CPT/Inf (2019) 20

Report

to the Slovak Government on the visit to the Slovak Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

from 19 to 28 March 2018

The Slovak Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2019) 21.

Strasbourg, 19 June 2019

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EXECUTIVE SUMMARY

In the course of the 2018 periodic visit, the CPT's delegation reviewed the measures taken by the Slovak authorities to implement the recommendations made by the Committee after previous visits. It paid particular attention to the treatment and safeguards afforded to persons deprived of their liberty by the police and the situation of prisoners in three prisons. In addition, the delegation visited two psychiatric establishments and a social care home.

The co-operation received throughout the visit, from both the national authorities and staff at the establishments visited, was excellent. That said, the principle of co-operation also requires that the CPT's recommendations be effectively implemented in practice. In this respect, the Committee is very concerned by the lack of progress since the 2013 visit in a number of areas, in particular as regards the treatment of detained persons by the police, the situation of life-sentenced prisoners and the regime offered to remand prisoners.

Police custody

It is matter of serious concern for the CPT that a considerable number of persons who were or had recently been detained by the police – including juveniles – made credible allegations of deliberate physical ill-treatment by police officers (such as kicks and baton blows after the person concerned had been brought under control). The delegation also heard several allegations of threats and verbal abuse. The CPT recommends that police officers throughout the country receive a firm message, which should be repeated at regular intervals, that any form of ill-treatment of persons deprived of their liberty – including verbal abuse and threats – is illegal, unprofessional and will be punished.

The Committee is again very critical of the continued practice of handcuffing detained persons to wall fixtures or similar objects in police establishments. Some detainees even alleged having been handcuffed to a fixed object inside secure "designated areas" for up to four hours. The CPT once again calls upon the Slovak authorities to stamp out the practice of handcuffing persons to fixed objects.

Several recommendations are also made to reinforce the fundamental safeguards against ill-treatment, in particular the right of effective access to a lawyer as from the very outset of the deprivation of liberty, including for juveniles. The CPT also recommends once again that medical examinations of detained persons always be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers.

The report notes positively that detained persons were usually shown information sheets on their rights and were requested to attest this fact with their signature. However, the information sheets did not always describe all of the detained persons' rights to their full extent and, in many cases, the persons concerned had apparently not received a copy of the information sheet.

Whilst acknowledging that material conditions in custody cells were, on the whole, satisfactory in all the police establishments visited, the CPT has serious misgivings about the continued practice of accommodating detained persons for prolonged periods in very small and inadequately equipped "designated areas". The Committee recommends once again that such facilities never be used for holding persons for more than a few hours and never overnight.

Prison establishments

The delegation carried out a full visit to Banská Bystrica Prison and a targeted follow-up visit to Leopoldov Prison, where it focused on the situation of life-sentenced prisoners and other prisoners subjected to a high-security regime. Further, the delegation paid a brief visit to Bratislava Prison in order to interview remand prisoners.

The report notes positively that a number of legal amendments have introduced improvements, such as the reduction of the maximum possible length of disciplinary solitary confinement, increased phone call and visiting entitlements and more frequent reviews of sentenced prisoners' placement in a high-security regime. That said, it is regrettable that several issues of concern raised by the Committee in previous visit reports have not been reflected in these amendments, such as the general approach towards life-sentenced prisoners and appropriate safeguards for placement in a high-security regime.

The delegation received virtually no allegations of physical ill-treatment by prison officers in any of the prisons visited. That said, the Committee is very concerned about the situation of two prisoners with severe learning disabilities who were being held at Leopoldov Prison under conditions which, in its view, could easily be considered inhuman and degrading. They lacked basic support in daily life (e.g. personal hygiene, eating assistance) as well as appropriate surveillance, had very limited human contact and were *de facto* held under conditions akin to solitary confinement. The Committee urges the Slovak authorities to improve the situation of these two inmates as a matter of priority and requests them to provide detailed information about the measures taken.

The Committee also criticises once again that several prisoners were serving a life sentence without ever being eligible for conditional release (so-called "actual lifers"). In this regard, it recalls that the European Court of Human Rights has qualified imprisonment without any realistic hope for release as being incompatible with Article 3 of the European Convention on Human Rights (prohibition of inhuman or degrading treatment or punishment).

As regards life-sentenced prisoners in general, the CPT notes some improvements, such as the creation of a communal room for life-sentenced prisoners at Leopoldov Prison and the newly-introduced possibility for them to be integrated - under certain conditions after 15 years of serving their sentence - into the general prison population. However, the Committee expresses serious concern that, despite its long-standing recommendations, the general situation of life-sentenced prisoners has not changed fundamentally. All life-sentenced prisoners continued to be segregated from other inmates, held under a very restrictive regime (in particular in terms of out-of-cell activities and association) and were permanently subjected to draconian security measures. The latter included frequent handcuffing during medical examinations and, at Leopoldov Prison, multiple strip-searches and routine application of black-out goggles and earmuffs when prisoners were transported outside the prison.

Regrettably, the regime applied to prisoners held in the high-security department at Leopoldov Prison remained impoverished, with an almost total absence of organised activities. The CPT further notes with concern that also this category of inmate was frequently handcuffed during medical examinations.

As regards the general prison population at Banská Bystrica Prison, many inmates benefitted from an open-door regime. That said, the daily out-of-cell time offered to sentenced prisoners at the maximum "guarding level" was very restricted. Moreover, remand prisoners held under the standard regime were locked up in their cells for about 23 hours on most days, sometimes for months and even years on end. In the CPT's view, such a state of affairs is not acceptable.

Further, the CPT notes with concern that many inmates were leaving prison with debts which they had accrued because of their general obligation to reimburse part of the costs of their imprisonment. The Committee recommends once again that the working terms and conditions for inmates and the system of deductions from salaries be reviewed in order to ensure that the remuneration for their work is equitable.

The health-care facilities at all three prisons visited were of a very good standard. However, the CPT recommends once again that the daily presence (including on weekends) of qualified nurses at the prisons visited be ensured, *inter alia* in order to avoid medication being distributed by custodial staff. Steps should also be taken to further improve the recording of any injuries borne by prisoners upon admission as well as following violent incidents in prison. In this context, the Committee welcomes that descriptions of injuries consistent with allegations of police ill-treatment were systematically forwarded to the Control and Inspection Service of the Ministry of the Interior. As regards prisoners with addiction-related problems, it is regrettable that neither Banská Bystrica nor Bratislava Prison offered medical and psychological treatment for the inmates concerned and that in none of the prisons visited substitution and harm-reduction programmes were available. Moreover, the CPT emphasises that, given prisoners' specific health-care needs, all prisoners should enjoy at least the same standards of health care as those available in the community, and should have access to the necessary health-care services free of charge.

As regards discipline, the CPT welcomes the fact that the sanction of solitary confinement has been abolished for juvenile prisoners and that the maximum duration of this type of confinement has been decreased for adult prisoners. That said, it is regrettable that uninterrupted consecutive solitary confinement may still last up to 21 days (for adult sentenced prisoners).

The report notes certain improvements in terms of prisoners' contacts with the outside world. That said, the CPT recommends once again that all prisoners should be entitled to at least one phone call per week and the equivalent of at least one hour of visiting time per week.

Psychiatric establishments

The delegation visited, for the first time, the psychiatric department of Bratislava University Hospital – Hospital of Saints Cyril and Methodius ("Bratislava Psychiatric Department") and Hronovce Psychiatric Hospital.

The delegation received no credible allegations of deliberate physical ill-treatment of patients by staff in either of the psychiatric establishments visited. However, at the Bratislava Psychiatric Department, the delegation heard several disrespectful remarks by certain members of staff vis-à-vis patients. Episodes of inter-patient violence occasionally occurred in both establishments, but staff generally appeared to react promptly.

In both establishments visited, material conditions were on the whole satisfactory. However, at Hronovce, the material conditions on the female long-stay ward were rather poor.

Patients in both establishments visited were free to move about their wards and had access to communal areas. At Hronovce, virtually all patients had daily access to outdoor exercise. In contrast, at Bratislava, the majority of patients were deprived of any possibility to go into the open air for several days, in particular at the beginning of their hospitalisation. The CPT recommends that all patients at the Bratislava Psychiatric Department be offered daily access to outdoor exercise (with appropriate supervision or security if required).

At Hronovce, health-care staffing levels appeared to be on the whole adequate. As regards Bratislava, the CPT recommends that the vacant posts of nurses be filled as a matter of priority.

At Hronovce, the delegation gained a generally positive impression of the psychiatric treatment offered to patients. In sharp contrast, at Bratislava, no treatment plans were drawn up for patients, and psychiatric treatment was limited to pharmacotherapy; no other treatment options or recreational activities were offered to patients. Furthermore, for two or three days following admission, the majority of patients routinely received, three times a day, injections of psychotropic medication. The CPT has serious misgivings about such a routine and indiscriminate use (especially in combination with other sedative medication) of old, first generation antipsychotic medication in large dosages.

At Hronovce, the use of ECT was regulated by a detailed written policy, all applications of the therapy were duly recorded in a dedicated register and patients were asked to sign a specific consent form. However, no register was maintained in the psychiatric department of the application of ECT and patients were apparently not requested to sign any specific consent to this kind of therapy.

As regards the use of means of restraint, several positive aspects were observed by the delegation at Hronovce. However, at Bratislava, resort to restraint measures was only recorded in individual medical files and the record was often incomplete. Moreover, in both establishments, patients were frequently subjected to mechanical restraint in view of other patients and were not continuously supervised by a qualified member of staff. The CPT sets out a number of precepts that should be implemented in both establishments visited and, where appropriate, in other psychiatric establishments in Slovakia. Moreover, the CPT expresses its misgivings about the use of net-beds in both establishments visited and recommends that they be withdrawn from service in all psychiatric hospitals in Slovakia.

PRN prescriptions ('in case of need' or 'p.p.' in Slovak) were frequently used for the application of means of restraint, both mechanical and, at Bratislava, also chemical restraint. The use of restraint measures in such cases was frequently either not reported to a doctor, or the doctor did not promptly check the patient concerned. The CPT recommends that every resort to means of restraint always be expressly ordered by a doctor after an individual assessment, or be immediately brought to the attention of a doctor with a view to seeking his/her approval.

As regards the legal safeguards surrounding civil involuntary placement in a psychiatric establishment, the delegation met several patients at Bratislava who had signed a consent form to their hospitalisation upon admission but who were later prevented by staff from leaving the psychiatric department despite their express wish to do so. More generally, in Slovakia, persons who have been deprived of their legal capacity and have been hospitalised with the consent of their guardian are regarded as voluntary. However, when such patients express a wish to leave the hospital they are not allowed to do so. Thus, they are *de facto* deprived of their liberty without benefiting from any appropriate safeguards. The CPT recommends that in both situations described above, the civil involuntary placement procedure should be applied.

The relevant legislation does not make a clear distinction between consent to placement and consent to treatment and, in practice, a court decision on involuntary placement in a psychiatric establishment is considered to be a sufficient basis for any involuntary treatment regarded to be appropriate by the treating doctor. In the CPT's view, however, every patient, whether voluntary or involuntary, should be fully informed about the intended treatment, and every patient capable of discernment should be given the opportunity to refuse treatment. Any derogation from this fundamental principle should be based upon law and only relate to clearly defined exceptional circumstances.

As regards contact with the outside world, the CPT recommends that patients be granted regular access to a telephone, which was not the case at Bratislava.

By way of conclusion, the CPT expresses its concern about the situation observed by its delegation at Bratislava Psychiatric Department and considers that the cumulative effect of the various shortcomings described in the report carries a risk of degrading treatment.

Social care institutions

The delegation visited, for the first time, Veľký Blh Social Care Home.

While the vast majority of residents interviewed by the delegation made no allegations of ill-treatment by staff, the delegation received a few isolated allegations of disobedient patients being slapped by staff. Some instances of violence between residents occurred but staff appeared to react appropriately and in a timely manner. That said, the CPT identifies several factors which contribute to the occurrence of conflicts between residents.

In several respects, material conditions were adequate. However, the CPT points out that the premises of the social care home were not purpose-built and suffered from a number of structural deficiencies. In the CPT's opinion, despite the efforts made by staff, the existing material conditions were not conducive to creating a suitable therapeutic environment for residents.

As regards staffing levels, the CPT considers that they were clearly insufficient and recommends that they be thoroughly reviewed, in particular as regards the number of nurses. The delegation gained an overall positive impression of the activities offered to residents and noted the efforts made by the current staff. However, the residents would benefit from a more individualised approach which would require more thorough assessment of the needs presented by them. Means of restraint were used very rarely and their use was duly recorded.

The CPT notes that the relevant legislation does not provide for an involuntary placement procedure in social care establishments – the admission of a resident is based on a contract which must be signed by the resident or, if he/she is legally incapacitated, by a court-appointed guardian. However, the CPT considers that the actual situation of a number of residents amounted to a *de facto* deprivation of liberty, without the existence of any appropriate safeguards. The Committee recommends that the authorities put in place a clear and comprehensive legal framework governing the involuntary placement and stay of residents in social care homes.

I. INTRODUCTION

A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a periodic visit to the Slovak Republic from 19 to 28 March 2018. The visit formed part of the CPT's programme of periodic visits for 2018. It was the Committee's sixth periodic visit to the Slovak Republic.[1]

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

- Marzena Ksel, 1st Vice-President of the CPT, Head of delegation
- Djordje Alempijevic
- Inga Harutyunyan
- Marie Lukasová
- Slava Novak.

They were supported by Petr Hnátík and Almut Schröder of the CPT's Secretariat and assisted by:

- Pétur Hauksson, psychiatrist, former Head of the Psychiatric Department at Reykjalundur Rehabilitation Centre, Iceland (expert)
- Peter Bajčík (interpreter)
- Dagmar Hajková (interpreter)
- Tomáš Holička (interpreter)
- Ivo Poláček (interpreter)
- Pavol Šveda (interpreter).

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

[1] The previous visits took place in 1995, 2000, 2005, 2009 and 2013. All visit reports and related Government responses have been published and are available on the CPT's website: https://www.coe.int/en/web/cpt/slovak-republic.

4. The report on the visit was adopted by the CPT at its 97th meeting, held from 5 to 9 November 2018, and transmitted to the Slovak authorities on 19 December 2018. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Slovak authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report. As regards the request for information in paragraph 81, the Committee wishes to receive a response within three months.

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

5. In the course of the visit, the delegation held consultations with Mária Kolíková, State Secretary of the Ministry of Justice, Denisa Saková, State Secretary of the Ministry of the Interior, Ivan Švejna, State Secretary of the Ministry of Labour, Social Affairs and Family, Andrea Kalavská, State Secretary of the Ministry of Health, Stanislav Špánik, State Secretary of the Ministry of Health, Peter Krajňák, State Secretary of the Ministry of Education, Milan Ivan, Director General of the Corps of Prison and Court Guards, and other senior officials from the above-mentioned Ministries.

The delegation also met Mária Patakyová, Public Defender of Rights (Ombudsperson), and senior representatives of her office. The CPT appreciates that a representative of the Ombudsperson's Office was invited to attend the end-of-visit talks with the Slovak authorities.

A list of the national authorities, other bodies and non-governmental organisations met by the delegation is set out in Appendix II to this report.

6. The co-operation received by the delegation throughout the visit, from both the national authorities and staff at the establishments visited, was very good. The delegation enjoyed access to all the establishments it wished to visit (including those which had not been notified in advance), was able to interview in private persons deprived of their liberty and was provided with the information it needed to accomplish its task.

That said, the CPT wishes to stress that the principle of co-operation set out in Article 3 of the Convention is not limited to facilitating the work of visiting delegations, but it also requires that recommendations made by the Committee are effectively implemented in practice. In this respect, the CPT is very concerned by the lack of progress since the 2013 visit in a number of areas, in particular as regards the treatment of detained persons by the police, the handcuffing of persons to fixed objects by the police, the very restrictive regime and draconian security measures applied to life-sentenced prisoners, as well as the impoverished regime offered to remand prisoners.

Having regard to Articles 3 and 10, paragraph 2, of the Convention[2], the CPT calls upon the Slovak authorities to take effective steps in order to implement the Committee's recommendations.

[2] Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

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

7. During the end-of-visit talks with the Slovak authorities on 28 March 2018, the CPT's delegation outlined the main facts found during the visit. On that occasion, the delegation made an immediate observation pursuant to Article 8, paragraph 5, of the Convention, and urged the Slovak authorities to take immediate steps to ensure that two prisoners with severe learning disabilities (R. G. and I. Č.) who were being held at Leopoldov Prison (in cells nos. 216 and 217) were provided with adequate care and human contact in a suitable environment within or outside the prison system. The Slovak authorities were requested to provide, within three months, an account of the measures taken in response to the immediate observation.

The immediate observation was subsequently confirmed in a letter of 3 May 2018 from the Executive Secretary of the CPT.

By letter of 2 August 2018, the Slovak authorities informed the CPT of the measures taken in respect of the immediate observation. These measures will be assessed in paragraph 81 of the present report.

D. National Preventive Mechanism

8. The delegation was informed that the accession of Slovakia to the Optional Protocol to the United Nations Convention against Torture (OPCAT) and the subsequent establishment of a National Preventive Mechanism (NPM) were intensively discussed at national level, including through inter-ministerial consultations. In this context, the responsibility for issues related to the accession to OPCAT had been transferred from the Ministry of the Interior to the Ministry of Justice. At the time of the visit, it was expected that Slovakia would sign and ratify the instrument by the end of 2018 and that the Ombudsperson would be designated as the NPM.

However, following the resignation of the Slovak Government shortly before the CPT's visit, there has been some uncertainty as to the future course of action which would be taken in this respect by the new Government.

The CPT trusts that the Slovak authorities will continue their steps to accede to the OPCAT and to set up a National Preventive Mechanism which will fully comply with the requirements laid down by the OPCAT and the Guidelines established by the United Nations Subcommittee on Prevention of Torture (SPT); it would like to receive updated information on recent developments in this respect.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police custody

1. Preliminary remarks

9. As regards the legal grounds for the deprivation of liberty of persons by the police, the case of a detained criminal suspect must be brought to the attention of a court within 48 hours of his/her deprivation of liberty (for criminal offences related to terrorism within 96 hours). When a person is arrested under an arrest warrant issued by a court, his/her case must be brought to the attention of a court within 24 hours. In both cases, the court must then hear the detained person and remand him/her in custody or order release, within 48 hours (within 72 hours for certain particularly serious criminal offences).[3]

The police may also apprehend a person according to Section 19 of the Police Act for a maximum of 24 hours, e.g. if the person poses an immediate threat to his/her own or another person's life or health or to property, if the person is caught in the act of committing a minor offence, or if a person is at the scene of the crime immediately after it has been committed and it is necessary to establish his/her connection with the same. Further, a person may be deprived of his/her liberty on other grounds, such as for identification purposes (Section 18 of the Police Act) or to provide an "explanation"[4] at a police station (Section 17 of the Police Act).

2. Ill-treatment

10. It is matter of serious concern for the CPT that a considerable number of persons who were or had recently been detained by the police – including juveniles – made credible allegations of deliberate physical ill-treatment by police officers. Most of the allegations concerned the excessive use of force in the context of apprehension (e.g. kicks and baton blows to various parts of the body, after the person concerned had been brought under control), and some of them referred to beatings inflicted by police officers on the premises of police establishments. In a number of these cases, the injuries recorded by prison doctors made upon admission of the persons concerned to remand prison were consistent with the allegations made.[5]

By way of illustration, one person interviewed by the delegation claimed that, in the context of his apprehension, police officers had punched and kicked him whilst handcuffed. Upon his arrival at a remand prison three days later, the prison doctor had observed "bruises on the right arm and right side of the chest, bruises on the right clavicle, multiple bruises on the abdomen, a bruise on the right jaw, a wound on the upper lip, bruises on the fingers of both hands; he sustained all of that during police apprehension at his home".

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3 See Sections 73 and 85 to 87 of the CCP.

4 In the event that a person is expected to be able to contribute to the clarification of circumstances which are of importance in order to uncover a minor offence or an administrative offence and to identify its perpetrator, as well as to find wanted individuals or objects.

5 See paragraph 78.

Another detained person alleged that, when being apprehended by the National Criminal Agency (NAKA), several officers had kicked him while he was lying handcuffed on the ground. When he arrived at a remand prison two days later, the prison doctor recorded in the medical file "haematoma around left eye, crust on the left side of the nose, haematoma on the right side of ribs, haematoma on the left scapula, haematoma on the right side of the back, hematoma on the left thigh, patient sustained injury during apprehension".

The CPT is also concerned by the fact that several detained persons who claimed that they had been ill-treated by police officers indicated that they did not wish to lodge a formal complaint since they had no trust that their cases would be investigated in an effective manner.

11. In addition, the delegation heard some allegations of threats (including of sexual assault) and verbal abuse by police officers.

12. **The Committee reiterates its recommendation that the Slovak authorities take resolute action to prevent ill-treatment by police officers. In particular:**

- **police officers throughout the country should receive a firm message, which should be repeated at regular intervals, that any form of ill-treatment of persons deprived of their liberty – including verbal abuse and threats – is illegal and unprofessional and will be punished accordingly;**

- **it should be made clear to all police officers, in particular through ongoing training, that no more force than is strictly necessary should be used when effecting an apprehension and that there can be no justification for striking apprehended persons once they have been brought under control.**

13. Investigations into allegations of ill-treatment by police officers continued to be carried out by the Control and Inspection Service of the Ministry of the Interior (whose head reports directly to the Minister of the Interior) and supervised by the Public Prosecutor's Office. That said, the delegation was informed by senior representatives of the Ministry of the Interior during the end-of-visit talks that the newly appointed Minister of the Interior regarded a review of the organisational position of the Control and Inspection Service within the Ministry of the Interior as one of his priority tasks. Intensive discussions were underway on the competences, organisational subordination and powers of the service charged with carrying out investigations into alleged police ill-treatment and a draft law on the matter was expected within a maximum of a few months. **The CPT would like to be informed about any further developments on this matter.**

14. In order to gain a nationwide picture of the situation, **the CPT would also like to receive up-to-date information in respect of the period from 1 January 2017 to the present time concerning:**

- **the number of complaints of ill-treatment made against police officers – including the cases forwarded by prison administrations from persons who arrived injured at a remand prison[6] and the number of criminal/disciplinary proceedings which have been instituted as a result;**

- **the outcome of such proceedings, including those initiated before 2017, and an account of criminal/disciplinary sanctions imposed on the police officers concerned.**

15. Since its very first visit in 1995, the CPT has repeatedly expressed its serious concern about the continued practice of handcuffing detained persons to wall fixtures or similar objects in police establishments. This practice is still allowed by law[7] and persists in 2018. The delegation once again found such wall fixtures (e.g. rings, handles, special rails on benches) in a number of the police establishments visited, sometimes in corridors and, in several cases even inside the "designated areas".[8] Their use was confirmed to the delegation by police officers, as well as by detained persons. Moreover, some detainees alleged having been handcuffed to a fixed object inside "designated areas" for up to four hours.

In the CPT's view, the practice of handcuffing a person to a fixed object – especially within a secured area (such as a "designated area") – is particularly inappropriate and may be considered as amounting to degrading treatment.

The CPT must once again call upon the Slovak authorities to remove all wall fixtures or similar objects for attaching persons from police establishments and, more generally, to take effective measures – including at legislative level – to stamp out the practice of persons held by the police being attached to such objects. Every police facility where persons may be deprived of their liberty should be equipped with one or more rooms designated for detention purposes and offering appropriate security arrangements. Corridors should not be used as *ad hoc* detention facilities.

In the event of a person in custody acting in a violent manner, the use of handcuffs may be justified. However, the person concerned should not be shackled to fixed objects but instead be kept under close supervision in a secure setting and, if necessary, medical assistance should be sought. Moreover, the handcuffs should be applied for only as long as is strictly necessary.

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6 See paragraph 78.
7 Section 52 (2) of the Police Act.
8 See paragraph 27.

3. Safeguards against ill-treatment

16. As regards the fundamental safeguards against ill-treatment – namely the right of notification of custody to a next-of-kin and the rights of access to a lawyer and a doctor as from the very outset of a person's deprivation of liberty – it regrettably remained the case that not all persons obliged to remain with the police were legally entitled to or granted in practice all these rights.

a. notification of custody

17. The information gathered during the 2018 visit indicates that the large majority of persons detained by the police were allowed to notify a third party of their choice of their apprehension shortly thereafter. However, several detainees told the delegation that they were not allowed to have a third party of their choice informed for up to several days after their deprivation of liberty or that police officers had not given them feedback as to whether or not the third party had been informed. Some of them were therefore very concerned that nobody knew about their whereabouts.

As regards the legislation, it is positive that not only persons detained under Section 19 of the Police Act, but also persons detained on suspicion of having committed a criminal offence, are now formally guaranteed this right. However, regrettably, the new provision[9] only applies once the detainee has been formally declared "accused" (usually after preliminary questioning)[10] and thus not from the very outset of the deprivation of liberty. Further, the provision indicates that decisions on any exceptions to the right of notification of custody may be taken under the sole responsibility of the police investigator in charge. In the CPT's view, such decisions should require the approval of a senior police officer unconnected with the case or a prosecutor.

Moreover, the right of notification of custody is still not formally guaranteed to all persons deprived of their liberty (i.e. obliged to remain with the police) on other grounds[11].

The CPT reiterates its recommendation that the Slovak authorities take the necessary steps to ensure that the right of all persons deprived of their liberty by the police to notify a third party of their choice as from the outset of the deprivation of liberty is fully recognised in law and effectively implemented in practice. Any exceptions to this right should be clearly defined and strictly limited in time and be accompanied by appropriate safeguards (e.g. any delay in notification of custody to be recorded in writing with the reasons and to require the approval of a senior police officer unconnected with the case or a prosecutor).

Further, the necessary steps should be taken to ensure that detained persons are always provided with feedback on whether it has been possible to notify a close relative or other person of the fact of their detention when notification is performed by police officers.

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9 Section 34 (4) of the CCP.
10 See Section 84 (4) of the CCP.
11 See paragraph 9.

b. access to a lawyer

18. As regards the legislation, the Slovak authorities in their response[12] to the CPT's 2013 report emphasise that the Slovak Constitution provides that "every person shall have the right to counsel from the outset of proceedings before any court of law, or a governmental or public authority as provided by law."[13] Correspondingly, the Code of Criminal Procedure expressly stipulates that criminal suspects be granted the right of access to a lawyer.[14]

That said, a number of detained persons met by the delegation alleged that they had been able to consult a lawyer only at the court hearing or even later when they were already remanded in custody.

As regards legal aid, the law provides that an indigent criminal suspect who has been formally "accused" is entitled to a "free defence or a defence at a reduced fee" and must be instructed about this right. However, regrettably, this does not apply to persons who have to stay with the police without having been formally accused.[15] In addition, many detainees also said that they were not aware of the possibility to have a lawyer if they were not able to pay for him/her (see also paragraph 25).

19. Under the Police Act, the right of access to a lawyer is expressly granted to those persons who are deprived of their liberty according to Section 19 of the Act.[16]

However, it appears that despite the constitutional guarantee, the authorities did not systematically consider persons detained under other sections of the Police Act to have that right. This impression was confirmed by the facts that these persons' right of access to a lawyer was not expressly provided for by the Police Act and that the respective information sheets seen by the delegation (e.g. concerning the rights of persons detained under Section 17 of the Police Act) did not mention any right of access to a lawyer.

20. **The CPT must once again call upon the Slovak authorities to take the necessary steps to ensure that the right of access to a lawyer is guaranteed to all persons who are under a legal obligation to attend – and stay – at a police station and that this right is fully effective in practice as from the very outset of the deprivation of liberty.**

***Further,* the Committee recommends that all detained criminal suspects who do not have sufficient funds to pay for the costs of their defence have access to an *ex officio* lawyer free of charge as from the very outset of their deprivation of liberty. Steps should also be taken, in consultation with the Bar Association, to ensure that the persons concerned can benefit from the presence of an *ex officio* lawyer during police custody, including during any questioning by the police.**

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12 CPT/Inf (2014) 07, page 28.
13 Article 47 (2).
14 Section 85 (6) of the CCP.
15 Sections 34 (3) and 121 (2) of the CCP.
16 Section 19 (6).

c. access to a doctor

21. Many persons met by the delegation during the 2018 visit said that they had been granted access to a doctor as necessary and no complaints were received in this respect. This confirms the positive impression from the previous visit.

22. However, it is regrettable that the relevant legislation still does not guarantee the right of access to a doctor of the detainee's own choice (in addition to any medical examination carried out by a doctor called by the police). Such a right is crucial from the point of view of the prevention of ill-treatment, as detained persons will be more likely to report any police ill-treatment to a doctor they trust than to a doctor provided by the police. In addition, allowing detained persons to consult a doctor of their own choice may be important regarding the continuity of medical care.

The CPT therefore reiterates its recommendation that every detained person's right of access to a doctor include, if the person concerned so wishes, access to a doctor of his/her own choice in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense).

23. It is another matter of concern for the Committee that when detainees were medically examined by a doctor, the results of the examination – including possible allegations of ill-treatment – were not kept confidential; on the one hand police officers were still usually present during medical examinations and on the other hand the results of the examination were accessible in the detainee's detention file to police officers.

The CPT must once again emphasise that the presence of police staff during medical examinations of detained persons could discourage a detained person who has been ill-treated from saying so and, more generally, is detrimental to the establishment of a proper doctor-patient relationship. **The CPT therefore reiterates its recommendation that the Slovak authorities take the necessary steps to ensure that all medical examinations of persons in police custody take place out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers. Further, police officers should only have access to medical information strictly on a need-to-know basis, with any information provided being limited to that necessary to prevent a serious risk for the detained person or other persons. There is no justification for giving staff having no health-care duties access to information concerning the diagnoses made or statements concerning the cause of injuries.**

d. juveniles deprived of their liberty by the police

24. The CPT is concerned by the fact that juveniles were apparently still on occasion questioned by police officers without the presence of a lawyer or another trusted adult.

As regards the legislation, it is positive that when a juvenile is detained under Section 19 of the Police Act, the juvenile's parent or guardian must be notified of his/her detention.[17] The same is guaranteed to juvenile criminal suspects, but only once they have been formally "accused".[18] In the CPT's view, such a notification should be obligatory in *all* cases where juveniles are deprived of their liberty by the police as from the very outset of their deprivation of liberty.

Given the particular vulnerability of juveniles, the CPT further considers that juveniles should neither be questioned nor make any statements or sign any documents related to the offence of which they are suspected without the presence and assistance of a lawyer and, in principle, of another trusted adult. The current legislation regrettably does not provide for these additional safeguards.[19]

The CPT therefore recommends once again that the Slovak authorities ensure that the above-mentioned precepts are recognised by law and applied in practice as from the very outset of juveniles' deprivation of liberty (i.e. as soon as they have to remain with the police).

e. information on rights

25. Regrettably, many persons interviewed by the delegation said that they had not been verbally informed of their rights or not of all their rights at the very outset of their deprivation of liberty, notably the right of access to a lawyer.

That said, it is a positive development that written information on their rights was usually shown to detained persons and they were requested to attest with their signature that they had been informed accordingly.

However, the delegation met a few detained persons who stated that they had to sign several documents without being aware of their content. At least one of the persons concerned could allegedly not read the documents given to him for signature because he was illiterate and another one had not been able to do so since his reading glasses had been taken away from him upon his detention. It also appeared that in many cases detained persons had not received a copy of the information sheet to keep.

Moreover, the information sheets did not always describe all of the detained persons' rights to their full extent. For instance, in several police stations the delegation saw information sheets on the rights of the "apprehended person", "arrested suspect" or "accused" which said that the detained person had the right to inform a third party of his/her detention only in the case of a judge's decision on remand detention.

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17 Section 19 (6).

18 Section 34 (4) of the CCP.

19 In this respect, the CCP provides that a juvenile must have a defence counsel only once he/she has been accused (Section 37 (1)d, 336).

The CPT therefore calls upon the Slovak authorities to ensure that all persons deprived of their liberty by the police – for whatever reason – are fully informed of all their rights as from the very outset of their deprivation of liberty (i.e. from the moment when they are obliged to remain with the police).[20] This should be ensured by the provision of clear verbal information at the moment of apprehension and supplemented at the earliest opportunity (i.e. immediately upon their first arrival at a police station) by the provision of a written form which should contain all the detained person's rights in a straightforward manner and which the detainee can keep. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police officers to ascertain that this is the case.

4. Conditions of detention

26. In all the establishments visited, material conditions in police custody cells were, on the whole, satisfactory. All the cells seen by the delegation were sufficient in size for the number of persons they were intended to hold, were in a good state of repair, suitably equipped and ventilated and had adequate access to natural light and artificial lighting.

That said, in several of the police stations visited, the video-surveillance system in the custody cells did not exclude the toilet area (e.g. at Banská Bystrica West, Bratislava Karlova Ves, Hnúšťa, Rimavská Sobota, Veľký Krtíš). **The CPT recommends that whenever detained persons are placed under video surveillance, his/her privacy should be preserved when he/she is using a toilet, for example by pixelating the image of the toilet area.**

Further, in some police stations visited (e.g. Rimavská Sobota), artificial lighting inside cells was not dimmed at night. **Steps should be taken to remedy this shortcoming.**

27. Many police stations still had so-called "designated areas", small holding facilities destined for shorter-term detention, measuring often not more than 4 m², which were equipped with only one or two fixed stools or a small bench and were sometimes without access to natural light.[21] Regrettably, the examination of the custody records revealed that, despite the specific recommendation repeatedly made by the Committee after previous visits, these "designated areas" were in some police stations still used for accommodating detained persons for prolonged periods and occasionally overnight (e.g. in several cases for about 12 hours and in one case even for 21 hours). The delegation was also surprised to note that persons were sometimes held overnight in a "designated area" even though a police custody cell ("CPZ")[22] was free at the same police station.

During the end of visit talks with representatives of the Ministry of the Interior, the delegation was informed about the Ministry's plans to replace the "designated areas" with "half-way cells with equipment" in the near future. **The CPT would like to receive more detailed information about this matter (including regarding the envisaged size, equipment and maximum length of stay).**

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20 See also the European Union Directive 2012/13/EU on the right to information in criminal proceedings.

21 For a more detailed description see the previous CPT report CPT/Inf (2014) 07, paragraph 30.

22 *Cela policajného zaistenia.*

For as long as "designated areas" are still in use, the CPT reiterates its recommendation that, due to their small size and inadequate equipment, "designated areas" never be used for detention of persons for more than a few hours and never overnight.

28. The Committee acknowledges the efforts made at all police stations visited to arrange for detained persons daily access to the open air (e.g. in the establishment's car park, under the supervision of a police officer). However, none of the police stations visited were equipped with suitable outdoor areas for detained persons. It is particularly regrettable that this was also the case for the newly-constructed police station in Hnúšt'a.

The Committee recommends that the Slovak authorities take measures to ensure that all persons held in police custody for 24 hours or more are as far as possible offered at least one hour of outdoor exercise every day in facilities of adequate size and possessing the necessary equipment (such as a shelter against inclement weather and a means of rest). This requirement should be taken into account in particular when the (re-)construction of a police establishment is being planned.

B. Prisons

1. Preliminary remarks

29. The delegation carried out a full visit to Banská Bystrica Prison and a targeted follow-up visit to Leopoldov Prison, where it focused on the situation of life-sentenced prisoners and other prisoners subjected to a high-security regime. Further, the delegation paid a brief visit to Bratislava Prison in order to interview remand prisoners. At Bratislava and Leopoldov Prisons, it also examined certain aspects of the prisons' health-care services.[23]

30. *Banská Bystrica Prison*, which is located in the city centre adjacent to the Regional Court, was opened in 1898 as a remand prison and underwent extensive refurbishment in 1990. With an official total capacity of 401 places, it was accommodating at the time of the visit 181 sentenced prisoners (48 at minimum, 112 at medium and 21 at maximum "guarding level"; including twelve women and four male life-sentenced prisoners) and 203 remand prisoners (155 under the standard regime and 48 under a mitigated regime; including 13 women and four male juveniles).

Bratislava Prison, opened in 1936, comprises a closed facility intended for a maximum of 616 prisoners, as well as a detached open facility (with a capacity of 122 places; not visited by the delegation). The closed facility was in the final stage of a comprehensive renovation. At the time of the visit, it was accommodating a total of 349 prisoners (158 sentenced and 191 on remand).[24]

Leopoldov Prison had been previously visited by the CPT on several occasions.[25] With an official capacity of 1,428 places, the prison was accommodating at the time of the visit 1,076 sentenced prisoners (including 30[26] male life-sentenced prisoners and ten male inmates held under a high-security regime[27] in a special department) and 278 remand prisoners (including 19 women and one male juvenile).

31. At the time of the visit, the overall prison population in the Slovak Republic stood at 10,210 prisoners (8,682 sentenced and 1,528 on remand) for an official capacity of 10,941 places.[28] Regrettably, the previous downward trend[29] in the number of remand prisoners had been reversed and that number had risen by 16% since the last visit. In this context, the Slovak Government's Revised Concept Paper on the Slovak Prison System for the period of 2011-2020 identified the rising prison population as one of the biggest challenges faced by the prison system.

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23 In addition, the delegation paid a very short visit to Trenčín Prison Hospital in order to interview two patients who were being held at that hospital.

24 The prison had been visited by the CPT in 1995, 2000, 2005 and 2009. For a general description of the prison, see the report on the 1995 visit (CPT/Inf (97) 2, paragraph 68).
In 1995, 2009 and 2013. During the 2013 visit, the delegation mainly interviewed prisoners who had recently been in police custody.

26 One of the life-sentenced prisoners was at the time of the visit being held at Trenčín Prison Hospital.

27 *Oddiel s bezpečnostným režimom (OBR)*.

28 In 2013, the overall prison population stood at 10,084 inmates (8,770 sentenced and 1,314 on remand) for an official capacity of 11,302 places.

29 Between 2005 and 2013, the number of remand prisoners had decreased by 56% (from 2,966 to ,1314).

32. The Slovak authorities informed the delegation during the visit of their plans to construct a new prison in Rimavská Sobota by 2021 and to make available about 470 additional prison places in the near future through the on-going reconstruction of Bratislava and Dubnica nad Váhom Prisons (both to be completed in 2018).

Further, in 2015, a law on electronic monitoring was adopted with the aim of reducing the total prison population by up to 2,000 persons. However, in 2017, house arrest with electronic monitoring was applied by the courts as a non-custodial measure only in respect of 53 persons (21 sentenced and 32 persons remanded in custody).[30] The CPT is therefore pleased to learn that the Ministry of Justice was seeking to increase the use of this alternative to imprisonment, in particular through specific training provided to judges and public prosecutors.

The CPT acknowledges the authorities' efforts to reduce the prison population, in particular by increased recourse to non-custodial measures. In the Committee's view, the highest priority should be to ensure that imprisonment is indeed imposed as a last resort at all stages of the criminal justice system, from pre-trial to the execution of sentences.

The CPT encourages the Slovak authorities to pursue their efforts to reduce the prison population in a sustainable way in accordance with the relevant recommendations of the Committee of Ministers of the Council of Europe.[31]

33. Concerning living space for prisoners (whether sentenced or on remand), the Committee notes that the legally guaranteed minimum space for male adult prisoners still stood at 3.5 m² per person.[32] That said, the Slovak authorities informed the delegation during the visit that, in the new prison in Rimavská Sobota, a 4-m²-standard per prisoner was going to be implemented and that the same would be done at Bratislava and Dubnica nad Váhom Prisons upon completion of the ongoing renovation works. Moreover, it was said that once these works had been completed, the minimum standard of 4 m² per person would be made law. These are welcome developments.[33]

The CPT would like to receive confirmation that the minimum living space of 4 m² per prisoner in multiple-occupancy cells (not counting the area taken up by the in-cell sanitary annexe) has been legally guaranteed and that official prison capacities have been recalculated accordingly.

34. The Slovak authorities further informed the delegation that the long-standing plans to establish a detention unit for mothers with children in Nitra referred to in the reports on the CPT's previous visits[34] had still not materialised. **The CPT would like to receive updated information on the setting-up of this unit.**

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30 In 2016, 25 persons had been subject to the measure.

31 See, in particular, Recommendations R(99)22 concerning prison overcrowding and population inflation, Rec(2014)4 on electronic monitoring, Rec(2017)3 on the European Rules on community sanctions and measures, Rec(2018)5 concerning children with imprisoned parents, Rec(2003)22 on conditional release (parole), Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, Rec(2008)11 on the European Rules for juvenile offenders subject to sanctions or measures and Recommendation Rec(2010)1 on the Council of Europe Probation Rules.

32 Whereas juveniles and women were already legally guaranteed a general minimum standard of 4 m² per person.

33 In this context, see document CPT/Inf (2015) 44: "Living space per prisoner in prison establishments: CPT standards".

34 CPT/Inf (2014) 07, paragraph 35, and CPT/Inf (2010) 1, paragraph 52.

35. The system of security classification of sentenced prisoners has remained unchanged since the previous visit: at the stage of sentencing, the court classifies a prisoner under a minimum, medium or maximum "guarding level" (so-called "external classification"). Within each level, sentenced prisoners are further categorised into a differentiation group (A, B or C) which is decided by the prison administration.[35]

The CPT remains critical of the external classification, as it determines the prisoners' treatment (e.g. the eligibility for open visits, material conditions and/or regime) on the basis of their offence, i.e. of a "picture" taken when the crime was committed, and not in the light of their actual behaviour in prison.

Further, by giving the sentencing court a leading role in deciding the detention conditions of each prisoner, it consigns the penitentiary service to a passive role, divesting it of the role of assessing cases and designing individualised sentence plans, which is a key function of a modern penitentiary system. In turn, this reduces the role of prison staff to the maintenance of security and good order, disregarding the fact that prison staff who interact on a daily basis with the prisoner concerned (and who have an awareness of what is going on in the prison) are much better placed than a judge at the sentencing stage to identify the appropriate degree of security measures for a prisoner in a given prison.

The Committee therefore wishes to stress again that the classification of prisoners should always be carried out by the prison administration – based on an individual risk and needs assessment – in the light of each prisoner's behaviour upon his/her admission to prison and not at the sentencing stage. The relevant legislation should be amended accordingly.

36. Shortly after the CPT's visit in 2013, significant amendments to the Law on the Execution of Prison Sentences (LEPS) and the Law on the Execution of Remand Detention (LERD) were adopted and entered into force on 1 January 2014.[36] These and subsequent additional amendments have introduced certain improvements, such as the reduction of the maximum possible length of disciplinary solitary confinement (including the abolition of this type of sanction for juveniles), increased phone call and visiting entitlements and more frequent reviews of sentenced prisoners' placement in a high-security regime. In addition, life-sentenced prisoners may now, after 15 years of serving their sentence, be integrated into the general prison population (see paragraph 52).

That said, it is regrettable that several problem areas raised by the Committee in previous visit reports have not been reflected in the above-mentioned amendments, such as the general approach vis-à-vis life-sentenced prisoners and appropriate safeguards for placement in a high-security regime.

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35 See Sections 8 et seq. of Decree 368/2008 of the Ministry of Justice on the Rules on the Execution of Prison Sentences.

36 Law no. 370/2013 amending Law no. 475/2005 on the Execution of Prison Sentences, and Law no. 371/2013 amending Law no. 221/2006 on the Execution of Remand Detention.

2. Ill-treatment

37. The delegation received virtually no allegations of physical ill-treatment by prison officers in any of the prisons visited. Relations between staff and inmates appeared to be fairly relaxed. The delegation gained a particularly positive impression in this respect of Banská Bystrica Prison.

38. That said, the CPT is very concerned about the situation of two prisoners with severe learning disabilities who were being held at Leopoldov Prison under conditions which, in its view, could easily amount to inhuman and degrading treatment. The two prisoners concerned were accommodated in the prison's "closed department".[37] They were unable to take care of themselves, let alone of their cells, e.g. one of them regularly defecated on the cell floor. He frequently also spilled his food on the floor and then ate it with his hands directly from there. Both inmates were barely able to express themselves verbally. They did not know for how long they had been in the establishment and appeared to be unable to understand that they were serving a sentence in a prison.

The arrangements to care for them were clearly inadequate. They lacked basic support in daily life (e.g. personal hygiene, assistance with eating) as well as appropriate surveillance. According to staff, it was not possible to provide them with any therapeutic or other activities due to the lack of specialised staff and adequate facilities. As a result, the prisoners concerned had very limited human contact, rarely left their cells and were *de facto* held under conditions akin to solitary confinement.

During the end-of-visit talks, the delegation made an immediate observation under Article 8 (5) of the Convention urging the Slovak authorities to take immediate steps to ensure that the two above-mentioned prisoners were provided with adequate care and human contact in a suitable environment within or outside the prison system. In this regard, reference should also be made to the additional remarks and recommendation in paragraphs 79 to 81.

39. Further, several prisoners met by the delegation at Leopoldov Prison were serving a life sentence without ever being eligible for conditional release (so-called "actual lifers"). In this connection, the CPT wishes to recall that the European Court of Human Rights (ECtHR) has qualified a situation in which persons are imprisoned without any realistic hope for release as from the beginning of the sentence as being incompatible with Article 3 of the European Convention on Human Rights (prohibition of inhuman or degrading treatment or punishment). This matter will be further dealt with in paragraph 53.

40. On a positive note, the CPT would like to stress that inter-prisoner violence did not seem to pose a major problem in the prisons visited, and, whenever incidents between inmates happened, staff appeared to react promptly and appropriately.

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[37] The "closed department" mainly comprised the disciplinary cells and a cell for sobering-up. The prisoners concerned were at the time of the visit accommodated in the so-called "solitary accommodation cells" nos. 216 and 217 which were attached to the adjacent Special Psychiatric Treatment Unit.

3. Situation of life-sentenced prisoners at Leopoldov and Banská Bystrica Prisons

41. At the time of the visit, 47 life-sentenced prisoners were being held in Slovak prisons: 30 at Leopoldov Prison, four at Banská Bystrica Prison and 13 at Ilava Prison (not visited by the delegation).

42. The CPT noted some improvements as compared to the situation of life-sentenced prisoners observed in 2013 (see paragraphs 45 and 52). However, despite the Committee's recommendations made in its previous visit reports, the general approach towards life-sentenced prisoners had not changed fundamentally. Thus, all life-sentenced prisoners continued to be segregated from other inmates, held under a very restrictive regime (in particular in terms of out-of cell activities and association) and permanently subjected to draconian security measures.

43. Both at Leopoldov and Banská Bystrica Prisons, the material conditions in the units for life-sentenced prisoners were adequate. The cells were generally in a good state of repair, sufficient in size and adequately equipped (including a fully-partitioned sanitary annexe) and ventilated; they also had sufficient access to natural and artificial light.

At Leopoldov Prison, life-sentenced prisoners were accommodated in single- and a few double-occupancy cells in a separate unit and in the adjacent high-security department (where prisoners under the high-security regime were also held).[38] It is recalled that most but not all of the cells were paired to form "suites"[39] which enabled the inmates of the two cells to communicate with one another (often without being able to see each other).[40]

At Banská Bystrica Prison, the unit for life-sentenced prisoners consisted of four single cells, two of them being paired as a "suite".

44. As regards the regime, amendments to the relevant legislation, which had been enacted before the 2013 visit, entered into force on 1 January 2014.[41] According to the amended legal provisions, life-sentenced prisoners continue to be subjected by default to an extremely restrictive regime (standard regime D1). They shall be accommodated in single cells and work alone. In addition, they shall not participate in activities organised for any other categories of prisoners. Only upon the recommendation of the educator and the approval of the prison governor may D1 prisoners be allowed to have "mutual contacts" with other D1 prisoners.

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38 However, life-sentenced prisoners and prisoners under the high-security regime would never meet.

39 Two cells either located side-by-side or facing each other, with a common entrance area, from which they were separated by a metal grille.

40 For further details, see CPT/Inf (2010) 1, paragraph 67.

41 See Section 79 of the LEPS and Section 78 of Decree No. 368/2008 of the Ministry of Justice on the Rules on the Execution of Prison Sentences (as amended by Decree No. 500/2013).

After having served at least five years in regime D1, life-sentenced prisoners may under certain preconditions (such as good behaviour and "changes in the attitude towards the past criminal conduct") be promoted to a mitigated regime (D2 regime). According to the law, D2 prisoners may benefit from certain relaxations of their regime, such as the possibility to move in a "restricted area outside their cell", to associate with other D2 prisoners, to participate in group activities (organised for life-sentenced prisoners), and to participate in selected activities organised for prisoners not sentenced to life. Prisoners who do not comply with the internal rules may at any time be demoted to regime D1, and in the case of good behaviour during a twelve-month period they may be re-classified to regime-level D2.

After having served 15 years in a unit for life-sentenced prisoners, the prisoners concerned may be integrated into the general population of a prison with maximum guarding level, initially in differentiation group[42] B and, after additional five years, in differentiation group A. In this regard, reference is made to remarks and recommendation in paragraph 52.

45. At the time of the visit, 20 of the 30 life-sentenced prisoners at Leopoldov Prison were under the standard regime D1, while, at Banská Bystrica Prison, all four life-sentenced prisoners were being held under regime D1. All life-sentenced prisoners were offered in-cell work (gluing envelopes/folding cardboard boxes).[43]

The CPT notes the recent creation of a communal room within the unit for life-sentenced prisoners at Leopoldov Prison, to which both D1 and D2 prisoners had access upon request for up to several times a week for about one hour. [44] The room was also used for occasional meetings with the educator or psychologist.

That said, in all other respects, the programme of out-of-cell activities had not improved at Leopoldov Prison since 2013. Out-of-cell activities consisted mainly of one hour of access to the outdoor yard per day and the possibility to play table-tennis or to go to a small gym several times a week (for one hour at a time).[45] In practice, there was no significant difference between D1 and D2 prisoners. At Banská Bystrica Prison, the out-of-cell activities on offer were also very limited.[46]

As regards association amongst the suite-neighbours, D2 prisoners at Leopoldov Prison could associate within their suite throughout the day. That said, D1 suite-neighbours at Leopoldov Prison could associate only during meal-times for about 30 minutes.[47]

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42 See paragraph 35.

43 Eighteen life-sentenced prisoners worked at Leopoldov Prison and two at Banska Bystrica Prison.

44 Apart from a table and chairs, the communal room was equipped with a sofa, a CD player, some books and board games.

45 According to the documentation examined by the delegation, once or twice a month some life-sentenced prisoners also had personal conversations or drawing/crafting sessions with the educator or with the psychologist.

46 Life-sentenced prisoners could access the outdoor yard every day for one hour and go to a small gym twice a week (for 30 minutes alone or one hour in pairs). They could access a communal room for one or two hours a day to search for legislation on a computer, to play table football with another life-sentenced inmate or for rare/occasional picture-colouring sessions with the psychologist. In addition, a computer course was offered once or twice a week (for about two hours at a time). A chaplain visited life-sentenced prisoners once a week if they so wished.

47 At Banská Bystrica Prison, no such association took place, as apparently one of the inmates of the only "suite" was not interested in associating with his neighbour.

Moreover, it is a matter of particular concern that, compared to the situation found in 2013, the regime for most life-sentenced prisoners has become even more restrictive in terms of association with inmates other than their suite-neighbours. D1 prisoners could only associate with one other D1 inmate and D2 prisoners with up to three other D2 prisoners, who were now chosen by the educator, for about one to two hours a day during their out-of-cell activities (while association in groups of four prisoners of the same regime level had been allowed for all life-sentenced prisoners in 2013).[48]

46. To sum up, the regimes offered to all life-sentenced prisoners at both prisons visited remained impoverished, in particular in terms of out-of-cell activities and association. Most days, the prisoners concerned spent about 22 hours or more locked up alone in their cells. Such a state of affairs is not acceptable. In the CPT's view, there can also be no justification for generally not allowing life-sentenced prisoners to work together with other prisoners. The CPT must stress once again that life-sentenced prisoners should, like all prisoners, from the outset of their imprisonment, be subject only to the restrictions that are necessary for their safe and orderly confinement.[49] It should be borne in mind that they are sent to prison as a punishment and not to receive (additional) punishment.

The CPT also wishes to recall that long-term imprisonment can have a number of desocialising effects upon inmates. This risk is all the higher in respect of prisoners who face the prospect of spending most of the rest of their life in prison. It is particularly worrying that a number of life-sentenced prisoners met by the delegation stated that they were no longer interested in associating with other inmates. As was also confirmed by the management of Leopoldov Prison, there was a tendency for self-isolation/loss of interest in human interaction amongst life-sentenced prisoners. The activities offered to life-sentenced prisoners should seek to compensate for the desocialising effects of imprisonment, also in view of their re-socialisation after their possible release.[50] In addition, the provision of purposeful activities (including group association) and constructive staff/inmate relations are very likely to reinforce "dynamic security" within the prison.

The CPT calls upon the Slovak authorities to take steps, including at the legislative level, in order to substantially improve the regime of <u>all</u> life-sentenced prisoners by providing them with a programme of purposeful <u>out-of-cell</u> activities (including work, preferably with vocational value, education, sport and recreation).

Further, **immediate steps should be taken to allow <u>all</u> life-sentenced prisoners, as a rule, to associate with their suite-neighbours throughout the day (i.e. to have the bars between their cell and the common entrance area unlocked) and to enhance their possibilities to associate with other prisoners than their suite-neighbour.**

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48 At Leopoldov Prison, suite-neighbours were in addition allowed to associate during meal-times for about 30 minutes.

49 So-called "normalisation principle" as set out in the Council of Europe's Committee of Ministers Recommendation Rec (2003) 23 on the management by prison administrations of life sentence and other long-term prisoners.

50 See also the CPT standard on the situation of life-sentenced prisoners, CPT/Inf (2016)10.

47. While D2 prisoners at Leopoldov Prison had (at least in the summer months) access to a more spacious outdoor yard, the outdoor facilities which were used by D1 prisoners (and reportedly in winter-time also by D2 prisoners) were still the small yards which had been criticised by the CPT in the report on the 2013 visit.[51] Only some of these yards were fitted with basic sports equipment (e.g. a pull-up bar), and all of them were too small for genuine physical exertion (as opposed to pacing around an enclosed space). At Banská Bystrica Prison, the outdoor yards used by life-sentenced prisoners (as well as the ones used by the general prison population) were located on the rooftop surrounded by high concrete walls which obstructed any horizontal/outside view, and lacked sports equipment.

The CPT reiterates its recommendation that the Slovak authorities improve the outdoor exercise facilities for life-sentenced prisoners at Leopoldov Prison, in the light of the above remarks. Consideration should also be given to making the larger outdoor yard used by D2 prisoners in summer-time regularly accessible to *all* life-sentenced prisoners.

Further, **the Committee recommends that all outdoor facilities at Banská Bystrica Prison be fitted with at least some basic sports equipment; it also invites the authorities to explore the possibility to allow life-sentenced prisoners at least occasionally to have access to an outdoor yard which allows a horizontal view.**

48. As regards security measures, the CPT notes with grave concern that the great majority[52] of D1 prisoners at Leopoldov Prison and all life-sentenced prisoners at Banská Bystrica were routinely handcuffed whenever they were taken out of their cells, even within their own unit.[53] According to the managements of the two prisons, the use of handcuffs was always based on an individual risk assessment.

The CPT does not contest that certain life-sentenced prisoners may indeed present certain risks, as may be certain prisoners who are not sentenced to life imprisonment. However, it can only disagree with the Slovak authorities' affirmation that "lifers are, in a majority of cases, persons posing a high degree of risk of aggression towards other persons".[54] As a matter of fact, in many prisons visited by the CPT in various European countries, life-sentenced prisoners were treated like ordinary prisoners and were normally not handcuffed, without jeopardising the safety and security in the prison.[55] In the light of these experiences, the CPT must express its serious doubts about the well-foundedness of the risk assessments performed at Leopoldov and Banská Bystrica Prisons, bearing also in mind that the prisoners concerned had usually been in remand detention for months or even years without being subjected to such draconian security measures. Thus, the Committee cannot but conclude that the current practices are to a large extent punitive in nature.

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51 See CPT/Inf (2014)07, paragraph 55.

52 I.e. 14 out of the 20 life-sentenced prisoners.

53 Except for when they were in the outdoor yards, in the communal room and during visits.

54 See CPT/Inf (2014) 30, page 53.

55 See also the Council of Europe's Committee of Ministers' Recommendation (2003) 23 on the Management by Prison Administrations of Life-Sentenced and Other Long-Term Prisoners and the 25th General Report of the CPT (CPT/Inf (2016) 10, paragraphs 72 and 76).

49. Further, life-sentenced prisoners under the D1 regime at both prisons were frequently handcuffed during medical consultations and interventions (including dental treatment). Moreover, medical confidentiality was not observed as one or several prison officers were routinely present during medical consultations/interventions. Further, at Banská Bystrica Prison, the life-sentenced prisoners' interactions with the psychologist and the prison chaplain always took place through bars (of either their cell, or of the communal room) and in the presence of a prison officer.

In the CPT's view, the practice of keeping a prisoner in handcuffs during medical consultations is unacceptable as it infringes upon the dignity of the prisoner concerned. It impedes the development of a proper doctor-patient relationship and might in addition be detrimental to the establishment of an objective medical finding. Similarly, prohibiting the life-sentenced prisoners' direct interactions with the psychologist or the chaplain without separation through bars is likely to be detrimental to the development of a meaningful relationship between the prisoner on the one hand and the psychologist or chaplain on the other. In addition, the presence of prison officers in all of these meetings/consultations jeopardises professional confidentiality.

In their response to the report on the 2013 visit,[56] the Slovak authorities stated that the carrying out of medical consultations without handcuffs may create a "[d]istraction of medical staff's attention in terms of expecting them to stay wary and watchful of potential escape attempts by un-handcuffed inmates [that] may lead to professional errors and subsequent iatrogenicities, which would be of no benefit to both medical staff and, in particular, the inmate concerned". However, as indicated above, experience in various European countries has shown that it is indeed possible to avoid the use of handcuffs during medical consultations without endangering the safety of medical staff and without compromising medical confidentiality.[57]

50. The delegation also heard many allegations that life-sentenced prisoners who were transported from Leopoldov Prison (usually to court hearings) had to strip naked and to bend over/squat, up to four times[58] a day. Moreover, during the transportation by car (which could take several hours), they were reportedly – in addition to being hand- and ankle-cuffed – forced to wear black-out goggles and earmuffs to prevent them from seeing or hearing anything. Not surprisingly, some of the prisoners interviewed told the delegation that they felt car-sick and disoriented during and after these journeys and that therefore it was very difficult for them to concentrate during subsequent court hearings. At Banská Bystrica Prison, goggles and earmuffs were applied during transport exceptionally, upon individual risk assessment. Nevertheless, life-sentenced prisoners were routinely strip-searched.

In the CPT's view, resort to multiple strip-searches, as well as the use of goggles and earmuffs during transport, appears to be disproportionate. In particular, the practice of blocking out a prisoner's vision during transport is a form of oppressive conduct, the effect of which on the person concerned may amount to ill-treatment.

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56 CPT/Inf (2014) 30, page 53.

57 One possibility could be the installation of a call system, whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination.

58 Before departure from the prison, upon arrival at the destination/court, before departure from the destination/court and again upon arrival back at the prison.

51. **In the light of the remarks made in paragraphs 48 to 50, the CPT calls upon the Slovak authorities to ensure that the handcuffing of life-sentenced prisoners whenever they are outside their cells is an exceptional measure which is taken only when strictly necessary, based on a thorough individualised assessment of the real risks. Further, the Committee recommends that appropriate steps be taken to:**

- **put an end to the practice of handcuffing life-sentenced prisoners during medical consultations and interventions. As regards the presence of prison officers during medical consultations/interventions, reference is made to paragraph 82);**

- **ensure that life-sentenced prisoners can meet the psychologist and the chaplain in private and without bars separating them;**

- **abolish the practice of using devices on prisoners to block their vision and hearing while they are being transported from one location to another;**

- **abolish the resort to multiple strip-searches of prisoners being transported from the prison. Reference is also made in this respect to the recommendation in paragraph 92.**

52. It is further regrettable that the Slovak legislation still contains the obligation of segregating life-sentenced prisoners, as a general rule, from other prisoners.[59] The CPT must stress once again that it can see no justification for keeping life-sentenced prisoners apart from other prisoners on the sole ground of their sentence. In this regard, particular reference should also be made to the aforementioned[60] Council of Europe's Committee of Ministers' Recommendation (2003) 23 on the Management by Prison Administrations of Life-Sentenced and Other Long-Term Prisoners of 9 October 2003. According to this Recommendation, an important principle underpinning the management of life-sentenced prisoners is the *non-segregation principle*, which states that life-sentenced prisoners should not be segregated from other prisoners on the sole ground of their sentence. As regards their assumed dangerousness, reference is made to paragraph 48. As experience in various European countries has shown, life-sentenced prisoners can very well be part of the mainstream prison population from the beginning of their imprisonment.[61]

In this context, the CPT acknowledges that, since 1 January 2014, the relevant legislation now allows for exceptions to the principle of segregation. As mentioned in paragraph 44, life-sentenced prisoners who have served at least 15 years in a unit for life-sentenced prisoners, may under certain conditions be integrated into the general population of a prison with a maximum "guarding level".

That said, it is regrettable that thus far not a single life-sentenced prisoner has benefited from that possibility, despite the fact that some prisoners have already exceeded the 15-year time limit. Moreover, "actual lifers" (see paragraph 53) remain excluded by law from such reclassification.

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59 See Section 79 of the LEPS.

60 See footnote 55.

61 See also the CPT standard on the situation of life-sentenced prisoners, CPT/Inf (2016)10, paragraph 78.

The Committee therefore reiterates its recommendation that the Slovak authorities take additional steps, including at the legislative level, to abolish the legal obligation of keeping life-sentenced prisoners separate from other prisoners as from the outset of their sentence.

53. As a general rule, life-sentenced prisoners may be paroled after 25 years of imprisonment. However, despite the assurances given by the Slovak authorities[62] that they would bring the criminal legislation into full compliance with the case-law of the ECtHR, it remains the case that when imposing a sentence of life imprisonment, the court may decide, under certain conditions, that the offender shall not be eligible for conditional release.[63] At Leopoldov Prison, the delegation learned that four life-sentenced prisoners were not eligible for conditional release ("actual lifers").[64]

The Committee must once again repeat its serious reservations about the very concept according to which "actual lifers" are considered once and for all to be a permanent threat to the community and are deprived of any hope of being granted conditional release. Firstly, no one can reasonably argue that all life-sentenced prisoners will always remain dangerous to society. Secondly, the detention of persons who have no hope of release poses severe management problems in terms of creating incentives to co-operate and address disruptive behaviour, the delivery of personal development programmes, the organisation of sentence plans and security. As already indicated in paragraph 39, the ECtHR has qualified a situation in which persons are imprisoned without any realistic hope for release as from the beginning of the sentence as being incompatible with Article 3 of the European Convention on Human Rights (prohibition of inhuman or degrading treatment or punishment). In this regard, the Court also emphasises that such incompatibility with Article 3 already arises at the moment of the imposition of the whole life sentence and not at a later stage of incarceration.[65]

The CPT reiterates its recommendation that the Slovak authorities amend the relevant legislation with a view to introducing a possibility of conditional release (parole) to *all* life-sentenced prisoners, subject to a review of the threat to society posed by them on the basis of an individual risk assessment. Reference is also made in this respect to the CPT standard on the situation of life-sentenced prisoners in the CPT's 25th General Report (CPT/Inf (2016)10).

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62 See CPT/Inf (2014) 30, page 54.

63 Section 34 (8) of the Criminal Code (Law no. 300/2005).

64 No "actual lifers" were being held at Banska Bystrica Prison.

65 See *Vinter and Others v. the UK* [GC], nos. 66069/09, 130/10 and 3896/10, 9 July 2013, paragraphs 110 and 122, as well as *László Magyar v. Hungary* (application no. 73593/10), 20 May 2014, paragraphs 52 and 53.

4. Situation of high-security prisoners at Leopoldov Prison

54. The legal grounds for placement in a high-security department and the situation in the high-security department at Leopoldov Prison remained by and large unchanged since the last visit. It is recalled that a *sentenced* prisoner shall be placed in a high-security department if he/she constantly violates the internal order of the institution, refuses to fulfil his/her duties, endangers security, has escaped, attempted or planned an escape or if he/she is facing certain criminal charges. Further, a sentenced prisoner may also be placed in a high-security department if he/she is sentenced for a very serious offence that he/she has committed as a member of an organised, criminal or terrorist group, or for preventive/security reasons.[66]

Remand prisoners, shall, as a rule, be placed in a high-security "cell" if they behave aggressively, violate the internal order of the institution, pose a threat to the security in the institution or are charged with certain very serious criminal offences.[67]

At the time of the visit, ten inmates (all of them sentenced) were being held in the high-security department of Leopoldov Prison.

55. Material conditions in the high-security department of Leopoldov Prison were similar to those offered to life-sentenced prisoners (with most of the cells being paired to form "suites" as described in paragraph 43); they call for no particular comment.

56. That said, the CPT is concerned by the fact that the regime applied to prisoners accommodated in the high-security department of Leopoldov Prison was still as impoverished as observed during the 2009 and 2013 visits, with an almost total absence of organised activities.[68] Apart from one hour per day of access to the outdoor yard and an additional hour on some days in a small gym (both together with one other inmate), the prisoners concerned were remained confined alone to their cells for up to 22-23 hours on most days.

It is recalled that prisoners who present a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice regarding their activities (thus fostering a sense of autonomy and personal responsibility). The prisoners concerned should be offered a tailored programme of purposeful out-of-cell activities (education, sport, work with vocational value, etc.). Such programmes should be drawn up and reviewed on the basis of an individualised needs and risks assessment by a multi-disciplinary team, with the involvement of the inmates concerned.

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66 Section 81 of the LEPS.

67 Section 7(4) of the LERD.

68 According to staff, high-security prisoners were offered two or three group activities per month (mainly drawing and craftwork). The documentation received from the management showed that during the seven weeks preceding the CPT's visit, two inmates had once participated in a drawing/craftwork activity, one had once had "music therapy" and five had participated in occupational therapy.

Special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's inmates but also of the maintenance of effective control and security and of staff safety.

The CPT reiterates its recommendation that the Slovak authorities review the regime applied to prisoners accommodated in the high-security department of Leopoldov Prison and, where appropriate, in other prisons in the Slovak Republic, in the light of the above remarks.

57. In the CPT's view, every placement in a high-security department should be surrounded by appropriate safeguards. It is thus regrettable that important procedural requirements for such placements were still not in place.

According to the documentation examined by the delegation, the prisoners concerned were not systematically heard, and in many cases the reasoning for the placement decisions was not substantiated in detail. In one case, the reason given for such placement was indeed merely the offence for which the inmate had been sentenced. The CPT wishes to stress once again that the imposition of a high-security regime should always be based on an individual risk and needs assessment and not be the automatic result of the sentence imposed.

On a positive note, prisoners have the right to appeal against the placement decision to the supervising prosecutor who has the power to reverse the decision. However, a number of the prisoners appeared to be unaware of this appeal possibility.

The CPT reiterates its recommendation that the Slovak authorities ensure that the above-mentioned procedural requirements are formally guaranteed and implemented in practice.

58. It is positive that the amendments referred to in paragraph 36 have shortened the period for the mandatory review of placement of *sentenced* prisoners in a high-security cell from six to three months.[69]

However, despite the Committee's criticism in its previous report, there is still no corresponding legal requirement in respect of the placement of *remand* prisoners to a high-security cell.[70] **The CPT recommends that the Slovak authorities take the necessary measures to ensure that such reviews are carried out at intervals not exceeding three months.**

59. Finally, it is a matter of serious concern that high-security prisoners were frequently handcuffed during medical consultations and interventions.

In this regard**, reference is made to the remarks and recommendation in paragraph 51 (in respect of life-sentenced prisoners).**

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69 Section 81 (5) of the LEPS.

70 Pursuant to Section 7 (4) of the LERD.

5. Conditions of detention of the general prison population at Banská Bystrica Prison

a. adult prisoners

60. Material conditions of detention at Banská Bystrica Prison were on the whole satisfactory. All the cells seen by the delegation were clean and adequately equipped (bunk-beds, tables, chairs, wardrobes/shelves), with good access to natural and artificial light and sufficient ventilation. Some cells were, however, in need of refurbishment or a coat of paint.

Most inmates were accommodated in double or multiple-occupancy cells (for up to ten inmates) the vast majority of which comprised a fully partitioned sanitary annexe (composed of a toilet and in most cells also a shower). The cells measured between 8.5 and 36.5 m² (excluding the sanitary annexe).

However, a few cells were rather cramped. For instance, one cell measuring less than 14 m² was accommodating four inmates, and a cell for six prisoners of less than 19m² was being occupied by five inmates at the time of the visit. Further, some cells were not equipped with sufficient tables and chairs for the number of prisoners they accommodated.

The CPT recommends that steps be taken at Banská Bystrica Prison to ensure that:

- **the minimum standard of 4m² of living space per person in multiple-occupancy cells (not counting the area taken up by in-cell sanitary annexes) is fully respected in practice;**

- **the above-mentioned material shortcomings are remedied;**

- **all cells are equipped with sufficient tables and chairs for the number of prisoners accommodated therein.**

61. It is another matter of concern that windows on the outer prison walls were opaque, preventing a view to the outside. The prison director explained to the delegation that the windows had been made opaque in order to prevent contact between prisoners and persons on the adjacent street. **The CPT invites the Slovak authorities to ensure that cells with opaque windows are not used for long-term placement of prisoners.**

62. The outdoor yards used were located on the rooftop surrounded by high concrete walls which obstructed any outside view and lacked sports equipment. Moreover, some of the yards were too small for genuine physical exertion (measuring 9.5 and 14.5 m²). In this context, the CPT is pleased to note that the management was planning to use the larger inner yard located on the ground floor once again, at least for some categories of prisoner.

The CPT recommends that the Slovak authorities ensure that in *all* prisons inmates can have daily access to outdoor facilities large enough to enable them to physically exert themselves. Further, all such outdoor facilities should be equipped with at least some basic sports equipment.

Further, **the Committee invites the Slovak authorities to explore the possibility to enable all prisoners at Banská Bystrica Prison to have at least occasional access to an outdoor yard which allows a horizontal view.**

63. The CPT notes that many prisoners benefited from an open-door regime and that the management of Banská Bystrica Prison made efforts to provide work opportunities for the prisoners and to organise special events in which some of the inmates could participate.[71]

At the time of the visit, *sentenced prisoners* under the minimum and medium "guarding level" benefited from an open-door regime and about half of the sentenced prisoners worked[72] (apart from housekeeping, in the prison's workshops, recycling plastic or electric devices, or assembling cardboard boxes).

That said, as already stated in the previous visit report,[73] an open-door arrangement, although allowing for more association between prisoners, cannot substitute for a programme of purposeful activities including work, education, sports and recreational activities.

Moreover, the daily out-of-cell time offered to sentenced prisoners at the maximum "guarding level" was very restricted. It usually comprised one hour[74] of access to the outdoor yard and two to three hours in the evenings when prisoners could associate with other inmates in a communal room. In addition, they could go to a gym twice a week.

As regards *remand prisoners*, 48 out of the 203 of them were held under the mitigated regime with open cell doors during the day; and eleven of them worked. However, it is a matter of serious concern that the majority of remand prisoners under the standard regime were locked up in their cells for about 23 hours on most days in enforced idleness with no other activity than one hour of outdoor exercise, reading books, watching TV and access to a gym once a week. In this connection, the CPT recognises that the provision of organised activities in remand prisons, where there is likely to be a high turnover of inmates and in some cases a potential risk of collusion, poses particular challenges. However, it is not acceptable to leave prisoners to their own devices for months and even years on end.[75]

64. While acknowledging the efforts made by the management of Banská Bystrica Prison to improve the regime for inmates, **the CPT recommends that the Slovak authorities take resolute action to provide all prisoners at Banská Bystrica Prison, as well as in other Slovak prisons, with a comprehensive programme of out-of-cell activities. The aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day (i.e. eight hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association. The longer the period of imprisonment, the more developed the regime offered to prisoners should be.**

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71 The prison organised, for instance, sports competitions, concerts by popular musicians or a visit by a famous tennis player.

72 Seventy-one from the medium and 14 from the maximum "guarding level".

73 CPT/Inf (2014) 07, paragraph 77.

74 Up to three hours on weekends.

75 At the time of the visit, five remand prisoners had been held at the prison for more than two years.

65. Moreover, as was already criticised in the previous report,[76] all prisoners throughout the country, whether or not they were working, had to reimburse part of the costs of their imprisonment.

According to the response of the Slovak authorities to the report on the 2013 visit, convicted inmates were obliged to pay for the first 180 days of their remand detention regardless if they had worked or not during the period of remand detention. As a consequence, every convicted prisoner was indebted as of the very first day of serving his/her sentence.

In practice, it therefore remained the case that many inmates were leaving prison with debts which they had accrued merely due to their imprisonment. Such a state of affairs is not acceptable. Leaving prison with debts clearly impedes the re-integration of a person into society.[77] **The CPT therefore recommends that the Slovak authorities review the concept of charging inmates for the costs of imprisonment, in the light of these remarks.**

66. As regards the working terms for sentenced prisoners, the delegation was informed that some amendments had been made to the system of deductions from prisoners' salaries.[78] However, it remained the case that the overall remuneration for work was very low and was almost completely reduced by extensive deductions (insurance premiums, taxes, alimony and about 50% towards the cost of their imprisonment including the execution of their sentences[79]). For instance, prisoners working for a remuneration of 90 to 100 Euros a month received as little as seven to eleven Euros once all the deductions had been taken into account.

Furthermore, irrespective of the actual money they received, working prisoners also had to pay for basic hygiene products such as toothpaste and razor blades[80] and several of them said that they had no money left for making any phone calls.

The CPT must repeat its view that such a system of low wages and high deductions is not only demotivating but could be perceived as exploitation of the prisoners concerned as a source of inexpensive labour, which is not acceptable.

The Committee reiterates its recommendation that the Slovak authorities review the working terms and conditions for inmates and the system of deductions in order to ensure that the remuneration for their work is equitable. In this context, reference is also made to Rule 26 of the European Prison Rules.

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76 CPT/Inf (2014) 07, paragraph 85.

77 See Rule 6 of the European Prison Rules.

78 For instance, salary deductions for a "deposit account" (obligatory savings) had been abolished.

79 For further details see the response of the Slovak authorities to the CPT's 2013 report, CPT/Inf (2014) 30, page 62 et seq.

80 Only two rolls of toilet paper, soap and 50ml shampoo were provided for free for one month. In addition, one razor and one tube of toothpaste was provided every three months to indigent prisoners who had not made any purchases in the prison shop in the preceding month.

b. juvenile prisoners

67. At the time of the visit, Banská Bystrica Prison was accommodating four male juvenile prisoners on remand.

The CPT has serious concerns that the juveniles were not accommodated in a distinct juvenile unit, but in different wards for adult prisoners. Two of them were held in cells which they had to share with an adult prisoner. This was explained to the delegation by the fact that according to the law, a juvenile could not be placed together with another juvenile who had committed or was charged with a different type of offence.

In their response to the CPT's 2013 report, the Slovak authorities stated that juveniles and adults would only exceptionally be accommodated together. According to the law and a detailed methodological guideline by the General Directorate of the Corps of Prison and Court Guards (issued on 13 January 2014), such joint accommodation depended on a number of preconditions. It was for instance only possible with the continued consent of both inmates and when considered beneficial for the juvenile. Further, the adult inmate should be a carefully selected "mentor", the joint accommodation must be notified to the supervising prosecutor and the continued consent of both inmates should be subject to regular review.

The CPT recognises the Slovak authorities' efforts to find safe and beneficial accommodation arrangements for the juveniles. However, given the high risk of all forms of abuse, including sexual or other kinds of exploitation when juveniles and adults are accommodated together, the Committee must reiterate its view that when, exceptionally, juveniles are held in a prison for adults, they should always be accommodated separately from adults, in a distinct unit with supervising staff permanently present. Adult prisoners should not have access to this unit. That said, the Committee acknowledges, however, that in order to avoid juveniles being *de facto* held in a regime akin to solitary confinement, it might be permitted that juveniles participate in out-of-cell activities with adults, on the strict condition that there is appropriate supervision by staff.

The CPT once again calls upon the Slovak authorities to take the necessary steps – including at legislative level – to ensure that the above-mentioned precepts are effectively implemented in practice in all Slovak prisons. Reference is made in this respect to Rule 35.4. of the European Prison Rules and to Rule 59.1. of the European Rules for juvenile offenders subject to sanctions or measures.[81]

68. The material conditions under which the juveniles were accommodated were the same as for adult prisoners.

69. As regards the regime, the juveniles were allowed to move outside their cells for at least four hours per day as provided for by the legislation. They usually spent at least one hour in the outdoor yard and could in the evenings associate with other juvenile inmates for about three hours in a communal room. Juveniles who had not completed secondary school attended compulsory school lessons.

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[81] Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European rules for juvenile offenders subject to sanctions or measures.

According to a list received from the prison's management, the juvenile remand prisoners were in total offered five to seven hours of activities every day (mainly lectures, discussion groups, drawing, or taking care of an aquarium and indoor plants). That said, the information gathered during the visit suggests that there was a discrepancy between theory and practice.

The CPT acknowledges the efforts made by the prison management to provide activities for juvenile prisoners. However, given the particularly harmful effect of a lack of purposeful activities for young persons,[82] **the CPT would like to emphasise that juveniles held at Banská Bystrica Prison or any other Slovak prison should be provided throughout the day with a full programme of purposeful out-of-cell activities including education, sport and recreation.**

6. Health care

70. In the Slovak Republic, the responsibility for health care in prisons lies primarily with the Ministry of Justice. The policy trend in Europe has favoured prison health-care services being placed, either to a great extent, or entirely, under the responsibility of the Ministry of Health. In principle, the CPT supports this trend. In particular, it is convinced that a greater participation of health ministries in this area (including as regards recruitment of health-care staff, their in-service training, evaluation of clinical practice, certification and inspection) will help to ensure optimum health care for prisoners, as well as implementation of the general principle of the equivalence of health care in prison with that in the wider community.[83]

The CPT would like to receive the Slovak authorities' comments on this matter.

71. During the 2018 visit, the CPT's delegation fully examined the health-care services at Banská Bystrica Prison. In addition, at Leopoldov and Bratislava Prisons, the delegation focused on health-care facilities and staffing levels, as well as on medical screening of prisoners upon admission.

72. The health-care facilities at all three prisons were of a very good standard and the necessary basic medical equipment was available.

73. The health-care staff at Banská Bystrica Prison consisted of one full-time head doctor (specialised in internal medicine and infectious diseases) and four full-time nurses. In addition, the prison was once a week visited by a psychiatrist (for two to three hours per week), a dentist (for four hours per week) and an X-ray technician, and a dermatologist was present for one day every two weeks.

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82 In this context, see also the CPT's standard on juveniles deprived of their liberty under criminal legislation, CPT/Inf (2015)1.

83 See Rules 40.1 and 40.2 of the European Prison Rules and the Commentary to these rules.

At Bratislava Prison, the health-care staff consisted of one full-time head doctor (specialist of internal medicine and infectious diseases), two part-time specialists in internal medicine (ten hours per week), one part-time psychiatrist (twice a week), six full-time nurses and an X-ray technician (30 hours per week). Other specialists like a pulmonologist, a neurologist, a radiologist (once a week) and a dermatologist visited the prison between two and four times a month.

Leopoldov Prison employed three full-time and three part-time general practitioners (each working 10 hours per week), one full-time psychiatrist,[84] ten general nurses and two psychiatric nurses, two psychologists[85] and one dentist.

74. As had already been criticised by the CPT in the previous report in respect of Leopoldov Prison and other Slovak prisons, the number of doctors was insufficient in each of the prisons visited, given the additional tasks they had to fulfil. The fact that prison health-care services continued to be responsible not only for treating inmates, but also for treating prison staff, increased the doctors' workload considerably.[86]

The CPT must reiterate its reservations about such a practice. The sharing of the doctors' working time between inmates and prison staff can clearly be to the detriment of the time the doctor has available to consult with the prisoners. Moreover, such a dual responsibility may also lead to a conflict of interest, which might ultimately compromise the perception of the professional independence of prison doctors.

Without the additional responsibility for treating prison staff, the number of doctors at the establishments visited would generally be sufficient.

The Committee urges the Slovak authorities to generally review the practice of prison doctors treating both prisoners and prison staff, in the light of the above remarks.

75. Further, the number of nurses remained insufficient in the prisons visited. Thus, health-care staff were frequently not present after office hours (which ended in most prisons at 3 p.m.), at weekends or on public holidays. At these times, medicines (including psychotropic medicines) therefore had to be distributed by custodial staff. The CPT must stress that such a practice can violate medical confidentiality as medicines are visible to the distributing person. In the Committee's view, medicines should preferably be distributed by health-care staff. In any event, a list of medicines to be distributed only by health-care staff (such as anti-psychotics) should be established.

The CPT reiterates its recommendations that the Slovak authorities take steps to ensure:

- **the daily presence (including on weekends) of qualified nurses at Banská Bystrica, Bratislava and Leopoldov Prisons. This should *inter alia* make it possible to avoid the need for medication to be distributed to prisoners by custodial staff;**

- **that someone competent to provide first aid is always present in every prison establishment, including at night; preferably, this person should be a qualified nurse.**

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84 He was also the head of the health-care unit.

85 In addition, Leopoldov Prison employed eleven psychologists, mainly for risk assessments and prisoners' security classification, who were not part of the health-care team (see paragraph 83).

86 In all the prisons visited, the medical staff's working time was divided between staff and prisoners; morning hours from 7 a.m. to 10 a.m. were reserved for staff, while prisoners were received from 10 a.m. to 3 p.m.

76. The fact that many doctors in the establishments visited wore prison officers' uniforms further reinforced the perception of their lack of independence and could thus be detrimental to the development of a proper therapeutic doctor-patient relationship. **Steps should be taken to put an end to this practice. More generally, the CPT considers that additional steps are required to strengthen the professional independence of prison doctors.**[87]

77. Medical screening of newly-arrived inmates upon admission to the three prisons was systematic (usually within 24 hours) and included tuberculosis screening. However, at none of these establishments was voluntary testing for HIV and hepatitis B and C offered to all prisoners. In the interest of preventing the spread of transmissible diseases, **the CPT recommends that this shortcoming be remedied.**

78. The Committee notes that the recording of injuries during medical screening upon admission (as well as following a violent incident in prison) has slightly improved in the prisons visited. However, the descriptions of the injuries were frequently only cursory. Descriptions of injuries consistent with allegations of police ill-treatment were systematically forwarded to the Control and Inspection Service of the Ministry of the Interior.

The Committee recommends that the Slovak authorities ensure, by means such as the appropriate training of prison doctors, that the record drawn up after the medical examination of a prisoner contains:

i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment);

ii) a full and detailed account of objective medical findings based on a thorough examination;

iii) the doctor's observations in the light of i) and ii) indicating the consistency between any allegations made and the objective medical findings.

The results of the medical examination in cases of traumatic injuries should be recorded on a special form provided for this purpose, and "body charts" for marking traumatic injuries should be kept in the medical file of the detainee. Further, it would be desirable for photographs to be taken of the injuries, which should be filed in the medical record of the person concerned. In addition, documents should be compiled systematically in a special trauma register where all types of injuries should be recorded.

79. As already mentioned in paragraph 38, the CPT's delegation made an immediate observation under Article 8 (5) of the Convention about the situation of two prisoners with severe learning disabilities who were being held at Leopoldov Prison under conditions which, in its view, could easily be considered inhuman and degrading.

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87 See also paragraph 70.

80. By letter of 2 August 2018, the Slovak authorities responded, describing the severe mental state of both inmates[88] and informing the CPT of their plans to recruit a specialised nurse to enhance the inmates' "ability to acquire basic hygiene habits", to ensure regular visits by specialists (psychiatrist, psychologist, specialised pedagogue, pedagogue), to encourage daily outdoor walks and to improve the wall decoration in their cells. They further announced their intention to place the two inmates in the planned Psychiatric Detention Centre as soon as this centre opened (see paragraph 100).

81. Clearly, these steps are going in the right direction. However, more needs to be done, as a matter of urgency, to ensure that the very special needs of the two prisoners are adequately cared for. The aim should be that they can benefit, for a major part of the day, from a programme of activities based on individual care plans which provide appropriate stimulation, and support in learning to take care of their basic needs. It should also be borne in mind that special arrangements need to be made to prepare for their release after the end of their imprisonment.

The Committee urges the Slovak authorities to further improve the situation of the two inmates as a matter of priority. It would like to receive – within three months – further detailed information about the respective measures taken, including the inmates' individual care plans.

82. As regards medical confidentiality, it is a matter of concern that, despite the specific recommendations repeatedly made by the Committee after previous visits, prison officers were still frequently present during medical examinations of prisoners. From the point of view of the prevention of ill-treatment, such a practice is not acceptable, as it can clearly deter prisoners from drawing health-care professionals' attention to injuries and/or from making allegations of ill-treatment. Alternative solutions can and should be found which also meet legitimate security requirements.[89] **The CPT therefore once again calls upon the Slovak authorities to ensure that all medical examinations of prisoners are conducted out of the hearing and – unless the health-care staff member concerned expressly requests otherwise in a given case – out of the sight of non-medical staff.**

83. In order to provide psychological assistance to various categories of prisoner (including life-sentenced prisoners), each establishment employed several psychologists.[90] That said, most of them were not clinical psychologists and their role was largely limited to carrying out risk assessments and prisoners' security classification (see paragraph 35). Only a few of them were occasionally involved in clinical/therapeutic work/activities with prisoners.

The CPT recommends that the Slovak authorities reinforce the provision of psychological care at Banská Bystrica and Leopoldov Prisons, especially as regards therapeutic clinical work/activities with various categories of inmates. Therefore, additional clinical psychologists should be recruited as part of the prisons' health-care teams. With a view to enabling the development of proper therapeutic relationships with prisoners, their tasks should not include risk assessments or classification of prisoners.

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88 "Both […] are characterised as mentally challenged individuals in need of a special educational approach, with impaired communication skills and with disorders in mental and social development, with heavily impaired working and social skills (both failing to meet the standards of personal independence and social responsibility). Both inmates are mentally and socially neglected individuals, suffering from deep […] social and emotional deprivation".

89 See also footnote 57.

90 Banska Bystrica Prison employed five psychologists, Bratislava Prison two, and Leopoldov Prison eleven, in addition to the one who was part of the health-care team.

84. As regards prisoners with addiction-related problems, it is regrettable that neither Banská Bystrica nor Bratislava Prison offered medical and psychological treatment for the inmates concerned. Leopoldov Prison had a "drug treatment ward" which offered psycho-social and therapeutic activities. That said, the CPT has misgivings that in none of the prisons visited harm-reduction or opioid substitution treatment programmes were available.

The Committee must repeat its view that the management of drug-addicted prisoners be varied – combining detoxification, psychological support, socio-educational programmes, rehabilitation and substitution programmes – and linked to a proper prevention policy. It goes without saying that health-care staff must play a key role in drawing up, implementing and monitoring the respective programmes and must co-operate closely with the other (psycho-socio-educational) staff involved.

The CPT therefore reiterates its recommendation that the Slovak authorities develop and implement a comprehensive national policy for the provision of care to prisoners with drug-addiction problems. Substitution and harm-reduction programmes should be made available to inmates to the same extent as in the outside community.

85. Despite the fact that a number of prisoners had no health-care insurance and were indigent, free health care was regrettably only provided in emergency cases. These prisoners were nevertheless provided with general (non-emergency) health-care services. However, according to the staff they had to accumulate debts with the prison administration for covering the costs of these health-care services (including for necessary medication). Such a state of affairs is not acceptable.

In addition, prisoners who had health insurance had to pay for "open trade" medicines (available without a doctor's prescription, e.g. ordinary painkillers) and to pay a contribution towards the cost of certain prescribed medication, as was the case for any citizen.

In the CPT's view, the provision of health care in prisons is the State's responsibility. Given prisoners' specific health-care needs – prisons are high-risk environments in terms of morbidity due to the higher prevalence of most diseases and drug addiction – all prisoners should enjoy at least the same standards of health care that are available in the community and should always be provided with the health care (i.e. examinations, medication and treatment) which their state of health requires free-of-charge and irrespective of the grounds of their legal status.[91]

In this context, it should further be borne in mind that a healthy prison population is also in the interests of public health. Prisoners who leave the prison in good health will enter the community in good health. However, if access to health care is restricted by prisoners having to pay a contribution of the costs, prison health care will not be able to play its protective role in society. Illnesses will neither be detected nor treated and will therefore enter the community at large.

The CPT recommends that the Slovak authorities take the necessary steps to ensure that these precepts be effectively implemented in all prisons throughout the country.

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[91] See Rule 24 (1) of the United Nations Standard Minimum Rules on the Treatment of Prisoners (*Nelson Mandela Rules*).

7. Other issues

a. staff

86. Staff vacancies were highlighted as a major problem by the managements of all three prisons visited. The delegation was told that the main reason for that was that salaries offered to prison officers were not competitive with those offered in the private sector. At Bratislava Prison, 50 out of 362 posts of prison officer (including for the open prison) were vacant. Also at Leopoldov Prison, out of a total of 523 posts of prison officer, 50 posts were vacant (some of them were temporarily filled with officers seconded from Košice Prison). The situation was slightly better at Banská Bystrica Prison, with ten vacancies (out of 139 prison officer posts) at the time of the visit.

The CPT recommends that the Slovak authorities redouble their efforts to fill the vacant posts of prison officer in all three prisons visited and, where appropriate, in other prisons in the Slovak Republic, in order to guarantee security and provide prisoners with purposeful regime activities.

b. discipline

87. It is recalled that the most severe disciplinary sanctions in the Slovak prison system are whole-day placement in a disciplinary cell[92] and solitary confinement.

88. The CPT welcomes the fact that, shortly after the 2013 visit, the maximum duration of solitary confinement was decreased from 15 to 10 days for adult remand prisoners and from 20 to 14 days for adult sentenced prisoners. That said, it is regrettable that the maximum duration of uninterrupted consecutive solitary confinement may still last up to 15 days for adult remand prisoners and 21 days for adult sentenced prisoners.

Whilst acknowledging that, at Banská Bystrica Prison, solitary confinement was only rarely used as punishment in practice,[93] the CPT wishes to reiterate that given the potentially very damaging effects of solitary confinement, the maximum period for solitary confinement[94] as a punishment should be no more than 14 days for a given offence, and preferably less. Further, there should be a prohibition on sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which might call for more severe sanctions should be dealt with through the criminal justice system.

The CPT reiterates its recommendation that the Slovak authorities take further steps, including at the legislative level, to ensure that the above-mentioned precepts are effectively implemented in practice.

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92 Two prisoners may be placed in the same disciplinary cell.

93 In 2017, ten prisoners had been placed in solitary confinement (in 20 cases in total) and on eight occasions a prisoner was subject to whole-day placement in a disciplinary cell. Most placements lasted a few days, with the longest placement period in solitary confinement lasting ten days.

94 Or any other disciplinary punishment amounting to a placement in conditions akin to solitary confinement.

89. As regards juveniles, it is praiseworthy that the sanction of solitary confinement has been abolished. This is also fully in line with the United Nations Standard Minimum Rules on the Treatment of Prisoners (*Nelson Mandela Rules*).[95] Thus, the most severe disciplinary sanction for juvenile remand prisoners is whole-day placement in a disciplinary cell for up to five days for one punishment (and eight days in the case of multiple punishments), and for juvenile sentenced prisoners for up to ten days for one punishment (and 14 days in the case of multiple punishments).

In principle, juveniles may be placed in a disciplinary cell in pairs and they are allowed to participate in educational activities (provided that such activities exist). However, in the event of only one juvenile being subjected at a time to this type of sanction, the juvenile concerned may *de facto* be held in solitary confinement. **The CPT recommends that the Slovak authorities take appropriate measures throughout the prison system to prevent in such cases a situation of *de facto* solitary confinement by providing the juveniles concerned with activities and meaningful human contact during a major part of the day.**

90. The CPT welcomes the fact that, following the above-mentioned legislative changes, both remand and sentenced prisoners were no longer denied visits when serving one of the above-mentioned disciplinary punishments. That said, it is regrettable that the prohibition on making phone calls when serving any of the above-mentioned disciplinary punishments has not been abolished. Moreover, the law stipulates a ban on phone calls (for up to three months) as a separate disciplinary sanction.

The CPT reiterates its recommendation that any restrictions on family contacts as a form of punishment be imposed only where the offence relates to such contacts.[96] The relevant legislation should be amended accordingly.

91. From interviews with prisoners and staff and the consultation of disciplinary registers and records, it transpired that disciplinary procedures were usually carried out in accordance with the relevant legislation and were properly documented.

That said, it is regrettable that prison doctors were still required to certify whether a prisoner was fit to undergo the sanction of solitary confinement (or whole-day placement in a disciplinary cell). Further, it remained the case that a doctor was thereafter obliged to visit the prisoners concerned only once every three days.

The CPT must stress once again that obliging prison doctors to certify that prisoners are fit to undergo punishment is scarcely likely to promote a positive doctor-patient relationship which is crucial for safeguarding the latter's health. Further, every prisoner held in disciplinary segregation/isolation should be visited on a daily basis by a member of the health-care staff (doctor or nurse), and should be provided with prompt medical assistance as required. **The Committee reiterates its recommendation that the Slovak authorities take steps, including at the legislative level, to ensure that these precepts are implemented in all Slovak prisons.**

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95 See Rule 45 (2) of the *Nelson Mandela Rules* and Rule 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (*Havana Rules*).

96 See also Rule 60(4) of the European Prison Rules and the Commentary to that rule.

c. security-related issues

92. Strip-searching of prisoners was still a frequent occurrence in all the prisons visited. For instance, at Banská Bystrica Prison, inmates were routinely obliged to strip naked and perform a squat before and after every contact visit and whenever leaving/returning to the prison (e.g. to appear before a court).

The CPT must recall that a strip-search is a very invasive – and potentially degrading – measure. Therefore, resort to strip-searches should be based on an individual risk assessment. In order to minimise embarrassment, prisoners who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and to get dressed before removing further clothing.

The Committee reiterates its recommendation that the Slovak authorities ensure that these precepts are effectively implemented in all Slovak prisons.

93. It is regrettable that in all prisons visited custodial staff were still openly carrying batons inside the detention areas. That said, the delegation was informed that the prison administration planned to replace the currently used batons by telescopic ones which could be hidden from view. **The Committee would like to receive updated information on this matter.**

94. The Committee welcomes the fact that, at Banská Bystrica Prison, the previously used tear-gas canisters have been abolished. They were replaced by so-called "pepper-guns" which were considered safer as they disperse the tear-provoking substance in a more targeted manner than spray canisters and are thus less likely to be harmful, especially within confined spaces. This pepper gun was not part of the standard equipment but was carried by one officer per ward. The CPT notes that the device had not been used in the prison since its introduction three years earlier. Notwithstanding that, it is a matter of concern that its use was apparently not regulated in sufficient detail.

The CPT must emphasise that only exceptional circumstances can justify the use of such devices, and that such use should be surrounded by appropriate safeguards. In particular, persons exposed to a pepper-gun discharge should be supplied immediately with the means to alleviate the effects and be granted rapid access to a medical doctor. Further, a pepper-gun should never be deployed against a prisoner who has already been brought under control.

The CPT therefore recommends that the Slovak authorities draw up clear instructions governing the use of a pepper-gun which should contain *inter alia*:

- **clear criteria as to when the pepper-gun may be used;**
- **the obligation to rapidly provide prisoners exposed to a pepper-gun discharge with means of relief and to grant them immediate access to a doctor;**
- **standards regarding the qualifications, training and skills of staff members authorised to use a pepper-gun;**
- **an adequate reporting and oversight mechanism with respect to the use of a pepper-gun.**

d. contact with the outside world

95. The 2014 legal amendments (see paragraph 36) have introduced improvements in terms of visit and telephone entitlements. All prisoners are now entitled to receive, as a minimum, one visit per month for two hours and the legal minimum phone call entitlement has been increased from 15 to 20 minutes twice a month.

As regards phone calls, the CPT acknowledges that, in practice, certain categories of prisoner were regularly granted considerably more phone calls, in particular remand and juvenile prisoners at Banská Bystrica Prison and sentenced prisoners below the maximum "guarding level" at both Banská Bystrica and Leopoldov Prisons.[97] Further, many life-sentenced prisoners at Leopoldov Prison stated that with the director's approval they had recently been entitled to make one phone call of up to 25 minutes every day.

Nevertheless, the CPT must reiterate its view that *all* prisoners should be entitled and granted in practice at least one phone call a week of reasonable duration and the equivalent of at least one hour of visiting time per week (preferably, they should be able to receive a visit every week). **The Committee recommends once again that the Slovak authorities comply with the aforementioned minimum requirements.**

96. Further, the visits received by remand prisoners and sentenced prisoners at the maximum "guarding" level were systematically carried out with a glass separation between the prisoner and his/her visitors. Only "in justified cases" could the prison director authorise visits without such a separation.[98] The same rule applied to life-sentenced prisoners at Banská Bystrica Prison. At Leopoldov Prison, life-sentenced prisoners under the D1 regime could (in addition to "closed" visits with glass separation) receive visits without a glass separation four times per year and those under the D2 regime six times per year.

The CPT accepts that in certain cases it will be justified, for security-related reasons or to protect the legitimate interests of an investigation, to have visits take place in booths. However, "open" visiting arrangements should be the rule and "closed" ones the exception, for all legal categories of prisoner. Any decision to impose closed visits must always be well-founded and reasoned, and based on an individual assessment of the potential risk posed by the prisoner. Against this background, the practice described above applied to life-sentenced prisoners at Leopoldov Prison can have no reasonable justification and can only be seen as punitive.

The Committee reiterates its recommendation that all prisoners be allowed to receive visits without physical separation, except in individual cases where there may be a clear security concern.

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97 At Banska Bystrica Prison, remand prisoners in the mitigated regime had unlimited access to the phone (at their own cost) and those in the standard regime could make calls 4-8 times a month for about 30 minutes each time. Sentenced prisoners at the medium and minimum "guarding level" had daily access to a phone in the corridors as their cell doors were open most of the day. At Leopoldov Prison, the House Rules guaranteed sentenced prisoners at the medium "guarding level" two to eight calls of 25 minutes each, per month, depending on the internal differentiation group (A, B or C). Sentenced prisoners at the maximum "guarding level" could use the phone two to four times a month for 20 minutes each time.

98 Section 24 (4) of the LEPS.

97. It is regrettable that, at Banská Bystrica and Leopoldov Prisons, the visiting times for the large majority of prisoners did not include any weekend day.[99] **The CPT encourages the Slovak authorities to make arrangements at Banská Bystrica and Leopoldov Prisons and, where appropriate, in other prisons to enable prisoners to receive at least some visits at weekends.** For many relatives, this will be the only time that they are able to travel to the prison.

98. Several prisoners in the prisons visited told the delegation that they never or very rarely used the telephone or sent letters because they did not have sufficient money to pay for calls or even for stamps. Given the importance of prisoners' contact with the outside world, particularly in the context of their social rehabilitation, **the CPT invites the Slovak authorities to take the necessary steps to ensure that throughout the prison system indigent prisoners are offered the possibility to send letters and make phone calls on a regular basis (including upon admission to the prison).**

[99] For instance, according to the House Rules, life-sentenced prisoners could only receive visits on the first Thursday of every month (between 7.30 and 9.30 a.m.).

C. Psychiatric establishments

1. Preliminary remarks

99. In the course of the visit, the delegation visited, for the first time, the psychiatric department of Bratislava University Hospital – Hospital of Saints Cyril and Methodius ("Bratislava Psychiatric Department") and Hronovce Psychiatric Hospital.

The Bratislava Psychiatric Department consisted of two mixed-sex wards: ward A for acute patients and ward B for longer-term treatment.[100] The overall capacity of the department was 44 beds, including one bed reserved for the psychiatric department at a separate intensive care unit of the hospital. As a general rule, beds were evenly divided between the two wards.[101] At the time of the visit, the department was accommodating 38 adult patients (21 women and 17 men), including seven involuntary civil patients.[102] The average length of patients' stay in the department was 19 days and there were some 80 admissions a month.

Hronovce Psychiatric Hospital comprised several buildings surrounded by a large park. The overall capacity of the hospital was 270 beds, divided among an acute male and an acute female ward, a long-stay ward for female patients, two mixed-sex geriatric wards and an addictions treatment ward for male patients.[103] At the time of the visit, the hospital was accommodating 240 patients (122 men and 118 women); ten patients had been involuntarily hospitalised under civil legislation, 22 were undergoing a court-imposed protective treatment and the rest were voluntary patients.

As a general rule, the hospital was accommodating adult patients; exceptionally, a patient who had almost reached the age of 18 could be admitted if, according to his/her diagnosis, more appropriate therapeutic treatment could be provided in an establishment for adults. At the time of the visit, there was one such male patient being accommodated in the addictions treatment ward.

There were some 1,300 to 1,500 admissions to the hospital per year and the usual length of stay of a patient was between 20 and 25 days in the acute wards and 90 days in the addictions treatment ward. The most common pathologies presented by patients were psychotic disorders, affective disorders and, in the geriatric wards, dementia.

100. During several previous visits, the Slovak authorities had informed the CPT about their plans to establish a psychiatric detention centre which would accommodate persons upon whom a measure of "detention" had been imposed by a court.[104] However, the construction of the detention centre has been repeatedly postponed in the past and, as a result, at the time of the 2018 visit, the measure of detention had not yet been imposed upon any person.

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100 Male and female patients were accommodated in separate rooms.

101 According to the management of the department, the capacity of the two wards was not precisely determined; beds could be shifted between the wards depending on the needs at any given moment.

102 The department was not accommodating any patients under the court-imposed penal measure of protective treatment.

103 In addition, there was a detached long-stay ward for male patients (capacity of 40 beds), located in Pohronský Ruskov, and a supported living unit (capacity of 16 beds). These facilities were not visited by the CPT's delegation in 2018.

104 The measure of "detention" was introduced in Slovakia in the new 2005 Criminal Code (Section 81). In brief, detention may be imposed upon a person who has committed a criminal offence, suffers from a mental health problem and "his/her staying at large is dangerous".

At the beginning of the 2018 visit, the Slovak authorities stated that it was now expected that the construction of the detention centre would start at the end of 2018 or in early 2019 and that the detention centre would be operational by 2021. The establishment will be located in Hronovce, in the vicinity of the existing psychiatric hospital, and will have a capacity of 80 places. The responsibility for its operation will be shared by the Ministry of Health and the Ministry of Justice. It was expected, *inter alia*, that the opening of the centre would enable the provision of an adequate therapeutic environment for certain prisoners who were currently held in the prison system.

The CPT would like to receive confirmation that the construction of the psychiatric detention centre has now started and to be kept informed on the progress achieved. Further, **in due course, the Committee would like to receive any specific legislation/regulations governing in more detail the execution of detention in the psychiatric detention centre.**

101. The Slovak authorities also informed the delegation that it was planned to set up, by the end of 2018, "secure wards" in five existing psychiatric hospitals.[105] Their overall capacity will be 100 beds and they will serve for the placement of psychiatric patients whose stay on regular wards is particularly challenging due to the risk they present to themselves or others. Unlike in the case of court-imposed detention, placement in these secure wards will be decided by treating staff.

According to the authorities, it is expected that the setting up of the secure wards will result in an overall decrease in the use of means of restraint and will provide an opportunity for phasing out the use of net-beds (see also paragraph 126).

The CPT would like to be informed in which psychiatric hospitals secure wards have now been set up and what their capacity is. Further, **the Committee trusts that the recommendations made in this report, in particular those concerning the psychiatric treatment of patients, use of means of restraint and legal safeguards to be provided to patients, will be taken into account when developing the secure wards (which might potentially create an environment with a very strict regime).**

102. According to the Slovak authorities, in addition to a modernisation of the existing psychiatric facilities (including the setting up of the secure wards and the detention centre mentioned above), the key priorities for the near future were de-institutionalisation and the updating of the "standard preventive, diagnostic and therapeutic processes", a compendium of standards published by the Ministry of Health which define *lege artis* procedures in the provision of health care.

The CPT would like to receive more detailed information as regards the process of de-institutionalisation in Slovakia.

Further, **the CPT trusts that in the course of the updating of the standard preventive, diagnostic and therapeutic processes, due account will be taken of the recommendations made by the Committee in this report, in particular as regards the use of means of restraint and the safeguards accompanying the involuntary placement and treatment of psychiatric patients.**

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105 At Hronovce, Kremnica, Michalovce, Pezinok and Veľké Zálužie.

2. Ill-treatment

103. The delegation received no credible allegations of deliberate physical ill-treatment of patients by staff in either of the psychiatric establishments visited.

Moreover, at Hronovce Psychiatric Hospital, several patients spoke positively about staff and their caring attitude, the delegation observed that treating staff constantly interacted with patients and the overall atmosphere in the establishment was relaxed. However, as regards the Bratislava Psychiatric Department, the CPT wishes to point out that its delegation heard several disrespectful remarks by certain members of staff vis-à-vis patients.[106]

104. Episodes of inter-patient violence occasionally occurred in both establishments but the delegation gained the impression that staff generally reacted promptly.

3. Patients' living conditions

105. In both establishments visited, material conditions were on the whole satisfactory. The premises were in a good state of repair and hygiene and were adequately lit, ventilated and heated. Patients' rooms were sufficient in size (double- or triple-occupancy rooms measuring between 21 and 24 m² at Bratislava and up to four patients per room measuring between 17 and 24 m² at Hronovce) and were suitably equipped (beds, bedside tables, lockable wardrobes,[107] tables and chairs). Patients were allowed to wear their own clothes and keep some personal belongings.

That being said, at Bratislava, two adjacent patients' rooms were always interconnected with a small corridor containing a sanitary annexe (with a shower, two toilets and two washbasins). Despite the assurances provided by staff that measures are always taken to ensure the privacy of male and female patients accommodated in adjacent rooms,[108] a few isolated complaints were received that a patient of the opposite sex had infringed upon the privacy of another patient who had been using the sanitary facilities.

The CPT trusts that measures to ensure privacy of patients using the sanitary facilities at the Bratislava Psychiatric Department will be strictly adhered to.

106. Furthermore, at Hronovce, the material conditions on the female long-stay ward which was located in a separate single-storey building were rather poor. Several bigger rooms (measuring some 14 m²)[109] which were accommodating three or four patients were cramped; most of the space was taken by the beds to the extent that the entrance door could not sometimes be fully opened. Moreover, the whole building, including patients' rooms, lacked any decoration and was very

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106 For example, in response to a request to help with sending a letter, a nurse replied to a patient "this is not a post office". Moreover, remarks were made by staff that "they [patients] are all hallucinating".

107 At Hronovce, some wardrobes were located in the corridor to save space in patients' rooms.

108 According to staff, if one patient's room is occupied by male patients and the other by female patients, the corridor with the sanitary annexe is locked on one side and male patients use the toilet and shower accessible from the main corridor of the ward.

109 Smaller rooms measuring 10.5 m² were equipped with two beds.

austere; windows in patients' rooms were fitted with metal bars. In several rooms, sockets on the walls and/or lights on the ceiling were damaged. Water pipes and electrical wiring ran along the walls which accentuated the austerity of the premises. In the CPT's view, these conditions cannot be regarded as a suitable therapeutic environment for psychiatric patients; the management of the hospital shared the CPT's opinion.

At the end of the visit to this establishment, the management informed the delegation that plans existed to reconstruct another building within the compound of the hospital and to move the female long-stay ward there. However, no clear timeframe existed at the time of the visit. **The CPT would like to receive more detailed and updated information on the plans to relocate the female long-stay ward at Hronovce Psychiatric Hospital.**

In the meantime, the CPT recommends that steps be taken to improve material conditions in this ward, and in particular:

- **to decrease the occupancy levels in the triple- and quadruple-occupancy patients' rooms;**

- **to decorate the patients' rooms and the communal areas;**

- **to inspect and, where necessary, to repair plugs and lights in patients' rooms to ensure patients' safety.**

107. Further at Hronovce, the corridors and communal rooms on the two acute wards and geriatric ward I lacked any decoration and were rather austere. **This deficiency should be remedied.**

108. As regards the regime, patients in both establishments visited were free to move about their wards. They had access to communal areas on their wards which were equipped with tables, chairs, sofas and television sets and, at Hronovce, with books and newspapers, and where they could associate with other patients.

At Hronovce, the vast majority of patients were under a "free" regime; consequently, they were free to take outdoor exercise during the day within the hospital compound (unless an organised treatment activity was being provided). Patients placed under the "enhanced supervision regime" were taking daily outdoor exercise while being accompanied by a staff member (walks within the hospital compound, walks to the canteen and to the therapeutic activities provided in separate buildings).

At Bratislava, the majority of patients[110] were classified into a "blue" regime which meant that they were not allowed to leave their respective wards. The remaining patients, under a "green" regime, were theoretically allowed to leave the ward and take a walk within the premises of the hospital if accompanied by staff or visitors. However, the findings of the visit indicate that this was hardly ever the case in practice. Given that there was no outdoor exercise yard available to the patients on the wards, the majority of patients were deprived of any possibility to have access to the outdoors for several days, in particular at the beginning of their hospitalisation at the psychiatric department.

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[110] 17 patients on ward A and 15 on ward B of 38 patients accommodated in the psychiatric department at the time of the visit.

The CPT recommends that the Slovak authorities ensure that all patients at the Bratislava Psychiatric Department are offered daily access to outdoor exercise (with appropriate supervision or security if required). If necessary, a secure outdoor exercise yard should be installed at the Bratislava Psychiatric Department (which should be equipped with a means of rest and a shelter against inclement weather).

4. Staff and treatment

109. At Hronovce,[111] the staff complement comprised 22 medical doctors (covering together 19.5 full-time equivalents (FTEs)), including 18 psychiatrists, a general practitioner, a neurologist, an internist and a rehabilitation specialist, several psychologists (covering together 7.5 FTEs), 88 nurses (including 62 specialised in psychiatry), 16 auxiliary nurses ("*zdravotnický asistent*"), 30 orderlies ("*sanitár*"), 26 members of staff responsible for the provision of various therapies and several social workers (covering together 6.5 FTEs). The hospital also contracted a number of specialist doctors.[112]

Medical doctors worked Monday to Friday from 7 a.m. to 4 p.m. Outside these working hours, there was one medical doctor on duty for the whole hospital (and a psychiatrist on call). Nursing staff worked in three shifts on weekdays and in two shifts on the weekends (usually, there were two or three nurses and one auxiliary nurse present at all times on each ward).[113] Further, an "emergency auxiliary" was on duty 24/7 to intervene on the wards in the case of an incident.

The findings of the visit indicate that these staffing levels were on the whole adequate.

110. At Bratislava,[114] the health-care team consisted of ten psychiatrists, 13 nurses (four additional nursing posts were vacant), including six with a psychiatric specialisation and one rehabilitation nurse, and six orderlies (four additional orderlies were on long-term sick leave and two posts were vacant). There were also two half-time psychologists and a social worker.

Medical doctors worked from 7.30 a.m. to 3.30 p.m. and one doctor was on duty the rest of the time and on weekends. As for nursing staff, on the acute ward A, there were two nurses and two orderlies on the day shift (a 12-hour shift) and three members of the nursing staff (including at least one nurse) at night. On ward B, there was one nurse and one auxiliary nurse during the day and one nurse at night.

The CPT considers that the staffing levels of the nursing staff and their presence on the ward were inadequate, in particular taking into account the high proportion of acute patients in the psychiatric department.

The CPT recommends that, as a matter of priority, the Slovak authorities take steps to fill the vacant posts of nurses at the Bratislava Psychiatric Department. In this context, due account should be taken of the recommendations made in paragraphs 113 and 126.

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111 It is recalled that the capacity of the establishment was 270 beds.

112 For example, a dentist, a surgeon, a cardiologist, a gynaecologist and an anaesthesiologist.

113 In addition, a head nurse and a management nurse were present on weekdays between 7 a.m. and 4 p.m.

114 For a capacity of 44 beds.

111. As regards psychiatric treatment, the CPT considers that it should involve, in addition to appropriate medication and medical care, a wide range of therapeutic, rehabilitative and recreational activities. It should be based on an individualised approach, which implies the drawing up of a treatment plan for each patient, indicating the goals of treatment, the therapeutic means used and the staff member responsible. The treatment plan should also contain the outcome of a regular review of the patient's mental health condition and a review of the patient's medication.

For those patients accommodated in the acute wards, the plan should address the patient's immediate needs and identify any risk factors as well as focusing on treatment objectives and how in broad terms these will be achieved. For patients placed in the rehabilitation wards, the plans should identify early warning signs of relapse and any known triggers, and an action plan that a patient and family members should take in response to relapse. The plan should also specify the follow-up care.

Further, patients should be involved in the drafting of their individual treatment plans and their subsequent modifications, and informed of their therapeutic progress.

112. At Hronovce, the delegation gained a generally positive impression of the psychiatric treatment offered to patients. Most patients with whom the delegation spoke were aware of their medication (and some also of their diagnoses), the delegation did not observe any signs of overmedication of patients and the hospital appeared to have a sufficient quantity and range of modern medicines. Pharmacotherapy was supplemented by a range of therapeutic, rehabilitative and recreational activities, such as ergotherapy (pottery, handicrafts, assembling puzzles), socio-cultural and sports activities and hippotherapy, as well as somatic rehabilitation (physiotherapy and therapeutic physical exercises).

Medical files were well-kept and contained treatment plans which were prepared shortly after the admission of patients to the hospital. The treatment plans set out treatment goals which were frequently revised.

That being said, patients did not participate in the drawing up of their treatment plans.

The CPT recommends that patients at Hronovce Psychiatric Hospital be involved in the drawing up and subsequent modifications of their individual treatment plans and be informed of their therapeutic progress.

113. In sharp contrast, at Bratislava, no treatment plans were drawn up for the patients and psychiatric treatment was limited to pharmacotherapy. No other treatment options or recreational activities were offered to patients who thus spent their days in complete idleness, watching TV, sitting or walking in the corridor and socialising with other patients being their only distraction. The role of the psychologists was in principle limited to co-operating with the duty doctor upon admission of a patient to establish the diagnosis.[115]

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115 Only very few patients benefited from a therapeutic session with a psychologist once or twice a week.

In addition, upon admission, a number of patients received a routine and imprecise diagnosis,[116] which was then apparently not reviewed in the course of the hospitalisation. Furthermore, for two or three days following admission, the majority of patients routinely received, three times a day, injections of psychotropic medication (each time 5 mg of haloperidol and 10 mg of diazepam, irrespective of the weight, mental state and diagnosis of the patient). Following this initial period of hospitalisation, they continued to be given the same doses of the aforementioned medication in tablet form for several more days. The CPT has serious misgivings about such a routine and indiscriminate use (especially in combination with other sedative medication) of old, first generation antipsychotic medication in large doses (despite the availability in the department of newer, second generation antipsychotics).

The CPT recommends that the necessary steps be taken by the Slovak authorities to ensure that the principles set out in paragraph 111 are effectively implemented in practice at the Bratislava Psychiatric Department, and, as appropriate, in other psychiatric establishments in Slovakia. In particular, the Slovak authorities should ensure that, at the Bratislava Psychiatric Department:

- **an immediate end is put to the practice described above of routinely prescribing the same large doses of psychotropic medication for newly-admitted patients; upon admission, every patient should be thoroughly examined and any medication should be individualised according to the particular situation of the patient and his/her needs;**

- **an individual treatment plan is drawn up for every patient shortly after admission;**

- **in addition to appropriate medication, patients are offered a range of therapeutic options by a multi-disciplinary team (involving a clinical psychologist), including therapeutic, rehabilitative and recreational activities.**

114. In both establishments visited, electroconvulsive therapy (ECT) was administered to patients in its modified form (i.e. with anaesthetics and muscle relaxants), in specifically designated and adequately equipped rooms.

At Hronovce, the use of ECT was regulated by a detailed written policy, all applications of the therapy were duly recorded in a dedicated register and patients were asked to sign a specific consent form which informed them of the intervention and of the possibility to later withdraw their consent. According to the management and staff, ECT could only be applied involuntarily very exceptionally if "vital indications" existed (such as patients refusing food as a result of their mental disorder or patients suffering from depression and presenting a serious suicide risk which could not be managed by pharmacotherapy).

However, according to the register, in a number of cases, only one or two sessions of ECT were administered to a particular patient. The explanation provided to the delegation by staff that either of these were "booster sessions" if the previous full series did not have a sufficient therapeutic effect or that one or two sessions were administered if patients withdrew their consent, was neither supported by the register, nor by the personal medical files of the patients concerned.

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[116] F23.9 – Acute and transient psychotic disorder, unspecified, or F06.3 – Mood disorder due to known physiological condition.

The CPT must point out that administering only one or two sessions of ECT might indicate the use of ECT as a means of quickly subduing agitated patients which would constitute an improper use of the therapy. **The CPT encourages the Slovak authorities to take the necessary steps to ensure, including, if necessary, by issuing appropriate guidelines, that ECT is never used solely as a means of quickly subduing agitated psychiatric patients.**

115. At Bratislava, no register was maintained in the psychiatric department of the application of ECT and patients were apparently not asked to sign any specific consent to this kind of therapy.[117] Further, patients were routinely merely informed that they would receive "sleep therapy" and were kept ignorant of the nature of the intervention.

Moreover, allegations were received that ECT was frequently applied on an involuntary basis. While these allegations could not be confirmed given the lack of registration and documentation, the CPT must emphasise that frequent resort to involuntary application of ECT would be a matter of concern to the Committee.

In the light of these findings, **the CPT recommends that steps be taken by the management of Bratislava Psychiatric Department to ensure that:**

- **a clear written policy on recourse to ECT is elaborated, with a view to ensuring that ECT is only used for the proper indications and is carried out in an appropriate manner;**

- **a specific register of the use of ECT is established (and properly completed); this will greatly facilitate the oversight of the use of the therapy, supervision by the management and will provide a basis for any possible review of the practices followed;**

- **written informed consent from the patient to the use of ECT, based on full and comprehensible information, is sought and kept in the patient's file and that, save for exceptional circumstances clearly and strictly defined by law, the treatment is not administered until such time as written consent has been obtained** (see also the general remarks set out in paragraph 133);

- **recourse to ECT is part of a written individualised treatment plan, included in the patient's medical record.**

116. In both establishments visited, prior to an ECT session, patients were routinely placed in a net-bed (or, exceptionally, immobilised with fixation belts) to prevent them from ingesting food and liquids in preparation for ECT; this fact was confirmed by staff in both establishments.

Apart from the general objections to the use of net-beds set out in paragraph 126 the CPT is concerned about the use of any means of mechanical restraint for the aforementioned purposes. **The CPT recommends that the necessary steps be taken to put an end to the practice of mechanically restraining patients prior to the application of ECT with a view to preventing them from ingesting food or liquids. Alternative means of controlling the ingestion of food and/or liquids by patients should be sought. If necessary, the presence of staff on the respective wards should be increased.**

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[117] While certain members of the health-care staff claimed that patients were asked to sign a consent form for the anaesthesiologist, no such document could be presented to the delegation and there was no trace whatsoever of any such consent in the medical files of patients who had received ECT.

117. The provision of somatic care did not appear to pose a major difficulty in either of the establishments visited. Hronovce Psychiatric Hospital contracted several specialists[118] and psychiatric patients requiring in-patient somatic care were transferred to one of the hospitals nearby. At Bratislava, somatic care was provided by specialists called in from the other departments of the university hospital.

118. As regards deaths of patients, according to the registers examined by the delegation, at Bratislava, there were up to five cases per year (between 2012 and 2017). At Hronovce, there were 14 cases in 2016, seven in 2017 and three between January and March 2018. Most of the cases in the latter establishment occurred on the geriatric wards.

At Hronovce, the delegation examined in more detail two cases of death of patients.

In one case, a patient died shortly after a minor incident with another patient. The police were called to the establishment to investigate the circumstances of the case and, within the criminal investigation, a forensic autopsy was carried out to establish the cause of death and any possible link between the incident and the death of the patient.

In the other case, a patient had been chemically and mechanically restrained upon admission to the hospital, had been continuously fixated to the bed for four days and died whilst being attached to the bed. The autopsy which was carried out established as the cause of death bilateral bacterial pneumonia.

The CPT notes that in both cases, an autopsy was carried out to establish the cause of death and that in the first case, the police was called to the establishment to carry out an investigation.[119]

However, the CPT is concerned by the fact that, as a general rule, when autopsies are carried out, the conclusions are not communicated to the psychiatric hospital. The situation in this respect was the same at Bratislava.

The CPT recommends that a record of the clinical causes of patients' death be kept at the establishment where the patient died and that if an autopsy is performed, its conclusions be systematically communicated to the establishment.

119. Moreover, as regards the second case described above, and in addition to the misgivings about the length of the fixation as such,[120] it is a matter of concern that, apart from the autopsy to establish the cause of death, there was apparently neither an external nor an internal inquiry into the circumstances of the case.[121]

The CPT considers that whenever a death of a psychiatric patient occurs in connection with any use of force, the use of means of restraint and/or instances of inter-patient violence, in addition to an autopsy, a thorough inquiry should be carried out.[122] Apart from establishing the cause of death, this will provide an opportunity to clarify all the circumstances surrounding the death of the patient concerned, including any contributing factors and the therapeutic approach applied in the given case, and to more effectively prevent similar incidents in the future.

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118 See paragraph 109.

119 The police investigation concluded that the act was not a criminal offence.

120 See paragraph 122.

121 The written records made available to the delegation ("*hlásenie o nezhode"*) only concern the circumstances surrounding the admission of the patient to the hospital and his initial fixation and chemical restraint, not an inquiry into the death of the patient four days later.

122 In addition to, where appropriate, a criminal investigation.

The CPT recommends that the Slovak authorities institute a practice of carrying out a thorough inquiry into every death of a patient which occurs in connection with any use of force, the use of means of restraint and/or instances of inter-patient violence, in particular with a view to ascertaining whether there are lessons to be learned as regards operating procedures.

5. Means of restraint

120. The CPT notes that the Slovak Health Care Act[123] does not contain any provisions on the use of means of restraint in psychiatric settings. Instead, this issue is regulated by Guidelines no. 29/2009 of the Ministry of Health.[124] Further, the CPT notes that the Guidelines do not address the issue of chemical restraint (i.e. forcible administration of medication for the purpose of controlling a patient's behaviour).

In the CPT's opinion, all types of restraint and the criteria for their use should be regulated by law (as is the case in the Slovak Republic for the use of means of restraint in social care establishments (see paragraph 153).

121. Further, the CPT considers that every psychiatric establishment should have a comprehensive, carefully developed policy on restraint. The involvement and support of both staff and management in elaborating the policy is essential. Such a policy should be aimed at preventing as far as possible the resort to means of restraint and should make clear which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. The policy should also contain sections on other important issues such as: staff training; recording; internal and external reporting mechanisms; debriefing; and complaints procedures. Further, patients should be provided with relevant information on the establishment's restraint policy.

Patients should not be subjected to mechanical restraint in view of other patients (unless the patient explicitly expresses a wish to remain in the company of a certain fellow patient); visits by other patients should only take place with the express consent of the restrained patient.

The duration of the use of means of mechanical restraint (and seclusion) should be for the shortest possible time (usually minutes rather than hours), and should always be terminated when the underlying reasons for their use have ceased. Applying mechanical restraint for days on end cannot have any justification and could, in the CPT's view, amount to ill-treatment. The real risks associated with prolonged mechanical restraint may well be illustrated by the case of the death of a patient described in paragraphs 118 and 119.

Every patient who is subjected to mechanical restraint should be subjected to continuous supervision – a qualified member of staff should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance. Clearly, video surveillance cannot replace continuous staff presence.

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123 Law no. 576/2004.

124 *Odborné usmernenie 29/2009.*

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

A specific register should be established to record all instances of recourse to means of restraint (including chemical restraint). This should supplement the records contained within the patient's personal medical file. The entries in the register should include the time at which the measure began and ended; the circumstances of the case; the reasons for resorting to the measure; the name of the doctor who ordered or approved it; and an account of any injuries sustained by patients or staff. Patients should be entitled to attach comments to the register, and should be informed of this entitlement; at their request, they should receive a copy of the full entry.

122. In both establishments visited, patients could be subjected to manual control, mechanical restraint (either fixated to a bed with belts or placed in a net-bed)[125] or restrained chemically.

It is positive that at Hronovce, there was a detailed internal policy on restraint (including chemical restraint) and any recourse to restraint measures was registered in the patients' individual medical files and a central register. Application of restraint was as a rule ordered by a medical doctor, or, in case of emergency, by a nurse who then reported to a medical doctor. According to the register of restraint, the use of fixation belts was rather infrequent (up to three cases per month for several months preceding the visit) and there had been an overall decrease in the use of means of restraint over the past years. However, albeit very exceptionally, the period of fixation could last for several days (as illustrated by the case described in paragraph 118).

123. At Bratislava, there were no written guidelines on the use of means of restraint and, due to the lack of a dedicated register, the delegation could not fully assess the frequency and duration of resort to means of restraint. Resort to restraint measures was only recorded in individual medical files which, however, did not always indicate reasons for their use, the name of the doctor who ordered or approved it and the time when the measure was terminated. According to individual medical files of patients, the periods of fixation frequently lasted for several hours and could last for up to 12 hours.

124. At Bratislava, immobilised patients were only checked by a nurse once every hour or two. The situation in this respect was better at Hronovce where patients subjected to mechanical restraint were checked by a nurse every 15 minutes.

Further, the information gathered during the visit clearly indicates that in both establishments, patients were frequently subjected to mechanical restraint (i.e. with fixation belts or placed in a net-bed) in view of other patients.

125. **The CPT recommends that the precepts set out in paragraph 121 be effectively implemented at Hronovce Psychiatric Hospital, at the Bratislava Psychiatric Department, and, where appropriate, in other psychiatric establishments in Slovakia.**

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[125] There were 12 net-beds at Hronovce Psychiatric Hospital and three at Bratislava Psychiatric Department.

In particular at Bratislava Psychiatric Department steps should be taken to ensure that:

- **a policy on restraint is developed and scrupulously applied in practice;**

- **a register of restraint is maintained and duly filled out in the establishment, in addition to the comprehensive records made in the patients' personal medical files;**

- **efforts are made to shorten the periods of fixation of patients to a bed.**

Further, in both establishments visited, patients subjected to mechanical restraint should be subjected to continuous, direct and personal supervision by a qualified member of staff and should not be mechanically restrained in view of other patients.

126. In both establishments visited, net-beds were still regularly being used for restraint of agitated/aggressive patients[126] and that patients were being placed therein in view of other patients, without continuous, direct and personal supervision by staff.

During the visit, the CPT's delegation received conflicting information from various interlocutors as regards future plans concerning net-beds. Some interlocutors stated that the setting-up of secure wards in several psychiatric hospitals would provide an opportunity for their phasing-out,[127] while other interlocutors insisted on the need to continue using net-beds, for example to avoid the need to resort to fixation of patients to a bed.

The CPT has repeatedly stressed its misgivings about the use of net-beds in order to control patients in a state of agitation. The Committee does not agree that the phasing-out of net-beds invariably leads to an increased use of other means of restraint. Indeed, a number of accompanying measures may be needed to avoid a simple substitution of net-beds by other restraint measures. For example, staffing levels in facilities providing psychiatric care may need to be reviewed and staff may need to be provided with specialised training in de-escalation techniques and methods of safe manual control. Further, for patients who need protective measures, such as persons with impaired mobility or nocturnal disorders (e.g. disorientation/sleepwalking), more suitable protective means than net-beds may be found to ensure their safety (e.g. hospital beds which can be lowered and/or which are equipped with boards along the sides and enable the staff to assist the patient from both sides).

The CPT recommends that the Slovak authorities take the necessary steps to ensure that net-beds are withdrawn from service in all psychiatric hospitals in Slovakia. To this end, a nationwide co-ordinated approach should be taken to analyse the current use of net-beds, to identify the real needs and to analyse the necessary steps to be taken to phase them out without replacing them by other means of restraint. If necessary, human resources in establishments providing psychiatric care should be reviewed and staff should be provided with specialised training in de-escalation techniques and methods of safe manual control.

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126 See also paragraph 116.

127 See also paragraph 101.

127. Moreover, net-beds at Bratislava were even being used as "ordinary" beds for patients who do not require any specific protective measures or restraint. Although in such cases, the net-beds were kept open on one side, it is clear that the beds created an oppressive atmosphere and had an intimidating effect on patients.

The CPT recommends that the Slovak authorities take immediate steps to ensure that an end is put to the use of net-beds as "ordinary" hospital beds; every patient at the Bratislava Psychiatric Department should be provided with a standard hospital bed.

128. Despite the fact that a duty doctor was present in both establishments at all times[128] and could be contacted and intervene, PRN prescriptions ('in case of need' or 'p.p.' in Slovak) were frequently used for the application of means of restraint, both mechanical and, at Bratislava, chemical. According to the records in the patients' individual medical files, the application of restraint measures in such cases was frequently either not reported to a doctor,[129] or the doctor did not promptly check the patient concerned.

The CPT has serious reservations about the use of PRN prescriptions for any means of restraint if the actual application of restraint is then not ordered by or immediately brought to the attention of a doctor. Such a practice might place too much responsibility on nurses as regards the assessment of the patient's mental state and, in the case of rapidly acting tranquillisers, the provision of an adequate response, in the absence of a medical doctor, to potential complications. It may also reduce the nursing team's motivation to attempt de-escalation of the situation by other means and consequently open the door to abuse.

The CPT recommends that the Slovak authorities take the necessary steps to ensure that every resort to means of restraint is always expressly ordered by a doctor after an individual assessment, or is immediately brought to the attention of a doctor with a view to seeking his/her approval. To this end, the doctor should examine the patient concerned as soon as possible. No blanket authorisation should be accepted.

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128 See paragraphs 109 and 110.

129 In some medical files, there was a note explicitly stating that the application of means of restraint does not need to be reported to a doctor.

6. Safeguards

129. By virtue of the Health Care Act, persons may be subjected to civil involuntary placement in a psychiatric establishment if they pose a danger to themselves or their "surroundings" or if there is a risk that their state of health will considerably deteriorate.[130] Any involuntary admission must be reported to the court within 24 hours of the admission. The same rule applies if a voluntary patient withdraws his/her consent or if his/her "freedom of movement" or "contact with the outside world" is limited.

Pursuant to Sections 252 to 271 of the Code of non-litigious civil proceedings (CNCP),[131] the court should hear the patient and, within five days of the admission, must take a decision as to the lawfulness of the involuntary admission, which should be delivered to the patient. However, the court may decide not to hear the patient and not to deliver him/her the decision if the questioning would be to the detriment of the patient's mental state[132] or if he/she would not understand the contents of the decision.

The patient concerned may appeal against the decision on involuntary admission within 15 days (see, however, paragraph 130).

If the court has declared the involuntary admission lawful, it pursues judicial proceedings to examine the admissibility of continued detention in the psychiatric establishment. In the context of these continued proceedings, the court must appoint a medical expert independent of the establishment to assess the mental state of the patient.[133] A decision on the continued detention must be taken by the court within three months.

After a maximum period of one year, the court must initiate proceedings to review the involuntary stay. In addition, the patient, his/her representative or a relative may request the court to institute these proceedings at any moment.

The establishment may discharge the patient at any moment and must do so if the court decides that the involuntary admission or continued detention is not lawful.

130. The examination of the relevant files[134] revealed that the procedural time-limits were respected in practice. At Hronovce, the court usually heard the patient during the proceedings and delivered the decision to him/her.

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130 See Sections 9(4) and 6(9)d of the Act.

131 Law no. 161/2015.

132 In any case, the court must hear the patient if he/she explicitly requests to be heard.

133 As regards the hearing of the patient concerned, the same rules apply as those described above with respect to the initial decision on the lawfulness of the involuntary placement.

134 Given the relatively short stays of patients in both establishments visited, their files did not contain any court decisions on continued detention or decisions on the review of the continued detention.

That being said, at Bratislava, in the vast majority of cases examined by the delegation, patients were not heard by the court and court decisions were not delivered to them. To better illustrate the impact of the situation on the patients, reference may be made to the case of a patient who had been heard by the court and who, when interviewed by the CPT's delegation, claimed that she was still waiting for a court decision about her involuntary admission; the examination of her administrative file revealed that the decision had been delivered to the establishment but the court had decided not to deliver it to the patient concerned. Consequently, the patient was neither informed of the decision taken by the court, nor of the possibility to lodge an appeal.

Moreover, the court decisions seen by the delegation systematically relied on the opinion of the treating doctor and their reasoning was repetitive and superficial. Further, patients were formally appointed guardians *ad litem* who, however, never met the patients.

The CPT recommends that the Slovak authorities take steps, including at legislative level, to ensure that patients who are admitted to a psychiatric hospital on an involuntary basis are heard in person by the court during placement procedures and that they receive a copy of any court decision on involuntary placement. Further, steps should be taken to ensure that guardians *ad litem* carry out their role effectively.

131. Further, at Bratislava, the delegation met several patients who had signed a consent form to their hospitalisation upon admission but who were later prevented by staff from leaving the psychiatric department in spite of clearly expressing their wish to do so. It is striking in this context that several members of staff met by the CPT's delegation during the visit were unaware which patient was voluntary and which involuntary and could not distinguish the difference. If patients (whether voluntary or involuntary) "escaped", staff would call the police to search for the patient and bring him/her back.

The CPT recommends that if the provision of in-patient care to a voluntary patient who wishes to leave the hospital is considered necessary, the involuntary civil placement procedure provided by the law should be fully applied (in line with the relevant national legislation).

132. The information gathered during the visit indicates that in Slovakia, persons who have been deprived of their legal capacity and have been hospitalised with the consent of their guardian are regarded as voluntary. However, when such patients express a wish to leave the hospital they are not allowed to do so. Thus, they are *de facto* deprived of their liberty[135] without benefiting from any appropriate safeguards.

The CPT recommends that the Slovak authorities take the necessary steps, including at legislative level, to ensure that the involuntary civil placement procedure provided by the law is fully applied to all legally incapacitated patients, whether or not they have a guardian, from whose conduct it is obvious that they are opposed to their placement.

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135 The CPT notes in this context that the ECtHR has concluded in several cases concerning the placement in a closed establishment of a legally incapacitated person under guardianship from whose conduct it was obvious that he or she did not consent to his or her placement that he/she must be regarded as being "deprived of his or her liberty" within the meaning of Article 5, paragraph 1, of the European Convention on Human Rights, despite the approval of the guardian (see, for example, the Grand Chamber judgment in the case of *Stanev v. Bulgaria*, no. 36760/06, § 132, 17 January 2012, and *Červenka v. the Czech Republic*, no. 62507/12, §§ 103-104, 13 October 2016).

133. The relevant legislation[136] does not make a clear distinction between consent to placement and consent to treatment and, in practice, a court decision on involuntary placement in a psychiatric establishment is considered to be a sufficient basis for any involuntary treatment regarded to be appropriate by the treating doctor (with the notable exception of ECT at Hronovce – see paragraph 114). Moreover, the CNCP does not provide for any procedure on involuntary treatment of (psychiatric) patients.

Reference should be made in this context to the case examined by the delegation at the Bratislava Psychiatric Department of a patient admitted on a voluntary basis who later disagreed with the application of ECT (while still agreeing to his hospitalisation). After the case was referred to the court, the court merely declared that "the involuntary admission to the health-care facility was lawful". This case not only illustrates the purely formalistic approach taken by the court but also a structural problem in the Health Care Act (and a lack of procedural provisions) which does not distinguish between involuntary placement and involuntary treatment in a psychiatric establishment.

Further, as regards voluntary patients, the ambiguous approach taken by the legislation was also reflected on the consent forms which the patients were given to sign upon admission; in both establishments visited, by signing the forms, patients agreed to hospitalisation and, at the same time, gave a blanket agreement to undergo any treatment as regarded appropriate by the treating doctor.

It is also noteworthy that by virtue of Section 6(9)(b) of the Health Care Act, informed consent to treatment is not sought from patients under the court-imposed criminal measure of protective treatment.

In the CPT's view, consent to hospitalisation and consent to treatment are two distinct issues and patients should be requested to express their position on both of these issues separately.

As a matter of principle, psychiatric patients should be placed in a position to give their free and informed consent to treatment. The admission of a person to a psychiatric establishment on an involuntary basis, be it in the context of civil or criminal proceedings, should not preclude seeking informed consent to treatment. Every patient, whether voluntary or involuntary, should be fully informed about the intended treatment. Further, every patient capable of discernment should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances and should be accompanied by appropriate safeguards.

The relevant legislation should require a second psychiatric opinion (i.e. from a psychiatrist not involved in the treatment of the patient concerned) in any case where a patient does not agree with the treatment proposed by the establishment's doctors (even if his/her guardian consents to the treatment); further, patients should be able to challenge a compulsory treatment decision (or the consent provided by the guardian)[137] before an independent outside authority and should be informed in writing of this right.

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136 See Section 6(9)d of the Health Care Act and Sections 252 to 271 of the CNCP.

137 According to Section 6(6)(b) of the Health Care Act, informed consent to treatment shall be provided by the guardian of the person if the person himself or herself is not capable of providing it. However, the person shall be involved in the decision-making to the greatest possible extent his or her faculties allow.

Whenever consent to treatment is given by a patient upon admission, the patient concerned should be continuously kept informed of the treatment applied to him/her and placed in a position to withdraw his/her consent at any time.

The CPT recommends that the Slovak authorities take appropriate steps to ensure that the above-mentioned precepts are effectively implemented in all psychiatric establishments in Slovakia. To this end, the relevant legal provisions should be amended accordingly.

134. As regards arrangements for patients' contact with the outside world, it is positive that in both establishments visited, patients could receive visits (three times a week at Hronovce and daily at Bratislava) and could receive phone calls on public phones located on the wards. At Hronovce, patients' mobile phones had to be deposited but could be used by patients three times a week as a minimum.

However, at Bratislava, the use of mobile phones was prohibited and, according to the information displayed on the wards, visitors were not allowed to lend mobile phones to patients. In practice, patients in this establishment were only allowed one phone call from the nurses' office upon admission and one shortly before discharge from the psychiatric department.[138]

The CPT recommends that patients at the Bratislava Psychiatric Department be granted regular access to a telephone. In this regard, **the CPT considers that allowing patients to retain their mobile phones is a good practice given how much a phone is often an integral part of a person's daily life. Any restrictions on access to mobile phones should be clearly regulated by hospitals and explained to patients.**

135. In both establishments visited, a number of information materials were displayed on the wards, including patients' rights, daily routine on the wards and basic information about the involuntary placement procedure. In addition, at Hronovce, an information brochure existed which provided some additional information. However, no such brochure existed at *Bratislava*.

The CPT considers that an information brochure, available in an appropriate range of languages, setting out the facility's routine and patients' rights – including information on legal assistance, review of placement (and the patient's right to challenge this), consent to treatment and complaints procedures (including with clearly designated outside bodies) – should be drawn up and issued to all patients on admission to a psychiatric establishment, as well as to their families. Patients unable to understand this brochure should receive appropriate assistance.

The CPT recommends that such an information brochure be drawn up and given to patients and their families at the Bratislava Psychiatric Department and, as appropriate, in other psychiatric establishments in Slovakia. The existing information materials should be reviewed to ensure that they provide comprehensive information, in the light of the above remarks.

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138 In both establishments, additional phone calls had to be approved by the treating doctor.

136. During the visit, the CPT's delegation could not obtain a clear picture of the avenues of complaint available to psychiatric patients and when asked, the patients themselves were not aware of any.

The CPT would like to receive the information from the Slovak authorities as to what avenues of complaint are available to patients in psychiatric establishments.

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137. By way of conclusion, the CPT must express its concern about the situation observed by its delegation at Bratislava Psychiatric Department, in particular the routine injections of psychotropic medication administered for several days to newly-admitted patients, the inappropriate use of means of restraint, ignoring the will of voluntary patients to leave the establishment, the disrespectful remarks by staff vis-à-vis patients and the very limited patients' contact with the outside world. In the Committee's view, the cumulative effect of these shortcomings carries a risk of degrading treatment.

The CPT trusts that the effective implementation in practice at Bratislava Psychiatric Department of the recommendations made in this report will facilitate a fundamental overhaul of the approach towards patients in this establishment.

D. Social care institutions

1. Preliminary remarks

138. The basic legal framework governing the situation of residents in social care establishments in Slovakia is laid down by the 2008 Social Services Act.[139] The Act regulates, *inter alia*, the procedures for admission of a person to a social care establishment and the use of means of restraint in this type of establishment (for more details, see paragraphs 153 and 155).

The overall responsibility for the functioning and funding of social care establishments is vested with regional authorities; by virtue of Section 98 of the 2008 Social Services Act, the Ministry of Labour, Social Affairs and Family exercises supervision over the provision of social services.

139. Veľký Blh Social Care Home, visited for the first time by the CPT, was opened in 1959 as a home for the elderly and was transformed into a social care home in the mid-1960s. It is located on the outskirts of a small village in a remote area, in a manor dating from the second half of the 18th century, surrounded by a large park.[140] Residents' bedrooms were located on the first floor and in the attics of the manor.

At the time of the visit, the full capacity of the home (100 places) was being used; there were 61 residents on the open ward for "mobile" residents and 39 residents on a closed ward for "bed-ridden" residents (and in fact also for residents with reduced mobility). All the residents were adult women[141] and the length of their stay in the home ranged between six months and almost 60 years. The vast majority of them had a psychiatric diagnosis (the primary diagnosis was a learning disability for 36 residents, schizophrenia for 36 residents and other mental disorders in 25 cases).

140. The CPT's delegation was informed by the national authorities of their plans to transform the remaining big social care establishments, such as the one visited by the delegation, and prioritise the provision of social care services in the community. **The CPT would like to receive more information on those plans.**

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139 Law no. 448/2008 which replaced the 1998 Act on Social Assistance (Law no. 195/1998).

140 Both the manor and the park are classified as national cultural heritage.

141 A decision has been taken by the regional authority operating the home that a place in the establishment may be allocated to a male resident; however, this possibility has not been taken advantage of in practice.

2. Ill-treatment

141. It is positive that the vast majority of residents interviewed by the delegation made no allegations of ill-treatment by staff. Many residents spoke positively about staff and praised them for their work and caring attitude. Further, the CPT's delegation observed that staff constantly interacted with the residents and the overall atmosphere in the establishment was relaxed.

That said, a few isolated allegations were heard that disobedient residents had been slapped by staff. At the end of the visit to the establishment, the management assured the delegation that no such behaviour by staff would be tolerated. **The CPT notes this commitment and encourages the management to continue their efforts to prevent any possible ill-treatment of the residents by staff. In this context, staff should be reminded that all forms of ill-treatment of residents by staff are unacceptable and will be punished accordingly.**

142. Some instances of violence between residents occurred but staff appeared to react appropriately and in a timely manner. Moreover, to prevent conflicts, efforts were being made to allocate (and re-locate) residents to accommodation rooms and activity groups whilst taking into account their personality and preferences.

That said, the findings of the visit indicate that several factors contributed to the occurrence of conflicts between residents, in particular the low number of staff present in the accommodation areas, especially at night and during weekends, the dormitory-type accommodation with up to eight residents in a room and the joint accommodation in the establishment of residents with a mental disorder and residents with a learning disability.

3. Living conditions

143. As regards material conditions, all the premises seen by the delegation were clean and efforts were generally made to keep them in an appropriate state of repair. At the time of the visit, old windows on one side of the building were already being replaced and, on that occasion, metal bars were being removed.[142] This is a welcome development.

Residents' rooms/dormitories had sufficient access to natural light and artificial lighting, were appropriately heated and ventilated and were adequately equipped with furniture (beds with full bedding, bedside tables, wardrobes, shelves, tables and chairs/armchairs). Residents were allowed to keep a number of personal belongings (photos, plants, toys, watches, radios and televisions), personalise their rooms (including the choice of colours on the walls), wear their own clothes and most of them had a key to their wardrobe.

The rooms/dormitories varied in size and occupancy but generally provided sufficient living space for the residents (for example, a room measuring 18 m² was accommodating three residents, several rooms accommodating six residents measured between 35 and 40 m² and the biggest room (46 m²) had eight residents).

Material conditions in the sanitary annexes, accessible from the corridors, were acceptable and do not call for particular comments.

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142 Plans also existed to replace all the windows in the establishment and remove the metal bars.

144. However, material conditions in one of the rooms on the closed ward (room 222), in the past used as a segregation room for agitated residents,[143] were very poor. At the time of the visit, the room was accommodating three residents with a severe learning disability. The only equipment in the room was three metal hospital-type beds, a table and a chair and metal bedside tables. The walls were scratched and needed redecorating and the window was fitted on the inside with metal bars. The door of the room was prison-like, with a peep-hole covered on the outside, and was damaged on the inside. A total lack of any decoration underlined the austerity of the room. On the first day of the visit, the door-handle on the inside of the door was missing (and once closed, the door could not be opened from the inside); this deficiency had been remedied by the second day of the visit.

The management of the establishment informed the delegation that there were plans to refurbish the room. **The CPT would like to receive confirmation that this has been completed.**

145. Moreover, some parts of the establishment, in particular the corridors in the attics, needed redecorating. The delegation was informed that this would be done once a lift has been installed.[144] Moreover, some of the rooms on the closed ward were rather austere and their decoration could be improved. **The CPT trusts that these deficiencies will be remedied.**

146. More generally, the CPT must point out that the premises of the social care home were not purpose-built and suffered from a number of structural deficiencies.

In particular, residents' rooms/dormitories accommodated up to eight residents which compromised their privacy and may be problematic if there was a resident with challenging behaviour. Further, due to the lack of a lift, the accommodation of bed-ridden residents and residents with reduced mobility on the first floor could cause a life-threatening situation in the case of an emergency. As regards the very limited possibility of access to the outdoors for residents from the closed ward, reference is made to paragraph 148.

The CPT notes the information provided to its delegation by the management that funds had already been allocated to the establishment and that a lift should be installed in the foreseeable future. **The Committee would like to receive confirmation that this has been done.** Further, **the Committee would like to receive information how an evacuation of residents from the first floor will be carried out in the case of fire.**

147. Moreover, in the CPT's opinion, given the structural deficiencies described above and despite the efforts made by staff, the existing material conditions were not conducive to creating a suitable therapeutic environment for the residents.

The CPT would like to receive the comments of the Slovak authorities on this issue, including as regards the possibility of re-locating the Veľký Blh Social Care Home to other, more suitable, premises.

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143 See, however, paragraph 154.

144 See paragraph 146.

148. As for access to the outdoors, residents from the open ward had in principle unrestricted access to the park surrounding the accommodation building.

However, only a few residents accommodated on the closed ward located on the first floor had occasional access to the outdoors (if accompanied by staff) and some more had access to a balcony when the weather was nice during the summer. Consequently, approximately one half of the residents from the closed ward did not benefit from any outdoor access.

The CPT recommends that the necessary steps be taken by the Slovak authorities to ensure that all residents from the closed ward at Veľký Blh Social Care Home have effective daily outdoor access.

4. Staff and treatment

149. As regards the complement of staff directly providing care to the residents,[145] there were six nurses (most of them having a psychiatric specialisation),[146] nine care workers,[147] six therapists providing work therapy, nine social rehabilitation instructors and five social workers. A psychiatrist visited the establishment once a week, usually for half a day.

On the closed ward, there was usually one nurse and two caretakers on the dayshift every day, as well as an additional work therapist or social rehabilitation instructor on working days. On the open ward, there were usually two nurses and seven or eight therapists providing work therapy and social rehabilitation instructors during the day. The night shift consisted of one nurse on each ward.

The CPT considers that these staffing levels were clearly insufficient and did not allow for an adequate presence of staff on the wards, which had a negative impact on several aspects of life in the establishment, in particular the access of residents from the closed ward to the outdoors, prevention of inter-resident tensions and the provision of more individualised treatment.

The CPT recommends that the staffing levels at Veľký Blh Social Care Home be thoroughly reviewed. In particular, the number of nurses on the closed ward and their presence on the ward should be significantly increased, including at night.

150. Residents were never locked in their rooms and were free to move about their wards. They had access to communal rooms and could associate freely with other residents on the wards.

The delegation gained an overall positive impression of the activities offered to residents and noted the efforts made by the current staff. For example, residents were offered ergotherapy (handicrafts, drawing/painting) and work therapy (taking care of domestic animals, work in a garden/greenhouse), as well as socio-cultural and sports activities. In addition, several residents were involved in domestic tasks (helping in the kitchen or laundry room).

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145 It is recalled that the capacity of the establishment was 100 beds.

146 For budgetary reasons, formally, there was half a post of a nurse and five and a half posts of a nursing assistant. However, all six persons were fully qualified nurses.

147 Staff with secondary level education and a training in care work.

However, **the findings of the visit indicate that the residents would benefit from a more individualised approach which would require more thorough assessment of the needs presented by the residents, the drawing up of individual treatment/care plans for each resident, the provision of individualised therapy and the assessment of residents' progress.** Indeed, such an individualised approach may imply an increase in the numbers of therapeutic staff and in the presence of a psychiatrist in the establishment.

151. As already noted in paragraph 142, residents with learning disabilities were accommodated together in the same rooms/dormitories with residents who suffered from other mental disorders. The CPT has misgivings about such a practice and **recommends that steps be taken to ensure a better allocation of residents, so that those** with learning disabilities **are separated from those suffering from other mental disorders.**

152. The provision of somatic care did not appear to pose a major difficulty. Residents were usually taken to the nearby village to be examined and receive treatment from a general practitioner, a gynaecologist and a dentist. If necessary, emergency services from the village could be called.

5. Means of restraint

153. The use of means of restraint in social care establishments is regulated by Section 10 of the 2008 Social Services Act; this provision distinguishes between 'non-bodily' restraint (verbal communication, distracting the attention and active listening) and 'bodily' restraint (manual control, placement in a safe room and use of medication upon prescription by a psychiatrist). Means of restraint may only be applied if the life or health of the resident or other persons is directly endangered and for the time necessary to remove the immediate danger. The use of 'non-bodily' restraint should be given priority over the 'bodily' restraint. Resort to bodily restraint must be ordered or approved by a psychiatrist.[148] All resort to means of restraint must be registered in a dedicated register and reported to the Ministry of Labour, Social Affairs and Family.

154. The examination of the register of restraint maintained in the establishment visited revealed that means of restraint were used very rarely and that their use was duly recorded. Of the five cases registered between 2013 and 2017, two concerned verbal persuasion and three manual control (in one case in combination with chemical restraint).

That said, the CPT's delegation received several allegations during the visit that the room described in paragraph 144 was still being used for segregation of agitated residents.

In the CPT's view, the seclusion of agitated residents who represent a danger to themselves or others may exceptionally be necessary. However, **the place where a resident is secluded should be specially designed for that specific purpose – it should be safe and promote a calming environment for the person concerned – and there should be a continuous supervision by a member of staff. Moreover, the measure should be recorded in a central register of restraint.**

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148 The use of chemical restraint cannot be approved by a psychiatrist *ex post*.

6. Safeguards

155. The relevant legislation does not provide for an involuntary placement procedure in social care establishments. By virtue of Section 74 (1) of the 2008 Social Services Act, the admission of a resident is based on a contract which must be signed by the resident or, if he/she is legally incapacitated, by a court-appointed guardian. The contract may be terminated at any time (and the resident must then be discharged from the establishment). However, in the case of legally incapacitated residents, the termination of the contract may only be carried out by the guardian. There is neither a procedure to review the need for continued placement of residents in social care establishments, nor a procedure which would allow incapacitated residents to request release from the establishment.[149]

156. At the time of the visit, some 80% of residents were legally incapacitated and were not allowed to leave the establishment permanently of their own free will. Moreover, the delegation was informed by staff that residents with legal capacity may be prevented from leaving the establishment if they are considered by staff to be at risk if they did so. Further, 39 residents were being accommodated on the closed ward, behind a permanently locked entrance door.

According to staff, if any of the aforementioned residents "escaped", the police would be notified to search for them and bring them back.[150] It follows that all these residents were *de facto* deprived of their liberty without benefiting from any appropriate safeguards.

157. The CPT considers that involuntary placement and stay of residents (including situations in which the restrictions imposed amount to *de facto* deprivation of liberty) in social care establishments should be regulated by law and accompanied by appropriate safeguards. In particular, placement must be made in the light of an objective medical assessment, including of a psychiatric nature. Further, all residents who are involuntarily placed in this type of establishment, whether or not they have a legal guardian, must enjoy an effective right to bring proceedings to have the lawfulness of their placement and stay (including in situations in which the restrictions imposed amount to *de facto* deprivation of liberty) decided speedily and reviewed regularly by a court and, in this context, must be given the opportunity to be heard in person by the judge and to be represented by a lawyer.

The CPT recommends that the Slovak authorities put in place a clear and comprehensive legal framework governing the involuntary placement and stay of residents (including situations in which the restrictions imposed amount to *de facto* deprivation of liberty) in social care homes, in the light of the preceding remarks.

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149 With the exception of the theoretical possibility for the resident to request the court to re-establish his/her legal capacity through a civil procedure and then to terminate the contract with the social care establishment.

150 The same procedure would be followed if a resident did not return from "home leave".

158. For the vast majority of the legally incapacitated residents, the social care home visited had been appointed by the court as a guardian.

The CPT must stress that one aspect of the role of a guardian is to defend, if necessary, the rights of incapacitated persons vis-à-vis the hosting institution. Obviously, granting guardianship to the very same institution may easily lead to a conflict of interest and compromise the independence and impartiality of the guardian. **The CPT recommends that the Slovak authorities find alternative solutions which would better guarantee the independence and impartiality of guardians for legally incapacitated residents placed in social care establishments**.

159. Arrangements concerning residents' contact with the outside world were satisfactory. Residents were allowed to keep their mobile phones, no limitations were imposed on visits and visitors could go to patients' rooms, communal areas or stroll with the residents in the park surrounding the establishment.

160. It is positive that the establishment visited had a detailed internal policy on processing complaints and that there was a possibility to lodge complaints with the Ministry of Labour, Social Affairs and Family and with the social department of the regional authorities, as well as the Ombudsperson's office. However, it would appear that the residents were not fully aware of these possibilities and there were no written information materials providing information to this end.

The CPT recommends that an information brochure setting out the establishment's routine, residents' rights and the possibilities to lodge formal complaints, on a confidential basis, with a clearly designated outside body, be developed and issued to each resident, as well as to their families and/or guardians, upon admission to the establishment. Any resident unable to understand this brochure should receive appropriate assistance.

APPENDIX I:

List of the establishments visited by the CPT's delegation

Establishments under the Ministry of the Interior

- Banská Bystrica East District Police Department
- Banská Bystrica West District Police Department
- Bratislava Karlova Ves District Police Department
- Bratislava Regional Police Directorate
- Bratislava Staré Mesto West District Police Department
- Bratislava Trnávka District Police Department
- Hnúšťa District Police Department
- Lučenec District Police Department
- Rimavská Sobota District Police Department
- Veľký Krtíš District Police Department
- Zvolen District Police Department
- Žiar nad Hronom District Police Department

Establishments under the Ministry of Justice

- Banská Bystrica Prison for Remand and Sentenced Prisoners (Komenského Street)
- Bratislava Prison
- Leopoldov Prison

Establishments under the Ministry of Health

- Hronovce Psychiatric Hospital
- Psychiatric Ward of the Bratislava University Hospital (Saints Cyril and Methodius Hospital)

Establishment under the Ministry of Labour, Social Affairs and Family

- Veľký Blh Social Care Home.

APPENDIX II:

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

A. National authorities

Ministry of Justice

Mária Kolíková	State Secretary
Michal Kotlárik	Director General, International Law Section
Richard Sviežený	Director General, Criminal Law Section
Juraj Palúš	Director General, Legislative Section
Zuzana Štofová	Director, European Affairs and International Relations Department
Branislav Kadlečík	Advisor, European Affairs and International Relations Department, CPT liaison officer
Nina Chlapečková	Advisor, Criminal Justice Cooperation Department, CPT liaison officer

Corps of Prison and Court Guards

Milan Ivan	Director General
Michal Sedliak	Deputy Director General
Ľubomír Klištinec	Director, Department for Supervision and Legal Affairs
Radoslav Liščák	Director, Health Care Department
Zuzana Valentovičová	Director, Department for the Execution of Detention on Remand and Imprisonment
Jozef Griger	Department for the Execution of Detention on Remand and Imprisonment

Ministry of the Interior

Denisa Saková	State Secretary
Ondrej Varačka	Secretary General

Milan Varga	Director, Supervision Department, Police Presidium
Ladislav Csémi	Director, Border and Aliens Police
Rudolf Briška	Deputy Director, Organisational Department of the Section for Supervision and Inspections
Milan Kubala	Supervision Department, Police Presidium
Martina Špaňová	Supervision Department, Police Presidium
Jozef Halcin	Director, Crime Prevention Department of the Cabinet of the Minister of the Interior

Ministry of Labour, Social Affairs and Family

Ivan Švejna	State Secretary
Nadežda Šebová	Director General, Section for Social and Family Policy
Agáta Záhorská	Director General, Supervision Section
Mária Košútová Services	Director, Department for the Supervision of the Provision of Social
Peter Szabo	Director, Social Services Department
Anna Kopecká	Department for the Supervision of the Provision of Social Services
Kristián Kovács Family	Department for Strategy of the Social Protection of Children and
Magdaléna Salančíková	Advisor, Social Services Department

Ministry of Health

Andrea Kalavská	State Secretary
Stanislav Špánik	State Secretary
Štefan Laššán	Director General, Health Section
Mária Dinušová	Director, International Relations and EU Affairs Department
Daniela Bukšárová	Advisor, EU Affairs Unit
Veronika Mészárosová	Advisor, Health Care Department

Ľubomíra Izáková	President, Slovak Psychiatric Association
Ivan Dóci	Principal Expert of the Ministry of Health for Psychiatry
Terézia Rosenbergerová	Principal Expert of the Ministry of Health for Children Psychiatry
Marek Zelman	Director, Hronovce Psychiatric Hospital
Katarína Jandová	Principal Expert of the Ministry of Health for Psychology

Ministry of Education, Science, Research and Sport

Peter Krajňák	State Secretary
Zuzana Kadlečíková	Director, Special Education Department
Martina Štiffelová	Director, Bilateral and Multilateral Cooperation Department

B. Other bodies

Public Defender of Rights

Mária Patakyová	Public Defender of Rights (Ombudsperson)
Marián Török	Director, Office of the Public Defender of Rights
Tomáš Čitbaj	Deputy Director, Department for the Protection of Fundamental Rights and Liberties
Lenka Bodnárová	Advisor
Katarína Kohýlová	Advisor
Katarína Trnková	Advisor
Pavol Žilinčík	Advisor

C. Non-governmental organisations

Human Rights League

Helsinki Committee for Human Rights