans or larger vans without any special adaptation.



In 2002 one specially adapted vehicle will be acquired, and this will meet all the standards for transport of prisoners who are a security risk. When the vehicle is received and tested out, in the coming years and subject to available financial resources, the inappropriate vehicles will be gradually replaced. The technical possibilities will also be studied for adapting the existing vehicles in line with the requirements (seat belts, armrests, ventilation, lighting, the possibility of communication between guard and prisoner). The internal instructions for exercising of prison officer powers provide that there should be no more than four prisoners inside a special space at one time.

Article 63 of the new rules on prison officer duties provides that hands should not be handcuffed behind the back during transport of prisoners on long journeys outside the area of the main prison establishment.

**h. matters connected to drugs**

**Point 97**

**The CPT would like information from the Slovenian authorities on the help provided to drug addicts in Maribor Prison, which does not match the level in Dob and Ljubljana prisons.**

**Response:**

Within the framework of the adopted strategy of treatment of prisoners with drug problems Maribor Prison is conducting low-threshold programmes of treatment in connection with the regional centre for prevention and treatment of addiction in Maribor. It provides psychosocial help for individuals who express an interest in giving up drugs and living a healthy and active life, although for the moment it does not reach the standard of treatment in Dob and Ljubljana prisons. The Authority has charged the prison directors with improving treatment in line with the adopted strategy and with studying the possibility of setting up a “drug-free section”.

**Point 98**

**The CPT recommends that the Slovenian authorities strive to increase the number of places available in the “drug-free section” in Dob Prison.**

**Response:**

Setting up “drug-free sections” is a constituent part of the strategy of treating prisoners that have problems with prohibited drugs in prison. Expanding the capacity of the “drug-free section” at Dob Prison by around 20 places is one of the priority tasks, currently in the preparation stage, and it will be carried out by the end of 2002.

## **C. Psychiatric establishments**

### **1. Preliminary remarks**

#### **Point 100**

The CPT wishes to obtain more detailed information on implementation of the plan envisaging closure of the Hrastovec- Trate Institute.

In a report drawn up in August 2002 the Institute states that it will gradually close the Trate unit, so that by the end of 2002 only 100 residents will be living in Trate.

Closure of the Trate unit will be achieved through:

- relocating residents to accommodation units at other locations,
- relocation to the Hrastovec unit, where places have become free through relocation to other outside locations and
- relocating residents from outside locations to independent housing.

**By placing residents in different, community forms of living and the construction of new, modern units, in 2003 this will provide a reduction in capacity from 100 to 50 residents.**

It therefore follows that the unit at Trate could already be closed in 2004, but it would be realistic to anticipate closure in 2005.

### **2. Hrastovec-Trate Institute for the Treatment of Mental and Nervous Disorders**

#### **a. Living conditions of the residents**

#### **Point 104**

**The CPT trusts that the implementation of plans to equip Trate Castle with lifts will be carried out quickly.**

#### **Response:**

The Institute plans to close the Trate Castle unit in the coming years (the number of residents has already been reduced to below 100). It is therefore considered that investing in the construction of new lifts would not be expedient.

**Point 106**

**The CPT recommends that excessively large dormitories be replaced with smaller rooms.**

**Response:**

In 2001, the Hrastovec-Trate Institute made moves to reduce the number of beds in individual dormitories and is therefore partitioning or discontinuing the use of larger dormitories. Within the accommodation units, attempts are underway to create smaller self-contained units, offering an improved quality of life and rehabilitation for the residents. Ensuring suitable living conditions for residents is a priority for the Institute.

In its report the Committee drew particular attention to the “Perla” ward in Trate. These comments have been taken into account and the number of residents has been reduced.

The dormitory restructuring project at this establishment will be implemented in 2002.

Suitable alternative forms of accommodation within the local community are being sought for residents of the castle buildings.

In cooperation with local communities and civil associations, people are gradually being returned to their original environment. This year eight people were included in various forms of living in the local community (housing, housing groups, surrogate families, accommodation units, protected housing and so forth). Four more people are being prepared for a return by the end of the current year. During this time two more accommodation units have been set up – for nine people in Gornja Radgona and for ten people in Slovenska Bistrica. No new residents are being placed in the Trate unit. The plan is to reduce the number of residents in Trate to 50 by 2003.

**Point 108**

**The CPT finds that the use of part of the gym at Hrastovec for storage is not appropriate.**

**Response:**

The Institute’s management agrees that a space intended for recreation and physical instruction is not a suitable storage space. The items were only placed in the gym temporarily. The Institute management can give the assurance that the space is used not for storage but exclusively for recreation and organised physical training. The Institute employs a sports activity organiser that uses this space on a daily basis.

**b. Staff and treatment**

**Point 110**

**The presence of a psychiatrist and general practitioner should be gradually increased.**

**The existing multi-disciplinary approach to residents' treatment could be further enhanced by increasing the contribution of psychologists and occupational therapists.**

**Response:**

The Institute employs a full-time doctor who is a specialist psychiatrist, and in addition to working as a doctor, serves as the head of the medical service. Another psychiatric specialist is employed on a contractual basis, 32 hours a month. It should be pointed out that this is not a psychiatric unit but a social care institution, so the Institute emphasises the employment of a range of different staff, including those from non-medical fields.

Given the Institute's size and requirements, it has its own general, psychiatric and physiotherapy clinic, exclusively for the use of the residents. The specialist treatment of residents is also performed by outside specialist institutions (hospitals and dispensing clinics).

In January 2002 moves were made to redesign the Institute's medical service, with an emphasis on general practice. The Institute therefore contracted five specialists in general practice and a specialist psychiatrist to work for a total of almost 200 hours a month. In the future they plan to employ a full-time general practitioner.

A multi-disciplinary approach is applied at the Institute, in which experts from every profession within the Institute cooperate. The work includes a psychiatrist and psychologist, and the residents also have an active role. When required, outside experts from various fields of expertise are also included.

The contribution of the psychologists and occupational therapist in the teamwork will be increased as soon as new regulations permit.

**Point 111**

**The Slovenian authorities should:**

- **strive to increase the nursing staff presence, especially in the afternoon and at night**
- **provide specialised training for nursing staff in dealing with mentally subnormal and mentally ill residents.**

**Response:**

Regarding the recommendation to increase nursing staff presence on the wards, especially in the afternoon and at night, the Institute has prepared a plan to restructure the staffing on these shifts. It should be pointed out that the staff regulations in force do not permit additional employment. The Institute currently has a health staff that is 20 percent over the permitted number. A monthly average of 40 unemployed people are also included through public works programmes.

To provide care workers with professional support in 2002, afternoon work was introduced for professionals (such as social workers and psychologists), who are involved in advisory work and resolving crises in the accommodation units.

A nurse with college or university level qualifications was also placed on duty in the Institute's surgery. The nurse is on duty from 15:00 to 07:00 the following morning. This service provides nursing staff with an opportunity to consult and to share responsibility for important procedures.

Internal professional training is carried out as part of the process of career planning for employees to provide them with functional knowledge to carry out contact work with mentally ill or mentally subnormal residents. A constant theme of this education is an emphasis on modern approaches and professional knowledge from psychosocial work.

Staff also receive external training from a very wide range of providers. Supervisory groups have been introduced to increase their familiarity with their own work and their assurance of correct decision-making in therapeutic procedures. Supervision within the Institute is carried out by three external psychologists and includes all those that work directly with residents.

During 2002 the Institute is carrying out two national level training projects:

- Training for the profession of activity organiser
- Functional training programme for nursing staff.

This will provide specialised training for nursing staff and activity organisers that work with the adult mentally subnormal or mentally ill.

**Point 112**

**More residents should be included in the occupational therapy programme**

**Response:**

The Institute cannot expand the occupational therapy programme at the moment for two reasons:

- The health regulations in force do not permit an increase in the numbers of occupational therapists or other experts performing that work. The existing regulations allow five occupational therapists to be employed. The Institute has six occupational therapists employed full time and not four, as the CPT states.

- There is no suitable location within the current premises (Hrastovec Castle) for group work. When the laundry room is relocated (planned for 2003) the Institute will have additional space for rehabilitation and free time activities.

The work of the Hrastovec-Trate Institute is linked to the regulations in force on staff and premises. New standards and regulations are being prepared for the entire social care field.

### **Point 113**

**Medical documentation for individual residents should be improved and individual treatment plans drawn up for all residents.**

#### **Response:**

The Institute's medical documentation is in line with current standards. In addition, 2002 saw the creation of a large number of new records that are completed in different ways (daily, weekly, monthly). Each expert service keeps its own records on the individual and group treatments planned within its programmes. The Institute eliminated the deficiencies detected by the CPT from its record keeping system.

At its 12th session on 24 June 2002 the Institute's expert board adopted the Personal Record for Assistance in Individual Treatment Planning, a constituent part of which is an individual rehabilitation plan. Given the large number of residents and the amount of work involved in introducing Personal Records, it was agreed to prepare them for new residents, residents moving into group living arrangements and residents demonstrating primarily negative behaviour, with other residents gradually receiving them over a period of time. The Institute plans to conclude the introduction of Personal Records and the production of individual treatment plans in two years.

### **Point 114**

**The practice of mixing mentally subnormal residents with mentally ill and behaviourally disturbed residents on closed wards should be reviewed.**

#### **Response:**

Before the Committee's visit, the Institute had already discussed and considered the suitability of this kind of placement and looked for organisational solutions. In 1994 a unit was set up for mentally subnormal (oligophrenic) residents. In 2002 further moves were made to separate these two populations. The separation of these groups is set to be concluded by the end of this year if possible and no later than March 2003. The process of separation must be carried out with respect for human dignity and in a humane manner. The Committee's recommendation will be taken into account in its entirety.

### **3. Psychiatric Department of Maribor General Hospital**

#### **a. Patients' living conditions**

##### **Points 115, 116 and 117**

- **the CPT would like to be informed of the date of the envisaged entry into service of the new premises.**
- **the CPT believes it is impermissible that patients have to sleep on mattresses on the floor**
- **the CPT recommends eliminating deficiencies in connection with the impersonality of patients' rooms and common areas, and that patients be enabled to lock up their personal belongings.**

##### **Response:**

Financial resources for the termination of construction work on the new custom-built premises for the Psychiatric Department at Maribor General Hospital's complex have been secured in the national budget (Implementation of the Budget of the Republic of Slovenia for 2002 and 2003 Act, Ur. l. RS, no. 103/2001). The construction of the new building, according to the highest European standards, commenced in 2001 and has been completed. Interior work is underway, to be followed by a public tender relating to equipment. The envisaged provisional date of entry into service of the new premises is therefore the end of 2003 or, at the latest, the first half of 2004.

Regarding the arrangement of patients' rooms and daytime areas, where safety and supervision must be ensured and also appropriate cleaning made possible, the Ministry of Health will recommend to the psychiatric institutions that the premises should be more pleasantly arranged, with the use of appropriate colours and lighting and where possible that they provide intimacy (private corners) while maintaining openness for overseeing the premises. The Ministry will recommend that the large dormitory rooms be gradually replaced by smaller rooms or that they be partitioned into rooms for a maximum of 3 – 4 patients. It will also recommend the installing of cupboards so that personal belongings can be locked away and clothes hung up, something that already exists in some hospitals.

As regards the use of auxiliary beds, the Ministry of Health will recommend to all psychiatric institutions that auxiliary or extra beds always be available, to be placed in wards for cases of emergency hospitalisation when all beds are occupied, and will call attention to the fact that it is unacceptable for patients to have to sleep on mattresses on the floor.

#### **b. Staff and treatment**

##### **Points 119 and 121**

- **the CPT recommends that steps be taken to increase the number of trained nurses and carers working in the institution, which should among other things ensure an increase in the team both in the daytime and night-time shifts.**
- **the CPT recommends an increase in the number of patients who are offered occupational therapy.**

**Response:**

The Ministry of Health will recommend to hospitals adequate staffing (especially trained nurses and care staff) within the framework of available resources and regular annual training for nurses and care staff, something that is already provided but which is not systematic or compulsory.

Regarding the number of patients who would have the option of occupational therapy, the Ministry will recommend that in closed wards occupational therapy be planned on an individual basis, owing to the differing needs and capabilities of the patients, and that group occupational therapy also be adapted to the patients' capacities.

**Point 123**

**The CPT recommends that all patients who do not need to remain lying down during the day, be allowed and if necessary encouraged, to wear their own clothes, or that they be given suitable non-uniform clothing.**

**Response:**

Regarding the CPT recommendation that all patients, with the exception of those seriously ill who are bed-ridden, be allowed and encouraged to wear their own clothes during the day or be provided with appropriate non-uniform garments, the Ministry of Health will recommend that hospitals encourage patients to take care of their personal hygiene and clothes, which should whenever possible be their own clothes, or as non-uniform as possible. In Slovenia some hospitals are already carrying out a special programme of encouraging patients to take care of their own personal hygiene, and in this context to take care of their own clothing. As part of the therapeutic assignments, patients are encouraged to have their own clothes and also to take care of these clothes.

**4. Restraint of agitated and violent residents/patients**

**Point 127**

At the Hrastovec – Trate Institute the delegation was informed that they make almost no use of straightjackets, and was also shown the draft of a document on the rules for the use of means of restraint.

The Committee would like to know whether the document has already been completed, and if so, it would like to receive a copy.

The document has already been adopted and we can send a copy.



**Points 128, 129 and 131**

- **The CPT recommends that the Psychiatric Department of Maribor General Hospital formulate clear rules as to when force should be used.**
- **The CPT recommends that the Hrastovec - Trate Institute and the Maribor Psychiatric Department introduce a register of the use of force.**
- **The CPT recommends that as soon as possible, net-beds cease to be used as a means of controlling agitated persons, and while they are still in use, it should be ensured that the persons who are in them will no longer be exposed to the view of other residents and will be under the appropriate observation of the staff. This recommendation and the necessary changes also apply to other forms of force, such as straightjackets or more gentle means of restraint. Persons who are being held in restraints should have the possibility of being visited by other co-residents if this is recommended from the health aspect.**

**Response:**

Slovenian Recommendations and Guidelines for the Application of Special Safety Measures in Psychiatry were adopted and published in May 2001 in the Slovenian psychiatric publication VICEVERSA (ISS 1318-5764), edited by the National Professional Collegiate Body for Psychiatry and the Institution for the Development of Slovenian Psychotherapy, Ljubljana. A copy in Slovenian is enclosed.

The new Head of the Maribor Psychiatric Department (since October 2001) assured the Ministry of Health in a letter dated 13 February 2002 that these guidelines would be consistently implemented. The guidelines recommend which data should be included in the documentation on implementation of special safety measures with agitated and violent residents (p. 11). They also set out that for registering purposes a special form is used, and this can be copied and kept separately as a register, as recommended by the CPT. Similar procedures are already applied for registering incidents in hospitals, such as unforeseen events (threats, injuries to persons and stock, escapes etc). These data are registered and collected at four locations.

The Ministry of Health will additionally recommend to psychiatric hospitals they introduce the collection of registered special safety measures in one location, and that they set up a special register which will contain data on the commencement and duration of these measures, the circumstances, reasons, name of doctor who confirmed them, and a description of possible injury to the patient or staff.

On page 10 the national guidelines also discuss net-beds, "the use of which is being abandoned. They are used for the isolation of patients who are violent or demonstrate highly disorganised behaviour. They are not suitable for suicidal patients. Continuous monitoring of the patient's state of health is obligatory. Often they are used in combination with medication measures". In Slovenia, net-beds are being abandoned everywhere. However, they were the only possible means of restraining patients, as special rooms do not exist in Slovenian psychiatric practice (only in prisons and some social establishments) and isolation is not used, with only physical and chemical means of restraint being used. Net-beds are available still only in two hospitals, including Maribor, since the guidelines have greatly restricted their use and prescribed constant monitoring of patients in isolation. Physical restraint with straps on beds is used, or very rarely straightjackets (exclusively emergency services). A national research project is also under way (no. L3-4421-1620-02/3.09) to evaluate the changes that have emerged in clinical practice following the abandoning of net-beds, and this is one of the professional goals that have been set (head of the research project is Asst. Prof. Dr. M. Z. Dernovšek, M.D., who is also a co-editor of the 2001 guidelines).

Special safety measures are counted as emergency medical intervention, which is implemented only in intensive psychiatric sections in a special room, which must be additionally equipped so that monitoring can be carried out (a monitor or permanent staff presence). Other residents may not enter this room, but there may be several beds in the special room, so separation by movable partitions is recommended. The guidelines also recommend other forms of monitoring (p.4). Visits can be arranged if this is recommended from the health aspect.

## **5. Protection**

### **a. Admission and procedures of discharge**

#### **Point 135**

The majority of residents at the Hrastovec – Trate Institute were placed there after staying for a long time in other institutions. For all placements the court was regularly asked for approval of residence in this institute.

#### **The Committee would like to be informed about the precise legal status of the residents at the Hrastovec – Trate Institute.**

Persons admitted to the Hrastovec - Trate Institute have varying status regarding their functional and transactional capacity:

- functional capacity, from which it derives that the resident has all civil rights,
- partially withdrawn functional capacity (guardian appointed for a specific case),
- residents with functional capacity withdrawn, and with an appointed guardian.

Pursuant to Article 70 of the Civil Procedure Act, which states that the court decides on detention if owing to the nature of mental illness of mental state of the person this is urgently needed in order to restrict their freedom of movement or prevent their contact with the outside world, since they are endangering their own life and the lives of others, or might cause serious harm to themselves or others, all such admissions are reported to the court of jurisdiction.

**Point 136**

In a letter of 3 December 2001 the Committee was informed of the new instructions regarding admission procedures at the Hrastovec – Trate Institute. These were issued by the Ministry of Labour, Family and Social Affairs.

The Committee would like to receive a copy of these instructions.

The instructions are already prepared and we can send you a copy.

**Point 137**

The court regularly reviews the placing of residents in the Hrastovec - Trate Institute. The information gathered by the delegation indicates that such examinations are rather superficial and have frequently comprised very short and very established psychiatric findings. Furthermore it was apparent that the residents did not have the possibility of a confidential interview with another psychiatrist.

The Committee would like to obtain the opinion of the Slovenian authorities on this issue.

The court of jurisdiction at Lenart regularly examines the residents of the Hrastovec – Trate Institute. Alongside a judge, the commission also includes an expert from the psychiatric profession. Both are autonomous in their work, and residents do have the possibility of confidential conversations with a psychiatrist. The Institute also offers suitable rooms to the judge and commission for confidential conversations.

The Institute's staff participate in this procedure only in the preparation process.

**Point 138**

**The CPT would like to receive clarification from the Slovenian authorities regarding the position of certain “voluntary” patients who were not permitted to leave the Psychiatric Department at Maribor.**

**Response:**

This situation is primarily a consequence of the current state of affairs in the area of community psychiatry in Slovenia.

The clinical situations of these patients are various. Health or social problems may predominate.

- Health problem requiring attention:

The patient can come to the hospital voluntarily, not for the purpose of treatment but because of a changed experiencing of the world. The patient does not consent to treatment or else he later changes his mind and wants to leave the hospital, despite urgently needing psychiatric treatment. The patient is therefore retained in hospital for treatment.

- Social conditions:

The patient is admitted on a voluntary basis, but when he wants to leave the hospital, he has nowhere to go. Discharge cannot be effected because the patient has no place of residence or no suitable accommodation, or else has no adequate care at home. In these situations, practice differs. The patient is sometimes kept in hospital, or discharged, although the patient will keep returning to hospital. These patients mostly suffer from chronic malignant psychosis. The patient is informed that the social problems must be resolved, and that for this reason hospitalisation must be prolonged. In this way the hospital tries to prevent even greater distress and deterioration of health. The prolongation of hospitalisation is also a means of resolving serious social problems because psychiatric care in the community has not yet been adequately developed and many patients are left on their own when discharged. There are also cases where the patient has been admitted on a voluntary basis, but when he wishes to go home, his family will not take him, and the process described above ensues.

The Ministry of Health, the profession and non-governmental organisations are striving to improve the situation and to maintain the accelerated development of community psychiatry in Slovenia.

**Point 139**

**The CPT would like to receive more information on the respect of patients' rights ensured through an independent adviser.**

**Response:**

On 10 October 2001 the Minister of Health issued a decision on the appointment of the commission for the preparation of amendments and supplements to the proposed Patients' Advocacy and Protection of Rights in the Field of Mental Health Act (ZBZPDZ-EPA 644) for its second reading in parliament. On 26 April 2002, on the basis of the opinion of the Ministry of Health Commission, the Minister of Health sent to the proposer of the act, National Assembly deputy Mr B. Pahor, the comments regarding the content of the act and the procedures involved in its implementation, and also proposed a joint meeting to coordinate the proposed act for its second reading in Slovenia's National Assembly.

The proposed act sets out in detail the procedures and protection of rights in hospitalisation, and does not regulate the entire area of protecting mental health. The proposed act introduces the institution of advocacy and the institution of care planning. The proposed act also brings in the right to a care planner, which would enable the patient in being discharged from hospital to have at their disposal a person who would arrange the necessary care for them in the community.

Despite the fact that the proposed act is relatively confined, it resolves numerous legal problems.

The new legislation, which is being prepared for its second reading, does not speak of social health institutions as special entities, but primarily of hospitalisation in hospitals.

The Ministry of Health will regularly inform the CPT of progress in the legislative area and in fulfilling the CPT recommendations and European standards.

### **Point 140**

**The CPT would like to know whether in the reform of mental health legislation now in progress, provisions are being drafted for such a procedure.**

#### **Response:**

Hospitalisation upon recommendation is not possible according to the legislation currently in force, but is envisaged in the new legislation.

The proposed act prepared for second reading differentiates between three kinds of admission:

1. admission on request (the patient wishes to be treated);
2. admission upon recommendation (the patient endangers his health but the conditions for emergency hospitalisation are not fulfilled), the court makes a ruling, and the patient and personal physician are notified;
3. emergency admission, when the is patient obviously endangering his own life or the life of others.

#### **b. Protection during admission**

### **Point 141**

**The CPT recommends that further efforts be invested in helping residents to be better acquainted with their rights.**

#### **Response:**

According to data gathered by the Ministry of Health, nearly all psychiatric hospitals in Slovenia have an introductory brochure introducing the hospital and the departments, as well as the specific therapeutic programmes provided.

Three years ago an NGO, the PIC Legal Information Centre, produced a brochure on patients' rights as they are laid down in the Healthcare and Health Insurance Act (Ur. l. RS, 9/1992). The brochure has been distributed to all psychiatric hospitals and departments.

The brochure is not used at the Psychiatric Department of Maribor General Hospital. The Ministry of Health will therefore recommend that they produce an introductory brochure presenting the institution to patients and their relatives, and explaining their status and rights.

The Ministry of Health will request the National Professional Collegiate Body for Psychiatry that it examine the matter and propose the most appropriate methods for producing a brochure introducing a psychiatric establishment and the preventive and therapeutic programmes provided, as well as for a brochure explaining to patients their rights.

### **Point 142**

**The CPT would like to receive more information on the powers and activities of the Maribor ombudsman, especially on the steps in connection with the complaints of patients and those in care, and with the review of social and psychiatric care institutions.**

### **Response:**

On the basis of Article 5 of the Health Activities Act (Ur. l. RS, 9/1992), Article 3 of the Healthcare and Health Insurance Act (Ur. l. RS, 9/1992), Article 21 of the Local Government Act (Ur. l. RS, 72/93), and Articles 8 and 16 of the Statute of the Municipality of Maribor, on 10 July 2001 the Council of the Municipality of Maribor adopted the Decision on the appointment of the Ombudsman for Patients' Rights and his powers. The Decision sets out that the Ombudsman deals with patients' complaints about the progress and consequences of treatment and about inappropriate attitudes on the part of health staff. The Ombudsman can address proposals, opinions, criticisms or recommendations to public health institutions and concession holders, which must in turn deal with the complaints and respond within a deadline set by the Ombudsman. The Ombudsman is independent and autonomous in his work, and the procedures are confidential, informal and free of charge. The Ombudsman can propose to the director of a public health institution that he appoint a commission to carry out extraordinary internal supervision with counselling. If a complaint is made against a concession holder, this procedure can be proposed to the Physician's Chamber of Slovenia.

The Ombudsman reports on his activities to the Municipal Council. The Ombudsman appoints an advisory body – the Commission of the Ombudsman of Patients' Rights. Financial resources for the activities of the Ombudsman are provided from the budget of the Municipality of Maribor.

On 25 February 2002 the Council of the Municipality of Maribor adopted the decision to appoint Ms. Magda Žezlina as the Ombudsman of Patients' Rights. At a press conference on 2 April 2002 she gave a public presentation of her future work.

**Point 143**

**The CPT recommends that the Slovenian authorities ensure for patients at Maribor Hospital the possibility of using the telephone.**

**Response:**

The Ministry of Health will inform the Psychiatric Department of Maribor General Hospital that insofar as is possible they enable patients to use the telephone, as is the practice already in certain hospitals (the “hostel linija” by pay card or mobile phone).