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

from 19 to 29 September 2022

The Government of Croatia has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2023) 31.

Strasbourg, 23 November 2023

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EXECUTIVE SUMMARY

In the course of the 2022 periodic visit, the CPT's delegation reviewed the treatment and the conditions of detention afforded to male and female prisoners held in four prison establishments. The delegation also examined the treatment and legal safeguards afforded to persons deprived of their liberty by the Croatian Police. In addition, the delegation visited three psychiatric establishments and two social care homes in order to assess the situation of patients and residents accommodated therein.

The delegation received very good co-operation during the visit from the Croatian authorities.

Establishments under the responsibility of the Ministry of Interior

The CPT notes a marked improvement in the treatment of criminal suspects deprived of their liberty by the police since its visit in 2017, which can be attributed to the mandatory audio-video recording of police interviews and the zero-tolerance message of ill-treatment by the Police Directorate. Nevertheless, some allegations of physical ill-treatment were received primarily of Romani ethnicity, which consisted of punches, kicks and slaps.

As regards legal safeguards for persons in police custody, the CPT notes that they have been strengthened by the 2019 amendments to the Code of Criminal Procedure in particular as regards information on rights, access to a lawyer, free legal aid and mandatory audio-video recording of police interviews. That said, there is a need to ensure a more transparent and efficient appointment of *ex officio* lawyers, to guarantee the confidentiality of medical examinations of persons in police custody and improve the modalities around the transport of criminal suspects in police vans.

The material conditions of detention remained generally satisfactory in the Police Detention and Escort Units (*pritvorske jedinice*). However, the deficiencies in ordinary police stations due to the lack of mattresses and bedding and poor sanitary facilities meant that they were adequate for the detention of persons for a few hours only. There is also a need to provide detained persons with adequate and timely food (including one hot meal per day) at regular intervals.

Establishments under the responsibility of the Ministry of Justice

The CPT delegation visited Zagreb and Lepoglava Prisons and, for the first time, examined the conditions of detention of female prisoners in Požega Prison. It also carried out a follow-up visit to the Zagreb Prison Hospital.

The CPT notes the significant increase in the prison population since 2017, and especially of pre-trial detainees. Furthermore, other contingent factors, such as the damage to prison facilities during the earthquake in 2020, have impacted on the capacity of the prison system.

The vast majority of prisoners spoke positively about their treatment by prison staff. A small number of allegations of physical ill-treatment were received, mainly concerning incidents of excessive use of force by staff in dealing with instances of unruly behaviour and agitation. Appropriate measures need to be taken to improve the skills of prison staff in dealing with high-risk situations. With regard to the serious problems of inter-prisoner violence and intimidation, the report notes that prison staff were in principle alert to such incidents, but that they still occurred, indicating the need for a more proactive strategy to prevent them.

The material conditions of detention, in particular at Zagreb Prison, were affected by extremely serious overcrowding (e.g. six prisoners in 18 m^2 cells). The Committee is particularly critical of the position of the Croatian authorities to apply an assessment of living space based on 3 m^2 per person even in the absence of important mitigating factors such as generous out-of-cell entitlements and the offer of a purposeful regime of activities. The CPT reiterates its position that the minimum living space for prisoners should be at least 4 m^2 per person in multiple occupancy rooms. Vigorous measures should be taken to reduce overcrowding, particularly at Zagreb Prison. In addition, complaints by prisoners should be subjected to more rigorous scrutiny, and steps should be taken to offer better assistance to destitute persons in prison as well as to provide all remand prisoners with adequate cutlery.

Concerning the regime offered to sentenced prisoners, the Committee had a generally positive impression of the diversified range of activities offered at Lepoglava Prison and was also positively impressed by the innovative approach regarding the so-called respect modules. However, further efforts are needed to improve the treatment of prisoners serving long sentences. The range of activities and the regime applicable to remand prisoners remains extremely poor, being limited to two hours of outdoor exercise per day, and the authorities are encouraged to take concrete measures to bring it progressively into line with the CPT's standard of eight hours of out-of-cell time per day.

The provision of health care to prisoners is hampered by chronic understaffing of general practitioners and the inability to attract new staff. The situation was most serious in Lepoglava Prison, where the absence of a full-time general practitioner (GP) for two years required staff having to escort prisoners to the local health facility, even to obtain prescriptions. The Croatian authorities need to offer specific incentives and measures to attract general practitioners to work in prisons. Recommendations are also made to improve the quality of screening on admission, the facilities and equipment in prison infirmaries and the quality of medical care.

As regards prisoners under enhanced supervision in Lepoglava Prison, they should be offered more activities to facilitate their "reintegration into the mainstream population". Steps also need to be taken, to increase the visiting rights of sentenced prisoners and to abolish the systematic screening of prisoners' correspondence.

At Požega Prison, the CPT delegation received some allegations of physical ill-treatment of female prisoners by prison staff, consisting of occasional punches in connection with episodes of disruptive behaviour. In addition, episodes of inter-prisoner violence were high, particularly in the closed regime, aggravated, by the fact that women were accommodated in large dormitories.

The CPT is particularly concerned about the austere, impersonal and cramped nature of the dormitories accommodating female prisoners, particularly in the closed regime building, and the insufficiency of sanitary facilities. The renovation of Požega Prison should address the serious deficiencies raised by the Committee. Further, the restrictions on women's daily life, such as the prohibition of keeping personal belongings, need to be reviewed. The serious overcrowding in Department No. 10 of Zagreb Prison, which accommodates both pre-trial and convicted female prisoners, accompanied by an extremely impoverished regime needs to be addressed urgently.

With regard to the mother and child unit, there is a need to improve the facilities, to provide mothers with a wider range of food and clothing, and to increase the daily entitlements of access to fresh air.

Recommendations are also made with regard to the need to take the cells used for solitary confinement out of service in view of their poor conditions, and to upgrade the cell in use for the enforcement of enhanced supervision. In addition, the number of prison officers in Požega Prison should be increased and they should receive gender-specific training.

At Zagreb Prison Hospital, a number of allegations of physical ill-treatment of patients were received, consisting of slaps, punches and blows with truncheons inflicted by prison staff on patients. The appalling conditions and neglect in which some psychiatric patients were found on the second floor of the facility in dirty pyjamas, with torn mattresses, absence of bed linen, no underwear needs to be remedied urgently.

The living conditions were not conducive to a positive therapeutic environment. The rooms were cramped, in a poor state of hygiene and repair, and the sanitary facilities remained dilapidated. The lack of in-room sanitary facilities forced patients to rely on portable urinals and litter bins to meet their biological needs during the night. A number of concrete measures need to be taken to improve conditions in the Prison Hospital, which as it stands does not meet the minimum standards for a health care facility.

The poor staffing situation in the establishment, notably psychiatrists, resulted in a reliance on pharmacotherapy and a lack of therapeutic activities for forensic patients. A genuine change of paradigm is required to institute a more individualised approach to the treatment of forensic psychiatric patients. The safeguards surrounding the application of mechanical restraints to patients should also be strengthened.

The stay of remand prisoners, who are subject to mandatory assessment by the court, lasted well beyond the court decision declaring them irresponsible as apparently civil psychiatric hospitals were not inclined to admit them to their respective forensic wards. Consequently, there is a need for the Ministries of Health and of Justice to solve the problem of remand prisoners remaining in the hospital for long periods after a court decision declaring these persons not responsible for their crimes. Alternative placement in appropriate facilities in the community must be identified as the prison hospital is not equipped to provide adequate treatment and care.

Establishments under the responsibility of the Ministry of Health

The CPT visited the psychiatric clinics of Split and Rijeka Clinical Hospital Centres (*Klinički Bolnički Centar*, “KBC”) and the Psychiatric Hospital of Ugljan to examine the treatment of patients and the safeguards governing their placement and stay in hospital.

Overall, there was a generally calm atmosphere at all three establishments visited, and the vast majority of patients were clearly well-cared for by hospital staff. At KBC Split, no allegations of physical ill-treatment of patients by staff were received. However, at KBC Rijeka, the delegation received a couple of allegations of physical violence by staff of patients as well as some alleged verbal abuse and shouting. In Ugljan Hospital, there were also several allegations of staff shouting at patients. The Croatian authorities should reiterate to all staff working in psychiatric hospitals that any physical ill-treatment and verbal abuse of patients with mental disabilities will not be tolerated. Equally, all staff should be properly trained to manage challenging patients, especially when they become agitated, by using de-escalation techniques as well as safe and effective manual control techniques.

The CPT was deeply concerned by indications of excessive, very frequent and unjustifiably long *use of* means of restraint on psychiatric patients, and often in full view of other patients, in KBC Split and Rijeka, which, it considered may amount to inhuman and degrading treatment. It also appeared that the vast majority of newly admitted patients were subjected to measures of fixation using magnetic belts and many patients were subjected to the practice of phased fixation, in several cases over extended periods of time, which started with five-point fixation and progressively decreased to two (ankle and wrist) or one-point fixation, depending on the patients’ behaviour. The CPT recalls that patients should only be restrained as a measure of last resort, and it recommends that the national Rulebook be amended including as regards the abolition of the humiliating practice of phased fixation. In the case of mechanical restraint, a qualified member of staff should be permanently present in the room and regular debriefing of the patient should take place. Also, patients under restraint should be properly dressed and not placed in padded underwear or provided with bedpans. Dedicated registers for the recording of the use of restraints should be established at KBC Split and Rijeka.

At all three hospitals visited, the patients' *living conditions* remained generally austere, with very limited lockable personal space and a lack of privacy and personalisation. The conditions in Ugljan Hospital were particularly dire, with patients afforded as little as 3m² of living space; the state of repair on most wards was appalling and in need of urgent renovation. Access to outside exercise was problematic at all three hospitals, which was all the more concerning given that most patients were officially "voluntary". The situation for the majority of the forensic patients in Ugljan was notably poor, and those patients in the formally closed part of the forensic ward remained locked on the ward for the entire duration of their court-mandated sentence. The CPT recommends that all patients should be afforded access to outdoor fresh air within the hospital grounds during the day, unless treatment activities require they be present on their respective ward.

Regarding the staffing situation, the number of nurses and caregivers on duty was, in general, low at the three hospitals visited, but was particularly problematic during the night shift at Ugljan Hospital. Overall, the Croatian authorities should take decisive steps to ensure that the necessary numbers of staff (nurses and caregivers) and multi-disciplinary clinical staff of appropriate quality are deployed on each ward to provide adequate and safe therapeutic input and care for patients in Ugljan Psychiatric Hospital and at KBC Rijeka.

The pharmacotherapy treatment offered at all three establishments was generally of a reasonable standard and there was no evidence of its overuse. However, healthcare was mainly only based on pharmacotherapy and there was a general lack of psycho-therapeutic activities for most of the patients.

Concerning legal safeguards relating to placement in the psychiatric hospitals visited, the CPT noted that patients on the locked wards were evidently *de facto* deprived of their liberty. Persons admitted to psychiatric establishments should, *inter alia*, be provided with full, clear and accurate information on their right to consent to hospitalisation or not. A procedure for involuntary placement should be immediately launched if voluntarily admitted patients indicate at any moment a wish to withdraw their consent to admission. Furthermore, all patients, or where appropriate, their guardian or other legal representative, should be provided systematically with information about their condition and the treatment prescribed for them, and doctors should be instructed that they should always seek the patient's consent to treatment prior to its commencement. Relevant national legislation should be revised to clearly distinguish between a patient's consent to hospitalisation and their consent to treatment. It also recommends that all psychiatric institutions clearly register separate written and signed consent forms for placement and treatment, in addition to the psychiatrist's assessment of the patient's capacity for discernment.

Establishments under the responsibility of the Ministry of Labour, Pension System, Family and Social Policy

The CPT undertook two follow-up visits to the Mirkovec branch of Zagreb Adult Home and Stančić Rehabilitation Centre, to examine the treatment and care of residents.

The CPT delegation did not receive any allegations of physical ill-treatment of residents by staff; in fact, many residents spoke positively of the staff, and the delegation observed a generally calm atmosphere in both establishments. Inter-resident violence was not a problem at the Stančić Centre. However, at the Mirkovec Home, quarrels and physical conflicts did occur between residents and the Croatian authorities should take action to ensure that residents are effectively protected which always requires not only an adequate staff presence and supervision, but also that staff be properly trained in handling challenging behaviour by residents.

The living conditions were generally reasonable in both establishments with some exceptions; notably, at the Mirkovec Home residents should have personal lockable space for their belongings, as well as more visual stimulation and personalisation in the rooms. Further, the large-capacity dormitories should be renovated to ensure that the rooms accommodate a maximum of four residents in sufficient living space and all residents should have unlimited access to fresh air. In this context, measures should be taken to assist residents with physical impairments, and a ramp or lift installed to help such residents to access the outside courtyard daily.

Turning to treatment, at both establishments appropriate medication was available and adequately administered. However, at the Mirkovec Home, psychiatric and somatic care was problematic. The management of the Mirkovec Home should ensure that all newly arrived residents undergo an initial medical examination, including a psychiatric assessment, upon arrival and that the distinctive needs of all the residents are fully met throughout their stay. Some residents had not been checked by the psychiatrist since their admission, in some cases more than two years previously At both establishments, there were almost no individual care plans in the residents' files. The management of both the Stančić and the Mirkovec Homes should ensure that an individual care plan is drawn up for each resident, including the goals of the treatment, the therapeutic means used and the staff members responsible. At both establishments, psychosocial and therapeutic activities were on offer; however, at the Mirkovec Home, the range was limited. In contrast, at Stančić, the range of activities was broader and more accessible on a regular basis for almost all of the residents.

As for staffing, at both Homes there was a notable lack of unit-based nurses, especially at night. The Croatian authorities should ensure that the psychiatric input be significantly increased as a matter of priority at the Stančić and Mirkovec Homes; the overall numbers of staff should also be significantly increased at Mirkovec Home and the number of ward-based staff should be significantly increased during the night shift at both Mirkovec and Stančić Homes, as a priority.

At the Mirkovec Home, it was positive that no means of restraint was being used. At Stančić, it was also positive that recourse to means of mechanical restraints had been reduced over the preceding years and isolation was no longer used. However, the number of immobilisations with strips of cloth had significantly increased (including to both to prevent falling, but also to prevent aggressive behaviour). The authorities should fully review the application of immobilisations and ensure the recommendations outlined in the report are implemented.

As regards legal safeguards, the CPT found that most of the residents were fully or partially deprived of their legal capacity by a court. Procedures existed in law to restore partial capacity, but in practice this resulted in no real impact on residents' daily lives. Moreover, residents appeared unaware of any information related to house rules, or the possibility or methods to complain. The authorities should review the range of current procedural safeguards to ensure that the recommendations outlined in the CPT's report are fully implemented, including establishing accessible and comprehensible complaints systems.

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 Croatia from 19 to 29 September 2022.

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

- Alan Mitchell, President of the CPT and Head of Delegation
- Slava Novak
- Gordan Kalajdjiev
- Aleksandar Tomčuk
- Chila Van der Bas
- Alexander Minchev

They were supported by Christian Loda, Francesca Gordon and Kelly Sipp of the CPT Secretariat, and assisted by Patricia Gilheaney, former Chief Inspector of Prisons, Ireland and Tomáš Petr, mental health Nurse, Czech Republic.

The report on the visit was adopted by the CPT at its 110th meeting, held from 6 to 10 March 2023, and transmitted to the authorities of Croatia on 20 April 2023. 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 that the Croatian authorities provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations along with replies to the comments and requests for information formulated in this report.

B. Consultations held by the delegation and cooperation encountered

3. In the course of the visit, the CPT's delegation held talks with Davor Božinović, Deputy Prime Minister and Minister of Interior, Ivan Malenica, Minister of Justice and Public Administration, Terezija Gras, State Secretary of the Ministry of Interior, Josip Salapić, State Secretary of the Ministry of Justice and Public Administration, Tomislav Dulibić, State Secretary of the Ministry of Health, Marija Pletikosa, State Secretary of the Ministry of Labour, Pension System, Family and Social Policy as well as with senior officials from the same Ministries and of the State Commission for the Protection of Persons with Mental Disorders. At the end of the visit, the delegation presented its preliminary observations to the Croatian authorities.

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

4. Overall, the delegation received excellent cooperation from the Croatian authorities, both before and during the visit, in terms of rapid access to all the places it wished to visit, private interviews with the detained persons it wished to speak to and access to the information required.

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

5. At the end of the visit, the delegation invoked Article 8, paragraph 5 of the Convention and requested that the two disciplinary cells in use at Požega Prison for the solitary confinement of female prisoners be taken out of service. Further, it also requested that the way in which the measure of fixating a patient to a bed is applied at the Clinical Hospital Centre (KBC) Split and KBC Rijeka be urgently reviewed with a view to ensure that such a measure is only used as a last resort, for the shortest possible time and to prevent patients from afflicting imminent harm to themselves and/or other persons.

By letter received on 14 February 2023 the Croatian authorities provided information on the steps taken in order to address the above-mentioned immediate observations. The information is reflected in paragraphs 107 and 195 of the report.

D. National Preventive Mechanism

6. The National Preventive Mechanism (NPM) continued to perform its functions under the OPCAT as a separate unit within the Croatian Ombudsman Office. In doing so it continued to rely on the possibility to engage members of NGOs active in the field of human rights, academic experts and staff of the relevant thematic Ombudsmen (for example, the specialised Ombudsmen for Children and for Persons with Disabilities). Further, at the international level, the Croatian NPM had also coordinated the activities of the network of 13 NPMs of South-Eastern Europe in the course of 2020.

7. Over the last two years[1] the NPM has carried out visits to a number of prison establishments, reception centres for foreign nationals, social care homes (including homes for the elderly), psychiatric establishments and police stations and has produced a number of thematic reports in addition to its other functions. Further, the NPM has a staff of eight out of 12 budgeted posts and a specific operational budget line of approximately €30 000 per year for activities such as field monitoring and hiring external experts. **The CPT recommends that the Croatian authorities provide adequate resources for the functioning of the NPM by filling the vacant posts of advisor.**

1. The NPM had suspended its visits from February to July 2020 in relation to the COVID-19 pandemic.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

8. The legal framework concerning the deprivation of liberty of an adult person accused of a criminal offence has not changed since the CPT's previous visit. According to Article 109 of the CCP an arrested person shall be brought to a police station, surrendered to a custody officer (*pritvorski nadzornik*) and accommodated in a detention unit *(pritvorska jedinica)*[2] within twenty-four hours.[3] From that moment the competent State Prosecutor shall interview the person in custody within a maximum of sixteen hours.[4] The State Prosecutor, after interviewing the arrested person and within a maximum of 24 hours from their surrender to the custody officer must refer them to the competent investigative judge for a confirmation hearing. Therefore, criminal suspects in police custody may be detained for up to 48 hours.[5]

Finally, pursuant to Article 134, paragraph 3, of the Law on Misdemeanours, persons may be deprived of their liberty by the police in relation to a misdemeanour offence for a maximum period of 24 hours.

9. The transposition of EU Directives No. 2013/48 on access to a lawyer and No. 2016/1919 on free legal aid resulted in the amendment of several articles of the CCP with the aim of strengthening important legal safeguards for criminal suspects such as the access to a lawyer (including *ex officio* and the provision of free legal aid), information on rights and notification of custody. It should also be noted that, pursuant to Article 208(6) of the CCP, all police interviews of criminal suspects must now be audio and video recorded (see paragraph 20). The above-mentioned amendments to the CCP have also led to relevant modifications in the Rulebook on the Treatment of an Arrested and Detained Person in a Detention and Escort Unit and to the introduction of new forms which police officers are required to complete in relation to the provision of the above-mentioned safeguards.

2. Ill-treatment

10. The vast majority of persons met by the delegation who had been arrested or apprehended in relation to criminal offences indicated that they had been treated correctly by police officers at the time of their arrest and while in police custody. This would appear to represent a marked improvement as regards the treatment of criminal suspects since the 2017 periodic visit. In this regard, the Committee notes that the strengthening of legal safeguards for persons in police custody in the context of the above-mentioned amendments to the CCP (in particular with regard to the mandatory audio and video recording of police interviews) and the efforts undertaken by the Police Directorate to disseminate clear messages on "zero tolerance" of any form of ill-treatment to police staff have contributed to this improvement.

However, the delegation received a few allegations of deliberate physical ill-treatment, corroborated by compatible medical evidence, by police officers of persons deprived of their liberty for criminal and misdemeanour offences. These consisted of slaps, punches and kicks to various parts of the body, as well as psychological ill-treatment such as verbal abuse (including threats of violence) inflicted on criminal suspects, predominantly of Romani ethnicity, during arrest and, to a lesser extent, in the course of informal questioning at police stations. It is important to underline that all allegations of physical ill-treatment received by the delegation were related to the period before a detained person is handed over to a custody officer (*pritvorski nadzornik*).

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2. Detention units are in general located in the main city of each county which means that ordinary police cells also exist at the level of each police station but are generally not used for overnight stays of a detained person.
3. Twelve hours if the criminal offence in question is punishable by a prison sentence of up to one year.
4. Twelve hours if the criminal offence in question is punishable by a prison sentence of up to one year. In addition, the custody officer has the duty to release the arrested person if the State Prosecutor does not interrogate the criminal suspect within the above-mentioned time limits (that is, within a maximum of 40 or 24 hours from the arrest of the person.
5. That is, 36 hours if the criminal offense in question is punishable by a prison sentence of up to one year.

For example:

i. a remand prisoner met by the delegation in Zagreb Prison alleged that on 15 June 2022, when he was arrested in *flagrante delicto* while stealing some copper, he was immobilised in a prone position with his hands cuffed behind his back and, while one police officer was applying pressure with his boots on his back, two other police officers repeatedly punched him in the ribs and kicked him on the hips. He further complained of having been abruptly and violently lifted from the ground in the above position. When he was examined by the medical staff of the Zagreb Police Station IV at his request, he was issued with a medical certificate which stated the following *"Bruises on the surface of the left shoulder blade and pain on palpation of the back"*.

ii. a remand prisoner met by the delegation at Požega Prison alleged that, on 14 September 2022, in the premises of Pleternica Police Station a police officer allegedly punched him in the back of the head, causing him to fall to the ground. Subsequently, while being escorted with his hands cuffed behind his back to a separate office for processing, he was deliberately pushed to the ground and abruptly picked up by two police officers. When examined by one of the delegation's doctors at Požega Prison on 27 September 2022, he displayed the following injuries consistent with an allegation of ill-treatment: a yellowish oval bruise measuring 4 x 1 cm on the right shoulder and an oval healing abrasion on the right groin measuring approximately 3 x 2 cm at its widest diameter. The detainee also had two round abrasions on the left shin, each measuring approximately 0.5 cm in diameter.

The CPT recommends that the Croatian authorities reiterate the message that all forms of ill-treatment (be they at the time of apprehension, transportation or during subsequent questioning or detention) are absolutely prohibited and that the perpetrators of ill-treatment and those encouraging or condoning such acts will be subject to appropriate sanctions. Further, targeted training programmes should be organised for police officers on issues such as anti-discrimination and intolerance against persons of Romani ethnicity.

3. Safeguards against ill-treatment

a. information on rights

11. Article 108, as amended in the light of the transposition of the EU Directive on the right to information in criminal proceedings[6], now regulates in more detail the process of handing over and the content of an information sheet *(pouka o pravima*) to an arrested person, clearly specifying its timeliness (that is, at the time of the arrest or immediately upon transfer to a police station)[7] as well as its detailed content.[8]

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[6] Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings.

7. Pursuant to Article 108, paragraphs 1 and 2 of the CCP.

8. Article 108 of the CCP reads as follows:

(1) The information sheet on the rights of detainees shall include information on:

1) the reasons for arrest and the grounds for suspicion;

2) the right not to be obliged to give a statement;

3) the right to a defence lawyer of one's own choice or one appointed from the list of lawyers on duty;

4) the right to interpretation and translation in accordance with Article 8 of this Law;

5) the right to have their family or another person designated by them informed of their arrest at their request;

6) the right of a foreign citizen, at their request, to be immediately informed of their arrest by the competent consular authority or embassy and to be able to contact them without delay (Article 116 of this Law)

7) the right to inspect the case file in accordance with the provisions of this Law;

8) the right to emergency medical assistance;

9) the fact that detention from the moment of arrest until the case is brought before a judge shall not exceed 48 hours, and in the case of offences punishable by imprisonment for a term not exceeding one year, shall not exceed 36 hours.

(2) The detained person shall have the right to be informed of their rights during the period of deprivation of liberty.

Furthermore, the police are now obliged to ask the detained person whether they have understood the contents of the information sheet and, if not, to explain its elements in an understandable language. The custody officer is also obliged to repeat the same procedure when the suspect is handed over.

During the visit, the detained persons interviewed by the delegation confirmed that they had been provided with an information sheet and that their rights had been explained to them, either at the time of their arrest or shortly after their transfer to a police station. The documentation consulted by the delegation at the visited police establishments confirmed that the timing of its provision was prompt and that the process was repeated at the level of the custody officer. Nevertheless, some detained persons told the delegation that the process of informing them of their rights consisted of a mere signature on paper and that the police officer had not taken the time to go through each of its aspects. Further, different copies of the information sheet were used and, in some cases, no reference was made to the new provision of Article 72a of the CCP on temporary free legal aid. Finally, some foreign nationals told the delegation that they had only been provided with a *pouka o pravima* in the Croatian language and that the police had only briefly explained its contents to them in English.

The CPT recommends that that the Croatian authorities invest the necessary efforts in order to ensure that particular care is taken by police officers at the time of the arrest and at the subsequent phases of detention 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. Further, all of the information sheets (*pouka o pravima*) in use by the Croatian Police for the detention of criminal suspects should include a provision on the right to temporary free legal aid pursuant to Article 72a of the CCP. Further, effective steps should be taken to ensure that detained foreign nationals who do not understand the Croatian language are promptly provided with the services of an interpreter and that they are not requested to sign any statements or other documents without this assistance. This reinforces the need for written information on the rights of detained persons in foreign languages.

b. notification of custody

12. Article 108, paragraph 8 of the CCP as amended now stipulates that a person arrested by the police may communicate *"during the period of arrest"* to *"at least a third person of their choice"* Further, in the case of foreign nationals, the legislation now foresees that the relevant diplomatic and consular authorities be immediately informed at the request of the detained person and contact facilitated with the same.

13. The findings of the delegation in the course of the visit indicated that the majority of persons interviewed were offered the possibility to have a person of their choice contacted and informed of the matter of their detention notably after their arrest. Further, such a right was reiterated and re-offered systematically at the time of the handover to the custody officer. The relevant documentation examined contained, in principle, information on the timing and the name of the notified person.

However, the CPT delegation also received some allegations from persons interviewed that their request to contact their families had been refused by police officers. Furthermore, it was not clear to the delegation whether, in the event of notification to a third party, the detained person had received any feedback on the implementation of this measure, as it was not recorded in the register.

The CPT recommends that the Croatian authorities ensure that all persons deprived of their liberty by the police, for whatever reason, be granted the right to notify a close relative or third party of their choice (as well as the relevant consular authorities in the case of foreign nationals) about their situation as from the very outset of the deprivation of liberty (that is, from the moment when they are obliged to remain with the police). Further, the CPT also invites the Croatian authorities to take appropriate steps to provide detained persons with feedback on whether it had been possible to notify a close relative or other person of the fact of their detention.

c. access to a lawyer

14. The 2017 and 2019 amendments to the CCP have affected the legal framework for access to a lawyer for arrested persons. Namely, according to Articles 108, paragraph 7 and 208 of the CCP, before any interview in a police station, the arrested person must be offered the opportunity to have the assistance of a lawyer and, in case of refusal, the police officer must clearly explain the consequences of such an act and an explicit waiver must be signed by the criminal suspect. The same legislation also recognises the right of an arrested person to an unsupervised and confidential interview with a lawyer, lasting a maximum of 30 minutes, prior to interview.[9]

The Croatian legislation also provides that a duty lawyer may be appointed from a list provided by the local bar association if the arrested person does not choose a lawyer and if the lawyer initially designated does not appear at the police station within three hours.[10] Furthermore, Article 72a of the CCP formally introduces the possibility for an arrested person who is indigent and cannot afford the assistance of a lawyer (of their own choice or on duty) to have this assistance paid for by the state under a new legal instrument known as temporary free legal aid. In this regard, a request must be addressed by the police to the competent public prosecutor for approval.[11]

15. The findings of the delegation during the 2022 visit indicate that, in principle, detained persons were offered the possibility of contacting a lawyer (either of their own choice or from the list of duty lawyers) and that, when contacted, lawyers were present at the police station and generally met the detained persons in designated rooms for up to 30 minutes. However, the delegation also received numerous allegations from the detainees interviewed that their requests for the assistance of a lawyer were denied by police officers on various pretexts, such as its financial implications for the detainee or that it would cause unnecessary delays in the proceedings. In addition, other detainees told the delegation that, although their requests for access to a lawyer had not been rejected outright, police officers had tried to discourage them on the grounds that such a decision could be detrimental to them.

An examination of the relevant personal files and registers of detainees in the police facilities visited revealed that the vast majority of detainees had declined the right to be assisted by a lawyer.[12] However, there were no forms recording the waiver in this respect, nor was there any evidence that they had been informed orally by police officers of the consequences of such a decision.

16. The CPT considers that, in order to fully implement the spirit and the letter of the EU Directive No. 2013/48 on access to a lawyer and consequently the amended CCP, police officers need to accept the legitimacy of the procedural rights of suspects and to understand the ways in which providing prompt access to a lawyer can ensure the credibility and reliability of investigative procedures, rather than considering the role of the defence as antithetical to an effective investigation and fair trial. Informing suspects of their right to a lawyer is an important safeguard, which is why the mandatory explanation of the consequences of waiving this right should be strictly applied. Further, the accurate recording in custody records of all aspects relating to the application of this right is essential.

9. Pursuant to Article 108, paragraph 7 of the CCP.
10. In accordance with Article 208a, paragraph 5 of the CCP. Such a provision is not contained in Article 108, paragraph 7, which deals with arrested persons.
11. The application in question consists of a self-declaration that the suspect is financially unable to pay for a lawyer.
12. For example, the personal files of the 274 persons detained at the Detention and Escort Unit of the Požega-Slavonia County since the beginning of 2022 indicated that only 37 had requested the assistance of a lawyer.

The CPT recommends that the Croatian Police Directorate issue an instruction to all police officers on the right of access to a lawyer in police custody, in line with the above-mentioned principle. The instruction in question should highlight in particular the need to ensure that criminal suspects are informed in an unambiguous manner of their statutory right of access to a lawyer from the outset of the deprivation of liberty, of the consequences for them to renounce this same right and that any waivers should be systematically drawn up and attached to the relevant custody records. The instruction in question should also emphasise that there can be no justification for police officers to use various tactics to prevent or delay the detained person's right of access to a lawyer.

17. The scheme in place for the appointment of a duty lawyer, as provided for in Article 108, paragraph 5 of the CCP, consisted of the police contacting the lawyer directly from a list provided by the local bar association. Such legal assistance was provided at the detainee's expense. The delegation had the impression that such a system appeared to be rather discretionary and did not provide the necessary guarantees of independence and expertise of a duty lawyer as it gave broad discretion to the police in the choice of the duty lawyer to be selected.

With regard to the new institution of temporary free legal aid in connection with Article 72a of the CCP, the findings indicated that the procedure worked effectively when applied, with the appointment of a lawyer at the expense of the state in a fairly short period of time.[13] However, the records showed, and police officers confirmed, that it was rarely used in practice. Furthermore, the new right covered by the provision was not mentioned on the information sheet given at the time of arrest, but only on the second one, which was drawn up at the time of the suspect's appearance before the custody officer.

The CPT recommends the Croatian authorities develop a more transparent system for the appointment of duty lawyers, such as a call centre or a central contact point to which the police could turn in order to propose a duty lawyer who could attend a police station in accordance with a pre-established order. Furthermore, the recommendation set out in paragraph 11, concerning the need to amend the information sheets used by the Croatian police in order to reflect the right to free legal aid, also applies in this context.

d. access to a doctor

18. The legal framework concerning the access of a person in police custody to a doctor has not changed since the previous visit in 2017, and in principle remains limited to emergency medical assistance under the responsibility of the custody officer. According to Articles 16 and 20 of the Regulation on the Treatment of Detained Persons in a Detention and Escort Unit, the custody officer is obliged to offer a medical examination and may assess its conduct, even if the detained person objects to it. Further, the continuation of any medical treatment received by the detained person must be ensured under the necessary medical supervision and the detainee may, with the consent of the public prosecutor, request to be visited by a doctor of their choice.

19. The findings of the delegation during the 2022 visit indicate that, in principle, detained persons were promptly provided with the necessary medical assistance in the event of injuries sustained in the course of detention or of any somatic or psychiatric medical condition that might intervene. In addition, the continuation of treatment for chronic illnesses was allowed in principle, subject to the provision of a medical prescription. However, review of the medical records also showed that detained persons who were taken to health facilities for assistance were examined by medical staff in the presence of police officers and were generally handcuffed.

13. In practice in case of a request a lawyer paid by the State would normally attend the police station within two hours.

The CPT reiterates its recommendation that persons deprived of their liberty by the police be expressly guaranteed in the legislation the right to have access to a doctor from the very outset of their deprivation of liberty. The relevant provisions should make clear that:

- **all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police staff;**
- **the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and his lawyer;**
- **the exercise of the right of access to a doctor is to be recorded in the custody records.**

Further, the CPT considers that handcuffing a detained person during their medical examination is a questionable practice from a medical ethics perspective.

e. conduct of police interviews

20. Article 208 of the CCP regulates the procedure of summoning of citizens for the provision of information and the interview of suspects.[14] According to the new legislation, if a summoned citizen becomes a suspect in the course of an interview, they must immediately be provided with an information sheet and informed of the right to be assisted by a lawyer in the same manner as stipulated in Article 108 of the CCP (see paragraph 14).[15]

Further, Article 208, paragraph 6 of the CCP also stipulates that all interviews of a criminal suspect by the police must be audio and video recorded. This is positive. In particular, the police officers are under the obligation to also record the procedure of the handover of the information sheet to the criminal suspect as well as the oral explanation of their statutory rights and the consequences of the waiver of a lawyer. In addition, the Rulebook on the Recording of Evidence and other Measures in Pre-trial and Criminal Proceedings regulates the technical requirements of the audio-video recording equipment and the format of the written minutes to be drawn at the end of the interview. At the outset of the visit, the delegation was also informed by the Croatian authorities that the Police Academy had organised a series of training sessions of police inspectors on the use, format and modalities of interviewing criminal suspects with a particular focus on its standardisation and attention to vulnerable groups.

21. In the course of the visit, the delegation examined the equipment and layout of the interview rooms at some of the police establishments visited, as well as the minutes of the interviews of several suspects. Detained persons met by the delegation stated that their interview had been conducted professionally by police staff. Furthermore, the written minutes of the interview contained information on the persons present, reference to the detainee's right to remain silent and to the possibility to interrupt the interview. However, the delegation did not receive any information on the existence of a specific protocol on the interview of criminal suspects, which would clearly regulate issues such as breaks, maximum duration, and provision of food and drink at appropriate intervals, as well as special provisions in respect of the questioning of persons under the influence of drugs, alcohol or medicines, or affected by recent concussion or mental disorders.

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14. Article 208, paragraphs 4 and 5 of the CCP reads as follows:
(4) In order to obtain the information referred to in paragraph 1 of this article, the police may summon citizens. A person who has responded to a summons and refuses to provide information may leave the police premises at any time and may not be summoned again for the same reason.
(5) If, during the collection of information, there are grounds to suspect that the person from whom the police are collecting information has committed or participated in the commission of a criminal offence, the collection of information shall be terminated. The police may no longer collect information from that person but may question him as a suspect in accordance with the provisions of Article 208a of this Law.
15. Pursuant to Article 208a of the CCP.

22. The Committee welcomes the introduction of the mandatory audio and video recording of interviews and considers that it has contributed to the reinforcement of the statutory rights of criminals suspects in the first phase of proceedings as well as to the prevention of ill-treatment.[16] **The CPT also recommends that in order to additionally consolidate the system the Croatian authorities should adopt a protocol on the conduct of interviews in light of the above remarks.**

f. transportation of detained persons

23. The delegation received numerous complaints from remand prisoners about being systematically handcuffed and occasionally ankle-cuffed when transported by the police. The detainees also stated that the metal benches in the back of the police vehicles lacked seatbelts and handgrips and that they injured themselves on occasion during transport when they fell off the benches. The delegation observed injuries on several remand prisoners which were consistent with their allegations that they had been injured in accidental falls while being transported in the back of a police vehicle due to the lack of seatbelts and handgrips.

The CPT reiterates its recommendation that the Croatian authorities take the necessary steps to ensure that all police transportation vans are fitted with basic safety and security equipment, including safety belts, padded seating and head support. In addition, escorted criminal suspects should be transported in secured vehicles which should avoid the need for them to be handcuffed.

4. Conditions of detention

24. Article 53 of the Rulebook on Treatment of Arrested and Detained Persons provides for the minimum standards with which cells in police detention units must comply if they are designated for the accommodation of persons for longer than 24 hours. Cells should be at least 5 m^2, equipped with a clean bed, mattress, and bed linen, have sufficient access to light (preferably natural light) to be able to read, adequate ventilation and heating systems, a sanitary facility (including the provision of basic hygiene items) and access to drinking water. Further, all detention cells should be equipped with a CCTV video-surveillance system, as well as a call bell.

At the outset of the visit, the delegation had been informed by the Ministry of Interior that considerable financial assets had been invested in the refurbishment and construction of new police detention facilities nationwide (notably in the Bjelovar-Bilogora and the Brod-Posavina Counties). It is also worth noting that in principle arrested persons only spent a few hours in a police station before they were promptly transferred to a detention and escort unit and placed under the authority of a custody officer.

25. The situation observed by the delegation during the visit remained the same as in 2017. The detention and escort units (*pritvorske jedinice*), such as those at the 10-cell Zagreb Oranice[17], the five-cell of the Požega-Slavonia County Police Headquarters[18] and two cells of Rijeka I Detention and Escort Unit,[19] offered satisfactory conditions of detention in terms of living space and layout, provision of bedding (consisting of foam mattresses, sheets, pillows and blankets), access to light (including natural light), in-cell sanitary facilities consisting of toilets and washbasins, CCTV surveillance and provision of call bells. However, the Split I Police Detention Unit's four operational cells measuring between 7,5 and 9 m^2 had no direct access to natural light, were only equipped with a wooden platform with foam mattresses and no bedding, and possessed no in-cell toilet or washbasin, and no call bells. Further, the separate toilet and shower facilities were in poor hygienic conditions.

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16. See the European Court of Human Rights judgment in the case of *Madjer v. Croatia* Application no. 56185/07 of 21 June 2011.
17. Each of the 10 cells measured around 30 m^2 and was designed to accommodate up to six persons. For this purpose, they were equipped with two long plinths and mattresses/blankets.
18. Five cells measuring between 7.5 and 9.5 m^2 equipped with a wooden sleeping platform, a stool and table fixed to the floor, and a floor-level toilet and washbasin.
19. Two cells measuring 8.5 m^2 were equipped with a wooden platform with mattress and bedding, a semi-partitioned sanitary annex with stainless steel toilet and washbasin, and a call bell, and were under CCTV surveillance.

As concerns the detention cells in police stations, they were adequate only for detention for a few hours pending transfer to a detention and escort unit. In particular, the cells at Zagreb IV, Split II and Velika Gorica Police Stations all lacked access to natural light,[20] were not equipped with mattresses and bedding, had no in-cell washbasin and toilet[21] and also lacked a call bell. Further, Zagreb III and VI Police Stations only possessed temporary holding rooms, equipped only with metal benches and no sleeping platforms.

By letter of 21 November 2022, the Croatian authorities informed the Committee of their intention to upgrade police detention facilities, in cooperation with the Expert Service for Investments and Real Estate of the Ministry of the Interior, in order to meet the standards of ventilation, access to natural light and provision of appropriate, clean bedding.

26. **The CPT recommends that the Croatian authorities refrain from accommodating persons in cells at police stations such as Zagreb IV, Split II and Velika Gorica for periods of over twelve hours, and certainly not overnight pending their transfer to the appropriate detention and escort unit. Further, the Split Detention and Escort Unit should be upgraded, including the provision of clean bedding, installation of call bells and the repair of the separate sanitary facilities (toilet, washbasin and shower). Finally, the holding rooms in use as Zagreb III and VI Police Stations should never be used for more than a few hours.**

Further, in light of the interim information provided by the Croatian authorities the CPT would like to be informed of the timetable envisaged by the Croatian authorities in order to bring the detention cells in police establishments up to the national level in compliance with the requirements set out in the Rulebook on Treatment of Arrested and Detained Persons.

27. Articles 10a and 25 of the Rules on the Treatment of Detained Persons also regulates the provision of food to detained persons in police custody, which should be provided at regular intervals from the outset of deprivation of liberty. In addition, the relevant personal and custody registers contain special entries confirming the provision of food and its timing, which is countersigned by the detainee.

At the time of the visit, the delegation received several allegations from detained persons that they had not been provided with food on a regular basis while in detention both at police stations and detention and escort units. Moreover, in some cases, detainees had complained that police officers had asked them to pay for the provision of food. Finally, for those detained for more than 24 hours, it appeared that the food provided systematically consisted of only cold cuts and sandwiches. By letter of 21 November 2002, the Croatian authorities informed the Committee that they would monitor more closely the implementation in practice of the above-mentioned provisions of the Rulebook on the Treatment of Detained Persons, and that detained persons in police custody would be provided with at least one full meal a day.

The CPT recommends that the Croatian authorities ensure that persons in police custody are offered food at regular intervals during their period of detention. Furthermore, the CPT considers that persons in police custody should be provided with at least one hot meal per day, which should be more substantial than a sandwich.

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20. The cells in question measured between 7 and 9 m^2 and, with the exception of Velika Gorica Police Station, possessed no in-cell toilet.
21. With the exception of Velika Gorica Police Station, where a toilet and attached sink were in use in the cell.

B. Prison establishments

1. Preliminary remarks

28. The Croatian prison population has increased significantly since the CPT's last periodic visit in 2017 and, at the time of the 2022 visit, stood at 4 095 persons for an overall capacity of 3 805 places (an occupancy rate of 107%). Indeed, the closure of Sisak prison and a pavilion at Glina prison due to extensive damage following the earthquake in December 2020 contributed to limiting the overall capacity of the prison system by 150 places. In order to counteract this trend, the Croatian authorities had been engaged in the expansion of the prison estate through the construction and commissioning of new pavilions in Lipovica and Požega Prisons[22] (see also paragraph 86) and were considering the construction of a new prison in Gospić (with a capacity of 400 places), with the support of a loan from the Council of Europe Development Bank.

29. In penological terms, the Croatian prison system is characterised on the one hand by a relatively low incarceration rate (namely, 87 per 100 000) and on the other hand by a high proportion of pre-trial detainees in relation to the total prison population (32% of the prison population at the time of the visit). In particular, looking at the number of persons committed to prison on an annual basis, remand prisoners account for approximately 45% of the total number of prisoners within the prison system in 2021.[23] Overall, prison overcrowding remains a serious problem in the Croatian penitentiary system, particularly in pre-trial detention and closed regime units.[24] During the visit, the Croatian Minister of Justice informed the delegation of the intention to tackle this phenomenon by adopting a Rulebook on the Execution of Pre-trial Detention at Home,[25] which would introduce forms of electronic monitoring, and by further consolidating alternative sanctions for convicted prisoners and the probation system.

30. With regard to legislation, the Law on the Execution of Prison Sanctions (LECS) was the object of important amendments in the course of 2021, some of which had an impact on the conditions of detention of prisoners, their treatment, the provision of healthcare, the supervision of segregation and security measures, disciplinary procedures, the complaints system and judicial supervision of the prison service. Of particular relevance to the CPT is the fact that the LECS no longer includes a reference to the requirement of a minimum living space of 4 m^2 per prisoner in multiple-occupancy cells and that remand prisoners can now be accommodated in departments of establishments for sentenced prisoners (*kaznionica*).[26] At the outset of the visit, the Croatian authorities informed the delegation that this amendment complied with the judgment of the Grand Chamber of the European Court of Human Rights (the European Court) in *Muršić v. Croatia* (see paragraph 36).

31. During the 2022 periodic visit, the delegation visited Lepoglava and Zagreb Prisons, examined the situation of sentenced female prisoners in Požega Prison and carried out a follow-up visit to the Zagreb Prison Hospital.

Lepoglava Prison, the oldest and most symbolic prison establishment in the country, dating back to 1855, consisted of a closed regime building of a panopticon structure (named as the "Star" or *"Zvijezda"*) with five wings and three separate semi-open and open regime units, located in the homonymous town, 70 km north of Zagreb.

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22. For a capacity of 110 and 120 places respectively. Further, cells had been refurbished at Osijek (22), Bjelovar (nine), Rijeka (43) and Šibenik (eight) prisons.
23. That is, 5 535 out of 12 026 prisoners.
24. According to the "Annual Report on the State and Activities of Prisons and Correctional Institution of 2021" issued by the Ministry of Justice in December 2022, the occupancy rate in closed regime units and remand section is well above 130%.
25. In the course of 2017, a pilot project to evaluate the measure of electronic monitoring of approximately 100 sentenced and remand prisoners was carried out by the Probation Service in Zagreb.
26. The amended version of Article 81, paragraph 1 of the LECS now stipulates: *"The accommodation of prisoners should meet appropriate health, hygiene, spatial and climatic requirements. The rooms in which prisoners are accommodated shall be clean, dry and sufficiently spacious"*.

At the time of the visit, the *"Zvijezda"* building was accommodating 386 sentenced male prisoners, for a capacity of 341 places (representing an occupancy rate of 128%).[27] The delegation examined the situation of prisoners held under closed regime in the so called *Zvijezda* complex of the establishment and also interviewed some of the 18 remand prisoners from the Varaždin Prison, who were temporarily accommodated in Department 1B of Lepoglava pending the renovation of that prison.

Zagreb Prison, located in the Remetinec neighbourhood, consisted of a three-storey complex with 10 departments. At the time of the visit, it was holding a total of 834 prisoners (501 remand prisoners, 159 convicted prisoners and 14 for misdemeanour offences) for a capacity of 552 places (representing an occupancy rate of 151%). In particular, the pre-trial population had practically doubled since the CPT's visit in 2017, when it stood at 251 prisoners. Of the current 834 prisoners, 34 were women (including 14 sentenced) located in Department No. 10 and 120 detainees were in the National Diagnostic Centre (NDC) (Department No. 5), which formally has a separate director and management.

2. Ill-treatment

32. The vast majority of remand and sentenced prisoners met by the delegation in both establishments did not complain about their treatment by staff and spoke positively about the professionalism and positive attitude of prison staff towards them. However, the delegation did receive a few allegations of deliberate physical ill-treatment, which mostly concerned incidents of excessive use of force by staff in dealing with instances of unruly behaviour and agitation and following episodes of inter-prisoner violence or self-harm at Lepoglava Prison and, to a lesser extent, at Zagreb Prison. The alleged ill-treatment consisted of slaps, punches and occasionally kicks and blows with truncheons, allegedly inflicted on persons after they had been brought under control or separated from other prisoners. It is worth noting that most of the alleged victims of physical ill-treatment were of Romani ethnicity.

33. Most of the incidents in question had been subject to a prison management review, which included a detailed examination of the circumstances of the use of force, an examination of CCTV footage, staff written statements and an assessment of the proportionality of the use of force and the compatibility of the injuries sustained by the prisoners. Nevertheless, the examination of these reports revealed that in some cases a more rigorous assessment of the application of the above measures could be exercised. For example:

> i. One prisoner alleged that, on 21 May 2022, he had been beaten by several prison officers in the treatment staff office of the enhanced supervision unit of Lepoglava Prison (Department 1B), after having attacked a prison officer in his cell. The internal investigation carried out had established that there had been at least one instance of excessive use of force by a prison officer, which had been recorded on CCTV and consisted of a prison officer hitting the prisoner on the head. The prison director had established that the concordant written statements of the prison officers who had intervened during the incidents had failed to describe the instance of ill-treatment and proposed that they be sanctioned with a written reprimand. Furthermore, the origin of the two haematomas of 2 x 2 cm observed by the medical staff of the Emergency Department of the Ivanec Health Centre on the person's back was attributed to a generic use of force at the time of the intervention, without any further explanation.

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27. The entire establishment including the open and semi-open regime sections was accommodating a total of 490 sentenced male prisoners for a capacity of 501 places.

ii. Two convicted prisoners whom the delegation met in Lepoglava Prison, alleged they had been subjected to pepper spray and truncheon blows in their cells on 15 October 2021, due to their agitated behaviour and one of them threatening to self-harm. The report on the use of means of restraint submitted by the Head of Security to the Prison Director on 18 October 2021 confirmed the justification for the use of force and the fact that it had resulted in injuries to both prisoners. However, the same report did not contain an assessment of the proportionality of the use of force, given that the truncheon blows had been inflicted after the use of pepper spray, nor did it provide a reasonable explanation for the injuries recorded by healthcare staff in relation to one of the two prisoners. The injuries noted in general terms were a bruise on the head, a bruise on the left side of the chest, a bruise on the right arm and another on the back.

Finally, the delegation also received some allegations of verbal harassment and inappropriate behaviour by some prison staff, in particular in Lepoglava Prison.

34. The CPT recommends that the Croatian authorities deliver to custodial staff the clear message that physical ill-treatment, excessive use of force and disproportionate resort to means of restraint and security measures are not acceptable and will be dealt with accordingly.

In particular, the CPT recommends that appropriate measures be taken to upgrade the skills of prison staff in handling high-risk situations without using unnecessary force, in particular by providing training in ways of averting crises and defusing tension, and in the use of safe methods of control and restraint. Such training should also include elements of anti-discrimination and intolerance against detained persons of Romani ethnicity. In addition, when drawing up reports to the Ministry of Justice on the use of restraints, as required by law, the prison management should rigorously assess the proportionality of the use of force and the origin of the injuries observed on inmates following their use.

35. The CPT has, in the past, criticised certain aspects of the application of the security measure of placing prisoners in so-called rubber rooms (padded cells) pursuant to Article 143, paragraph 5 of the LECS. During the 2022 visit, several prisoners who had been subject to such a measure, both at Zagreb and Lepoglava Prisons, alleged that they had been handcuffed and sometimes also ankle-cuffed for most and occasionally the entire duration of the measure[28] which, according to the relevant registers, could last up to 48 hours. Further, it also appeared to the delegation that in some cases the application of such a measure contained punitive elements (see paragraph 72).

The CPT considers that there is no justification for additional means of restraint such as ankle- and handcuffs to be applied to an agitated prisoner placed in a rubber room. Further, the Committee considers that such a practice may well amount to inhuman and degrading treatment inflicted for punitive purposes. It is also contrary to the relevant provisions of the LECS on the application of security measures for the maintenance of good order. **The CPT recommends that the Croatian authorities ensure that prisoners placed in a rubber room (padded cell) are not subject to the application of additional restraints (see also paragraph 72).**

36. The widespread and severe nature of <u>inter-prisoner violence and intimidation</u> is another feature of the Croatian prison system on which the CPT has made several recommendations in previous visit reports. In the course of the 2022 periodic visit, the delegation noted positively that, despite the increased occupancy levels (notably at Zagreb Prison), incidents of inter-prisoner violence had actually decreased, as reflected in the national statistics.[29] In essence, at both establishments, the delegation had the impression that prison staff were alert to such incidents, which generally took place in the courtyard of Zagreb Prison or in the large dormitories of Departments 3B and 2B of Lepoglava Prison.

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28. Some alleged that the means of restraint had been released temporarily in order to permit them to eat meals and use the toilet.
29. For example, over the course of 2021, there were nine officially recorded instances of the use of restraints to prevent incidents of inter-prisoner violence across the prison system (there were 18 instances in 2017).

However, the CPT's observations also showed that grave cases of inter-prisoner violence, causing serious injuries to detained persons and requiring their prolonged hospitalisation, could still occur. For example:

A remand prisoner met by the delegation at Zagreb Prison Hospital alleged that, on 11 September 2022, he had been beaten by a fellow prisoner in a multiple-occupancy cell in Department No. 2 of Zagreb Prison. The alleged perpetrator had inflicted various blows and kicks to his upper body and chest after learning that the victim had harassed a member of his family. According to the official records of Zagreb Prison, prison officers intervened when they were alerted to the noise in the cell. The alleged victim of inter-prisoner violence was taken to the Zagreb Hospital and later to the Rebro Clinical Hospital Centre in Zagreb where the following injuries were recorded in the discharge letter on 12 September 2022: *"four fractured ribs on the left, one fractured rib on the right, fractured nasal bone and fractured maxillary sinus. As a result of the left rib fractures, he had suffered a small deflation of the left lung - a pneumothorax - and also a pleural effusion (fluid in the space between the lung and the chest wall)".*

37. The Committee takes positive note of the decrease in the episodes of inter-prisoner violence at the national level since its previous visits. However, the CPT also maintains that the phenomenon of inter-prisoner violence and intimidation requires that prison staff be alert to signs of trouble and be resolved and properly trained to intervene when necessary. It is also obvious that an effective strategy to tackle inter-prisoner intimidation/violence should seek to ensure that prison staff are placed in a position to exercise their authority in an appropriate manner. Both initial and on-going training programmes for staff of all grades must address the issue of managing inter-prisoner violence.

The CPT recommends that an effective strategy to tackle inter-prisoner violence be put in place at the national level, taking into account the above remarks. A component of such a strategy must be the introduction of a screening risk and needs assessment of every prisoner upon entering a prison establishment before they are allocated to a cell fully endorsing the dynamic security approach.

3. Conditions of detention

a. material conditions

38. As mentioned in paragraph 30, the legal requirement of a minimum space of 4 m^2 in multiple-occupancy cells had been removed from the legislation in 2021. In doing so, the Croatian authorities intended to implement their interpretation of the Court decision in *Muršić v. Croatia*, that there would be no violation of Article 3 of the European Convention on Human Rights (Convention) if more than 3 m^2 per person is offered in multiple-occupancy cells. Senior officials of the Ministry of Justice informed the delegation at the outset of the visit that they had intended to focus on qualitative aspects of the material conditions of detention, such as the quality of food, hygiene conditions and state of repair, to which the amended provisions of the LECS also refer in general terms.

In line with a broader interpretation of the *Muršić v. Croatia* judgment, the most recent jurisprudence of the Constitutional Court has taken into account not only the arithmetic measurement of living space, but also other factors such as daily out-of-cell entitlement and the presence of communal areas, and has found violations of Articles 23 and 25 of the Constitution even in cases where (remand) prisoners were actually allocated more than 3 m^2 of living space in the absence of the above-mentioned mitigating circumstances.[30] However, the jurisprudence of the supervisory judges of the County Courts, who were called upon to assess the numerous complaints of prisoners for judicial protection (notably at Zagreb Prison), rejected most of those complaints on the ground of a more selective approach, thus taking into account the reports submitted by the management of the prison concerned, which confirmed that the detained persons had been provided with more than 3 m^2 of living space (see paragraph 44).

30. See in this respect the Croatian Constitutional Court Decisions No. U-III-1192/2018 and U-III-1267/2021.

39. In general, Lepoglava Prison provided satisfactory material conditions of detention in all closed regime departments where the general population was accommodated (see paragraphs 70 and 71 on Departments 1A and 1B). Standard double cells of 9.5 m^2 and a small number[31] of dormitories of approximately 35 m^2 equipped with bunk beds, tables, chairs, shelves and personal lockers, a call bell and a fully separate sanitary annex (equipped with a toilet and a washbasin), were in a good state of repair and hygiene, as were the communal rooms[32] and common shower facilities present in each department. In particular, the delegation noted with satisfaction that an ongoing maintenance programme was in place, covering aspects such as the prompt repair of showers, the proper maintenance of the heating and ventilation system and the whitewashing of walls in cells and communal rooms.

40. At Zagreb Prison, the delegation took note of certain improvements introduced since its previous visit, namely the removal of metal shutters from windows[33] (with the exception of cells located on the ground floor), the installation of shelters against inclement weather and tennis table tables in courtyards, the renovation of communal showers, the provision of new mattresses and the installation of new doors in the sanitary facilities. Despite the serious overcrowding (particularly in Departments Nos.1-6), the cells and sanitary facilities were found to be well lit[34] and of an acceptable standard of hygiene and repair. It was clear to the delegation that the prison management was genuinely making efforts to mitigate the harmful effects of overcrowding by ensuring that the premises were kept clean and hygienic.

Nevertheless, all wings accommodating remand prisoners (namely, Departments Nos. I-VI) were seriously overcrowded and, in principle, standard cells of 19.5 m^2 could accommodate between six and eight prisoners, who were confined to their cells for 22 hours a day[35] which meant that most of the remand population was offered a living space of between 2.5 and 3.2 m^2 each. Although in principle the state of hygiene and repair was satisfactory, the sanitary annex, consisting of a toilet and a washbasin, was not fully partitioned[36] and the number of seating places at the table was insufficient,[37] obliging prisoners to take turns to eat. Finally, the cells were still not equipped with a call bell. The average period of remand detention at Zagreb Prison amounted to approximately 40 days but in 6% of cases lasted more than six months.[38]

41. The CPT takes note of the efforts made to maintain the prisons in an adequate state of repair and to offer appropriate conditions, in particular at Zagreb Prison, in light of the serious overcrowding. Nevertheless, the Committee would like to recall that, in its decision in *Muršić v. Croatia*, the European Court also established the notion of the existence of three mitigating factors, which must be met cumulatively in order to avoid a possible violation of Article 3 of the Convention in respect of prisoners provided with less than 4 m^2 of living space in multiple-occupancy cells.[39] Such mitigating factors are: 1) the length of the period of detention in conditions of minimum personal space; 2) the provision of an adequate out of cell entitlement and activities and 3) the absence of other aggravating aspects of the conditions of detention. Further, the CPT must reiterate that it has long advocated a standard of 4 m^2 of living space per prisoner in multiple-occupancy cells (and a desirable standard that is even higher) still conceding the possibility of minor deviations to the standard which must be compensated The CPT has never considered that its cell-size standards should be regarded as

31. As well as a more limited number of single cells measuring 6 m^2.
32. They were in general equipped with tables, chairs, television set and kettles for the preparation of hot drinks.
33. With the exception of the cells located on the ground floor, which the prison authorities claimed had to be maintained for security reasons.
34. In light of the presence of three large windows measuring 80 x 60 cm in the standard multiple-occupancy cells of 19.5 m^2.
35. A more limited number of double-occupancy cells were in service, measuring 9.5 m^2.
36. The partition was 1.8 metres high, given the lack of a ventilation system.
37. It consisted in principle of two wooden benches measuring approximately 120 x 40 cm.
38. For example, in respect of the 1 114 detainees admitted at Zagreb Prison during the first nine months of 2022, the period of pre-trial detention had lasted up to one month in 515 cases, up to three months in 325 cases, up to six months in 213 cases and up to one year in 61 instances.
39. See in this respect the judgment of the Grand Chamber of the Court in *Muršić v. Croatia* No. 7334/13 of 20 October 2016, paragraph 138.

absolute. In other words, it does not automatically hold the view that a minor deviation from its minimum standards may in itself be considered as amounting to inhuman and degrading treatment of the prisoner(s) concerned, as long as other, alleviating, factors can be found, such as, in particular, the fact that inmates are able to spend a considerable amount of time each day outside their cells engaged in purposeful activities (work, education, sport, recreation). The preventive approach of the CPT means that it aims to prevent situations that may result in violations of Article 3 of ECHR arising. By not guaranteeing 4 m^2 of living space per person in multiple occupancy cells, the Croatian authorities are on the cusp of subjecting prisoners to conditions which may be considered as inhuman and degrading. For this reason, the CPT recommends that the minimum standard of 4m^2 of living space per person be complied with.[40]

In this respect, the situation observed in Zagreb Prison, where remand prisoners may be detained for months on end,[41] confined to their cells with less than 4 m^2 of living space, with no communal facilities and no purposeful regime except for two hours of outdoor exercise, raises clear issues under Article 3 of the European Convention on Human Rights.

42. The CPT recommends that the Croatian authorities ensure that no more than four remand prisoners at Zagreb Prison are accommodated in a standard multiple-occupancy cell.

Further, the CPT recommends that rigorous action is required to bring the prison population down below the number of places available within the prison estate and to put an end to overcrowding. In this respect, emphasis should be placed on the full range of non-custodial measures capable of providing judicial supervision during the period preceding the imposition of a sentence, as well as on measures to accelerate a prisoner's release, including through supervisory means tailored, *inter alia* to the prisoner's personality and the nature of the sentence.[42]

43. The condition in the 18 cells of the National Diagnostic Centre (namely, Department No. 5), were worse than the rest of Zagreb Prison, with higher occupancy levels (eight prisoners accommodated in 19.5 m^2), and a poor state of repair and hygiene.[43] **The CPT recommends that the conditions of detention at the National Diagnostic Centre (Department No. 5) of Zagreb Prison be substantially improved in terms of state of repair and level of hygiene in cells and that occupancy levels be reduced to meet the required standard.**

44. In view of the serious levels of overcrowding at Zagreb Prison, it was not surprising that the majority of the complaints lodged with the prison management and the supervisory judges (for judicial protection)[44] by detained persons related to the level of overcrowding and the poor material conditions in the cells, combined with the restrictive regime in place and the lack of communal facilities. An overview of the complaints filed during 2021 and 2022 showed that the judicial authorities generally rejected these complaints if the inmates could not prove that they had been placed in cells with less than 3 m^2 of living space per prisoner. In doing so, the supervisory judges accepted the arguments put forward by the prison management concerning the efforts made to maintain the prison in adequate hygiene conditions, the general maintenance process and the presence of windows of a good size, ensuring sufficient ventilation and access to natural light.

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40 See in this respect the CPT's document "Living space per prisoners: CPT standards" CPT/Inf (2015) 44.
41. For example, in the Court judgment of *Ulemek v Croatia* 21613/16 of 31 October 2019, paragraph 129, the Court established a violation of Article 3 even in respect of a very limited period of remand detention at Zagreb Prison in conditions similar to those described in this report.
42. See, for example, the *White Paper on Prison Overcrowding (op.cit.)*, Recommendation CM/Rec (2017) 3 on the European Rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole) and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules, Recommendation CM/Rec(2014)4 on electronic monitoring.
43. Prisoners were in principle spending 30 days and more in such conditions and the management tried to transfer prisoners to other wings when occupancy levels in the cells reached eight persons.
44. Pursuant to Article 184 of the LECS.

The CPT considers that the relevant mitigating factors referred to in paragraph 41 should be taken into account by the Croatian authorities when assessing the material conditions and the high occupancy rate of Zagreb Prison. **The CPT recommends that the Croatian authorities take into account the above-mentioned principles and mitigating factors when deciding on prisoners' complaints about allegedly poor material conditions in Zagreb Prison. Furthermore, such considerations should also be communicated to the competent Centre for the Execution of Criminal Sentences at the Zagreb County Court and, if necessary, discussed at the level of the Supreme Court, as the main coordinator of the activities of supervisory judges throughout the country.**

45. The new provisions of the LECS and the Rules on Standard of Accommodation and Provision of Food for Prisoners had introduced new elements, such as the possibility for prisoners to order food at their own expense, and a more varied diet and canteen products (as well as the provision of additional food for working prisoners). The delegation found that in both establishments, menus were varied, kitchen facilities were adequately equipped and in good hygienic conditions, and food was adequately stored. However, with the exception of those prisoners in Zagreb Prison who ordered food at their own expense with which they received knives and forks, the rest of the prison population at the two establishments visited were only provided with spoons during the meals.

With regard to clothing and bedding, both establishments provided, in principle, regular and adequate replacement and washing of personal clothing and bedding by the central laundry every 15 days. However, at Zagreb Prison, the delegation received complaints from NDC prisoners about the long delays they experienced in using the central laundry, as well as the inadequate supply of personal hygiene products. Furthermore, the delegation met several foreign nationals and some destitute prisoners in pre-trial detention who had worn the same clothes for weeks since their arrest, as they could not rely on family or external support.

The CPT recommends that the Croatian authorities ensure that all prisoners are provided with an appropriate set of cutlery (that is, fork, knife and spoon) when eating their meals and that each restriction be subject to an individual risk assessment. Further, the Committee also recommends that the management of Zagreb Prison and the National Diagnostic Centre take the necessary steps in order to provide destitute or foreign remand prisoners[45] with the necessary clothing when it is clear that they cannot rely on external support.

b. regime for sentenced prisoners

46. The new LECS has also brought some changes in the regulation of working arrangements, treatment activities and education of prisoners, through the adoption of a specific Rulebook on Treatment, which introduces a standardised form of the Individual Treatment Plan (ITP), to be drawn up during the initial assessment of sentenced prisoners at the National Diagnostic Centre and subsequently implemented at the level of the destination prison establishment. According to the Rulebook, the ITP should contain a detailed risk assessment of the prisoner (in terms of criminogenic risks and recidivism), estimated treatment needs and goals, and a detailed analysis of ordinary treatment interventions (work, recreational and educational activities) and specialised programmes of a psychosocial and socio-pedagogical nature to be carried out during the sentence.

47. At the closed-regime sections of Lepoglava Prison the delegation noted with satisfaction the fact that many prisoners were engaged in a remunerated activity (178 out of 365)[46] and that, in principle, all persons who expressed a wish to work were offered such an opportunity.[47] Further, an

45. See in this respect paragraph 67 of the 30th General Report of the CPT on its activities CPT/Inf(2021)5 on the essential components of a decency threshold in a prison setting.
46. Mainly in the metal and wood processing workshops but also on maintenance works, kitchen and bakery.
47. Provided that they were assessed to be medically fit for work.

additional 24 prisoners were undergoing vocational training[48] and a wide offer of inclusive recreational activities was on offer.[49]

The offer of specialised psycho-social and socio-educational programmes was aimed at the treatment of inmates under compulsory treatment for alcohol (49 inmates), substance abuse (45 inmates) and gambling (one inmate). They consisted of periodic group workshops for the treatment of alcoholism ("TALK", 17 annual workshops), the treatment of drug using prisoners ("PORTOs", 34 annual workshops), the treatment of gambling disorders (eight prisoners), and treatment of perpetrators of violent crimes ("NAS", 16 workshops in 2022 involving eight prisoners).

48. As regards the 159 sentenced prisoners at Zagreb Prison, 60 were involved in work activities (mainly in the kitchen and other maintenance works) and eight were offered vocational training (notably as ceramicists and painters). Further, since 2021, civil society and several NGOs have resumed their workshops on creative writing, art and responsible parenting. In addition, a number of specialised psychosocial programmes were regularly attended, such as on prevention of alcoholism ("TALK", seven individual and 14 group sessions), prevention of drug abuse and relapse ("PORTO", six individual and 16 group sessions), and treatment of perpetrators of violent crimes ("KLAP", four individual and 20 group sessions).

49. The delegation also took positive note of the fact that, since 2018, the Croatian authorities have introduced the concept of so-called "respect modules", which are intended to accommodate prisoners who have committed themselves to a set of rules of behaviour in exchange for enjoying some elements of self-management within the module, in cooperation with other inmates. The aim of the respect modules is to promote progressive accountability on the part of inmates and to improve relations between staff and inmates with a view to improving the general atmosphere. The delegation visited the so-called *"Uzor"* respect modules in Zagreb Prison (Department No. 9, accommodating 35 prisoners) and Lepoglava Prison (Department 3E accommodating 24 prisoners). In essence, the delegation observed a relaxed regime, the promotion of positive relations and interaction with staff, and the involvement of prisoners in meaningful activities during the day.[50] **The CPT commends the Croatian authorities for promoting such an innovative approach.**

50. The ITPs analysed by the delegation in relation to each category of prisoner demonstrated a truly individualised approach. In principle, all sections of the ITPs were duly completed, objectives were clearly stated and regular review and revision were ensured. However, there was a serious understaffing of treatment officers in both prisons, which threatened to undermine these efforts to improve the individualisation of treatment. Furthermore, specialised group and individual psychosocial interventions, such as the above-mentioned "PORTO", "KLAP" and "TALK" programmes, have certainly been beneficial in dealing with prisoners with special needs (such as those subject to compulsory treatment measures). Nevertheless, the Committee believes that more specialised programmes could be developed, particularly in relation to the treatment of prisoners with long sentences.

The CPT recommends that the Ministry of Justice considers developing thematic rehabilitation programmes in particular for prisoners serving long sentences. Such programmes should comprise a clear sentence planning path consisting of additional steps aimed at lending meaning to their period of imprisonment; in particular, the provision of individualised custody plans, targeted rehabilitation programmes, and appropriate psychological and social support.

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48. That is, regular courses on ceramics (seven prisoners), vegetable growing (eight prisoners), woodworking machine operation (five prisoners), chainsaw operation (three prisoners), mulching machine operation (one prisoner).
49. Recreational activities such as sports (football, basketball, gymnastics, boccia, volleyball, table tennis, chess, electric darts, table football) involving 390 inmates, IT workshop for 140 inmates, press section (13 inmates), music section (30 inmates), vegetable garden – fruit section – (10 inmates), creative workshops (art, carving, marquetry involving seven inmates), library and reading room (192 inmates).
50. See in this respect paragraph 56 of the CPT's report on its 2011 periodic visit to Spain CPT/Inf (2013) 6.

c. regime for remand prisoners and misdemeanour offenders

51. As mentioned in paragraph 30, Article 2 of the LECS now envisages, in theory, the possibility of providing a more substantial regime of activities (including work) for remand prisoners. At the time of the CPT's visit in 2022, the delegation noted some moderate improvements in the regime offered to remand prisoners at Zagreb Prison. The two-hour outdoor exercise entitlement was strictly enforced, and table-tennis tables and street exercise equipment had been installed in the yards to provide physical exercise. In addition, a certain number of remunerated activities were offered to prisoners (specifically, eight remand prisoners were involved in work in Zagreb Prison).[51] The Croatian authorities also indicated their intention to expand such activities in the future.

The CPT calls upon the Croatian authorities to take concrete measures to develop a daily programme of activities for all remand prisoners building on the efforts initiated at Zagreb Prison. The aim should be to provide prisoners with at least eight hours of out-of-cell activities (work, vocational courses, education, recreation and sports).

52. One of the novelties of the new LECS[52] consisted of the fact that persons sentenced to imprisonment for misdemeanours could now serve their sentence in an open or semi-open regime of a prison (*kaznionica*). The delegation met the 18 misdemeanour prisoners accommodated in Unit No. 8 of Zagreb Prison and found that, in terms of material conditions and regime, they were the same as remand prisoners. **The Croatian authorities should give serious consideration to abolishing imprisonment for misdemeanour offences and to exploring alternatives to the imprisonment of this category of offenders.**

4. Healthcare services

53. The new LECS now include provisions for the Ministry of Justice to cover the costs of health insurance for foreign nationals and indigent prisoners.[53] In addition, the Croatian Health Insurance Fund (HZZO) should now recognise prison doctors as general practitioners for the benefit of prisoners in terms of prescriptions and referrals (that is, in practice, with access to the Central Health Information System of the Ministry of Health or “CEZIH”). In addition, according to Article 30, paragraph 3 of the LECS, the Ministry of Health is now responsible for quality control of healthcare in prisons. However, there was still no plan to transfer the responsibility for healthcare in prisons to the Ministry of Health. Furthermore, the delegation was informed of a new draft Rulebook of the Ministry of Justice on the Standards and Norms for the Provision of Healthcare in the Prison System, which would regulate the necessary technical and staffing requirements for prison infirmaries throughout the country with a view to obtaining accreditation from the Ministry of Health (see also paragraph 111). **The CPT would like to be informed of the status of the adoption of the above-mentioned Rulebook on the Standards and Norms for the Provision of Healthcare in the Prison System as well as its implication in terms of staffing and technical conditions in the infirmaries of the prison establishment nationwide.**

a. staffing levels and access to a doctor

54. The healthcare staffing complement at Zagreb Prison included several vacancies and currently consisted of the following members: one full-time GP,[54] three contracted part-time GPs (a neurologist, a traumatologist and an orthopaedic surgeon for a total presence of 360 hours per month), two contracted part-time psychiatrists (for a total presence of 180 hours per month), eight nurses (at least three per shift and two at weekends) and one pharmacy technician. Although a general practitioner was always present in the prison, including during weekends, such a component seemed rather insufficient for a large remand prison.

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51. Predominantly in maintenance jobs such as cleaners, garbage collectors, food distribution etc.
52. Pursuant to Article 181, paragraph 2 of the LECS.
53. Pursuant to Article 110, paragraph 2 of the LECS.
54. The GP concerned was due to resign in the weeks following the CPT's visit, following an offer to work abroad.

At Lepoglava Prison, the situation was more serious: the post of GP had been vacant since 2020. After several unsuccessful attempts to recruit a full-time GP, the prison management had resorted to contracting two different community GPs, who in principle provided a presence of about 25 hours per month at irregular intervals. The nursing complement consisted of seven posts, with two nurses present on each shift, including weekends. In addition, a rehabilitation physician visited for three hours per month and an ultrasound physician twice month. The existing arrangements placed a strain on the escorting staff and were a waste of resources, as inmates were transported to the local health clinic for even the most common tasks, such as writing a prescription for simple medication. By letter of 21 November 2022 the Croatian authorities informed the Committee that new competitions had been launched in the course of October 2022 for the posts of head of the healthcare department and one psychiatrist at Lepoglava Prison, and one general practitioner and one nurse at Zagreb Prison. Further, the job complexity coefficient for certain positions in prison healthcare had been revised,[55] resulting in an increase of doctors' salaries.

The CPT calls upon the Croatian authorities to seriously reflect on the longstanding, deleterious and costly effects of the chronic understaffing of the healthcare component. Ways to render the job of prison healthcare staff more attractive (in addition to increasing salaries) – such as offering good prospects for professional development – should be actively sought.

More specifically, urgent steps must be taken to fill all the vacant healthcare staff posts in the penitentiary establishments visited and to ensure that there is at least the equivalent of two full-time GPs' posts at Lepoglava Prison and three at Zagreb Prisons. Steps must also be taken to recruit and/or significantly increase the complement of nurses, notably at Zagreb Prison. The Committee takes note of the launching of competitions for the recruitment of healthcare staff at Lepoglava and Zagreb Prisons and would like to be informed of their outcome.

55. The infirmaries in Zagreb and Lepoglava prisons were generally in a good state of repair and in satisfactory hygienic conditions. The respective pharmacies were well stocked with a wide range of medicines. While the infirmary at Lepoglava had a full range of emergency medical equipment, at Zagreb Prison, there was no oxygen, the ECG machine was out of order and the defibrillator had never been used. Further, there was also no nebuliser and oxygen mask. **The CPT recommends that the emergency medical equipment at Zagreb Prison be reviewed and that a person competent to provide first aid, who holds a valid certification in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator, is always present at the establishment.**

56. With regard to dental care, a dentist was present in Zagreb Prison, assisted by a dental nurse, and provided dental treatment, including prosthetic work (at the prisoner's expense). However, there was no dental X-ray machine. In Lepoglava Prison, a contracted dentist visited the institution once a week. **The CPT recommends that a dental X-ray machine be procured at Zagreb Prison.**

57. At both facilities, a system of referral slips in a box was in place, allowing prompt access to a doctor in full confidentiality. At Zagreb Prison, there was a system of daily rotation of prisoner accommodation departments, which allowed regular access. At Lepoglava Prison, although inmates could in principle address their requests to nurses, the visiting contracted doctors did not announce their visits to the nursing staff in advance, which caused problems in scheduling appointments (inmates had to reiterate their requests).

The issue of the prison doctors' registration with the Croatian Health Insurance Fund (HZZO), observed by the CPT during 2017, which created problems in the recognition of prescriptions and referrals for specialist treatment, did not appear to pose a major problem. It was reported that prison doctors had access to the CEZIH system.

55. Through a relevant amendment to the Rulebook on Job Titles and Job Complexity Coefficients in Government Bodies.

There was no clinical guidance on protocols for suicide prevention or hunger strikes, although such incidents were reportedly rare in both institutions.

The CPT recommends that, pending the recruitment of two permanent general practitioners at Lepoglava Prison, the current visiting doctors provide advance notification on their expected visits to the establishment. The Committee would also like confirmation that prison doctors nationwide have access to the CEZIH system. Finally, even in the absence of major cases, the Croatian authorities should consider the possibility of adopting specific protocols and clinical guidelines on the prevention of suicide in prisons and on the management of hunger strikes.

b. screening and report of injuries/confidentiality

58. The medical examination of newly arrived pre-trial detainees in Zagreb Prison took place promptly (that is, within 48 hours). The medical examination consisted of taking a medical history and recording basic biometric indicators. With regard to the recording of injuries, very few injuries were noted on arrival, with the doctor relying on the findings of the initial screening carried out by the prison police officers when the inmates were asked to undress completely (see paragraph 73). If injuries had been noted by the prison police officers these would be recorded within the clinical record and the person referred for further assessment at hospital. There was, however, no injury register.

The CPT further recommends that a register be introduced in each prison to track the progress of investigations concerning allegations or other evidence of all forms of ill-treatment that may come to the attention of the prison doctor.

59. In terms of screening for transmissible diseases on admission, testing for HCV, HIV and TB was carried out in cases of suspicion, but not on a proactive basis. In addition, vaccination against HBV was not offered to inmates with a history of drug use. **The CPT recommends that the Croatian authorities ensure that in all the establishments visited and, as appropriate, in other prisons in Croatia, all newly arrived prisoners are subject to a systematic TB screening and voluntary testing for HIV and hepatitis B and C within 24 hours of admission. As appropriate, vaccination against hepatitis B should be offered to inmates.**

60. Medical examinations of inmates at Zagreb and Lepoglava Prison took place in the presence of custodial staff unless expressly requested by the doctor.

The CPT would like to stress that respect for confidentiality is essential to the atmosphere of trust which is a necessary part of the doctor/patient relationship; it should be the doctor's duty to preserve that relationship and to decide on the manner in which the rules of confidentiality are observed in a given case. Therefore, there can be no justification for custodial staff being systematically present during such examinations; their presence is detrimental to the establishment of a proper doctor-patient relationship and usually unnecessary from a security point of view. Alternative solutions, such as plexiglass doors in front of medical consultation rooms and the installation of call systems whereby a doctor can easily and rapidly alert prison guards in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination, can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality.
The CPT recommends that the Croatian authorities take effective steps to comply with the above-mentioned precepts.

61. The distribution of medication to prisoners was carried out by nursing staff in both establishments, including at weekends. The administration of opiate agonist therapy (OAT) was conducted in accordance with the prison administration's internal policy that prisoners must demonstrate that they have swallowed the medication, often by a nurse inserting a spatula into their mouth to ensure this. Insulin and inhalers were kept in the block by police officers for use by prisoners as required, but there was no recording of the administration of medication in either establishment.
The CPT recommends that a register concerning the administration of medication be established in Zagreb and Lepoglava prisons, as well as in other penitentiary establishments throughout the country.

c. transmissible diseases

62. While there was no register of the number of prisoners with either HIV or HCV in Zagreb Prison, there were two persons in Lepoglava receiving antiretrovirals for HIV infection, while seven were undergoing assessment in order to receive the necessary treatment for HCV. The delegation was informed that, in the event of a positive assessment by the Croatian Institute for Infectious Diseases, the treatment offered to them, as for the rest of the community, would consist of direct acting antiviral medication (DAA). By letter of 21 November 2022 the Croatian authorities informed the Committee of their intention to establish a permanent system for the systematic testing of prisoners for HCV in cooperation with the Ministry of Health and the Croatian Institute for Public Health.

Furthermore, with regard to the prevention and treatment of Covid-19, according to an internal order of the prison administration of September 2021, newly arrived prisoners were being tested as appropriate, and the mandatory quarantine for newly arrived prisoners had been abolished. Finally, vaccination against Covid-19 was offered to prisoners and staff.

d. psychiatric care

63. The psychiatric input/presence (as described in paragraph 54) appeared to be sufficient for primary purposes. As regards prisoners subject to compulsory measures and in acute cases, prisoners were regularly referred to the Zagreb Prison Hospital for consultations and possible hospitalisation. In addition, various individual and group psychosocial programmes were provided, especially for prisoners subject to compulsory psychiatric treatment.

e. drug-related issues

64. The number of prisoners on OAT (namely, methadone and buprenorphine)[56] in both prisons consisted of 79 prisoners in Zagreb and 44 in Lepoglava Prison. The delegation was able to ascertain that, in the case of a remand prisoner admitted to prison, OAT is continued if they can prove that they belong to the programme. In the absence of proof, a consultation with the psychiatrist would be arranged without delay. Furthermore, six prisoners in Zagreb and 39 in Lepoglava Prison participated in the PORTO psychosocial programme against substance use recidivism.

f. medical ethics

65. The Croatian legislation stipulates that healthcare staff may carry out compulsory drug tests on inmates at the request of prison staff. Healthcare staff told the delegation that they did not consider such an issue to be a case of dual loyalty, as their role was only to carry out the test for the presence of illicit substances in the urine samples provided by security staff without any contact with the prisoners in question. **The CPT would like to receive the comments of the Croatian authorities on this issue.**

66. As mentioned in paragraph 30, one of the novelties of the amendments to the LECS 2021 is that nursing staff, in addition to a doctor, can now carry out medical examinations of inmates placed in solitary confinement or subject to security measures such as separation or placement in a rubber room. The delegation was informed that such a provision had been included in the legislation in order to compensate for the understaffing of general practitioners in prisons at the national level.

56. The dosages ranged from 10-130 mg of methadone and 4-8 mg of buprenorphine on daily basis.

5. Other issues

a. prison staff

67. The overall complement of prison staff at the national level was 1 558 prison officers out of 1 984 budgeted posts and the ratio of one staff member to prisoners had increased to 2.5. This state of affairs was reflected in the establishments visited: in Zagreb Prison, a staff complement of 241 prison officers (out of 328 budgeted posts) was responsible for the supervision of 834 prisoners. In Lepoglava Prison, 210 prison officers (out of 263 posts) were responsible for the supervision of 490 prisoners.[57] Furthermore, the Director of Lepoglava Prison informed the delegation that a number of staff were close to retirement age. **The CPT recommends that the Croatian authorities fill all vacant prison officer posts in order to ensure that every prison is adequately staffed to guarantee security and operate a meaningful regime.**

68. The Centre for Staff Education and Training in Zagreb remains responsible for the provision of induction and in-service training. It is reported to have provided induction and in-service training to some 900 prison staff in 2021, covering issues such as, *inter alia* interpersonal skills and general fundamental rights of prisoners.[58] **The CPT would like to receive information from the Croatian authorities on plans to further develop targeted training modules, in particular on issues such as dynamic security and building positive relationships between staff and prisoners.**

b. security measures

69. In the course of the 2022 visit, the delegation reviewed the application of the security measures for the maintenance of order and peace in prison in accordance with Article 143 of the LECS.[59] The application of security measures across the prison system has remained stable over the past couple of years (2 371 in 2021 and 2 339 in 2020).

At Zagreb Prison, there was no dedicated section for the enforcement of security measures but there were two padded cells (rubber rooms), each measuring approximately 8 m^2. At Lepoglava Prison, the measure of separation, solitary confinement and placement in a rubber room were executed in a six-cell department (1A), whereas the measure of placement in enforced supervision was being implemented in the 19-cell department (1B).

70. In Department 1A of Lepoglava Prison, two persons were serving a separation measure of up to thirty days and one prisoner was serving a judicial solitary confinement measure of up to three months.[60] They were held in individual cells (6 m^2) furnished with a bed fixed to the floor, a table and stool, and a toilet at floor level. Prisoners were offered outdoor exercise for two hours a day in a special yard covered by a metal mesh and equipped with benches. A nurse carried out healthcare checks twice a week. The prisoners had received a written decision from the prison director or the supervisory judge, which was well reasoned and included information on the avenues of appeal to the relevant judicial authorities. Nevertheless, the regime in force for both the measures was extremely impoverished. The prisoners had no contact with the treatment staff and they spent their days reading magazines or books.

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57. Including the prison population from the open and semi-open regime units.
58. The induction course lasted four months and included specific modules on the psychosocial treatment of prisoners and the protection of their fundamental rights, delivered by staff from the Office of the Croatian Ombudsman, the Office of the Ombudsman for Children and the Office of the Ombudsman for Gender Equality.
59. Article 135 of the Croatian LECS provides for the following security measures: 1) increased supervision; 2) seizure of objects allowed under normal circumstances; 3) separation from other inmates for a maximum period of 30 days; 4) placement in a room without dangerous objects; 5) placement in an increased supervision department; 6) immobilisation with handcuffs; 7) solitary confinement for a maximum period of three months authorised by the supervisory judge.
60. The reasons for the placement of the two prisoners under a separation measure were related to recent episodes of inter-prisoner violence, while the measure of judicial solitary confinement had been imposed by the supervisory judge in light of the seizure of a large quantity of illegal substances in the prisoner's cell.

The CPT has repeatedly stated 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 about activities (thus fostering a sense of autonomy and personal responsibility). 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 occupants but also of the maintenance of effective control and security, and of staff safety. **The CPT recommends that the Croatian authorities take the necessary steps to comply with the above-mentioned precepts.**

71. At the time of the visit, Lepoglava Prison's 19-cell Enhanced Supervision Department was accommodating 16 prisoners. The standard cells, measuring between 6 and 9 m^2, were equipped with a bed, a table and chair, and a fully partitioned sanitary annex with a toilet and a washbasin. They were in a satisfactory state of repair and hygiene in line with the rest of the establishment. Prisoners, divided into socialisation groups made up of four members, were allowed to spend at least four hours a day outside the cell (two hours in a communal room equipped with tables, chairs, TV and kettle, and two hours in a separate yard equipped with a gym). In addition, they were allowed to watch television in the communal room until 22:00.

Placement in an enhanced supervision department for an initial period of three months was subject to review by the supervisory judge and could be appealed to a panel of judges of the relevant County Court.[61] The reasons for such a placement were a prisoner's incompatibility with the normal regime or as a transitional measure after serving a period of segregation in Department 1A. While several prisoners told the delegation that they preferred to remain in Department 1B on a voluntary basis, the documentation showed that placement could last for years on end with little effort being made by staff to promote reintegration into the general population.[62] In this respect, the delegation learned that the supervisory judge had played a decisive role recently in challenging the stereotyped reviews of prisoners' three-monthly placements in Department 1B.

The CPT considers that the paucity of activities on offer in Department 1B is not an appropriate response to disruptive behaviour in prison or to facilitate progress towards reintegration into the community. It is crucial that prisoners held under enhanced supervision are provided with tailored activity programmes of purposeful activities of a varied nature (including work, education, association and targeted rehabilitation programmes).

The CPT recommends that the Croatian authorities develop a purposeful regime for prisoners placed in Department 1B of Lepoglava Prison, with a view to promoting their reintegration into the ordinary regime and thereafter into the community. This should also consist of increased contact with treatment staff and a review of their ITPs. Further, the supervisory judges who are called upon to decide on complaints lodged by prisoners placed in enforced supervision should examine the level of activities and treatment input offered to prisoners.

72. The resort to the placement of a prisoner in a rubber room due to violent outbreaks and episodes of self-harm, in accordance with Article 143, paragraph 5, of the LECS has decreased since 2017.[63] In the 21 months since the beginning of 2021, there had been seven recorded placements in a rubber room at Lepoglava Prison and 36 placements at Zagreb Prison.[64] The special register in both prisons accurately recorded the measure, noting the duration and regular visits by a nurse, including observations of the prisoners' behaviour and other elements such as the provision of food and drink and the provision of access to a toilet.

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61. Pursuant to Article 143, paragraph 8 of the LECS.
62. Prisoners had regular contact with treatment staff, which focused on their welfare issues, but not on the nature and length of their stay in the department.
63. The resort to the measure accounted for 2% of the total number of security measures imposed (approximately 46 cases per year).
64. For a description of the rubber rooms in question, see paragraph 53 of the CPT's report on the 2012 periodic visit to Croatia CPT/Inf (2014) 9.

However, as mentioned above, several prisoners described to the delegation how they had been placed in a rubber room with their hands cuffed behind their backs, and on occasion ankle-cuffed too, for prolonged periods of up to 48 hours. They had only been released from the restraints in order to eat or go to the toilet. The application of means of restraint to prisoners placed in a rubber room was not recorded in the registers. Furthermore, in the majority of cases recorded, the measure of placement in a rubber room had lasted for the maximum period allowed by law (that is, 48 hours) or for one or two hours less than this. From the information gathered by the delegation, it would appear that placement in the rubber room beyond a few hours for the persons to calm down was not proportional and was used as a punitive measure against the prisoner concerned.

The CPT considers (see paragraph 35) that there is no justification for additional means of restraint such as ankle- and handcuffs to be applied to an agitated prisoner placed in a rubber room. Further, the Committee considers that such a practice may well amount to inhuman and degrading treatment inflicted for punitive purposes. It is also contrary to the relevant provisions of the LECS on the application of security measures for the maintenance of good order. Furthermore, the CPT is concerned that their placement very often exceeds 24 hours and is close to the maximum of 48 hours, which calls into question the proportionality of the measure. **The CPT recommends that the Croatian authorities take effective steps to modify their practice in light of the above-mentioned principles.**

73. At Zagreb Prison, all newly arrived prisoners (as well as those returning from court hearings) were subjected to a systematic body search by the prison staff, which consisted of stripping the prisoner naked and a visual check of the mouth. Prisoners were also asked to squat naked. The procedure took place in a dedicated office adjacent to the visiting facility and was carried out by two prison officers of the same sex as the prisoner.[65]

The CPT recommends that the Croatian authorities ensure that the resort to strip searches at Zagreb Prison is based on an individual risk assessment, subject to rigorous criteria and supervision, and carried out in a manner respectful of human dignity. Further, every reasonable effort should be made to minimise embarrassment; detained persons who are searched should not be required to remove all their clothes at the same time, for example a person should be allowed to remove clothing above the waist and get dressed again before removing further clothing.

c. means of restraint

74. The resort to means of restraint[66] at the prison establishments visited amounted to 21 cases at Zagreb Prison and 22 at Lepoglava Prison from January 2021 to September 2022 and in general consisted of use of physical force, pepper spray and rubber batons. As set out in paragraph 6 above, an examination of the relevant records showed that a stricter approach could be taken in assessing the proportionality of the use of restraints, in particular when two measures were applied simultaneously, such as use of pepper spray and of rubber truncheons (see paragraph 33). **The recommendation in paragraph 34 on the need to apply the necessary proportionality assessment when resorting to the use of means of restraint vis-à-vis recalcitrant and agitated prisoners also applies in this context.**

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65. The process in question was in compliance with Article 20 of the Rulebook on Security Affairs in the Prison System. In particular, paragraph 6 of the same Article reads as follows: “The search is carried out if there is a suspicion that the person deprived of liberty is hiding objects or substances, the possession of which is prohibited, and has not previously been under the direct supervision of a judicial police officer”. Further, Article 21 of the same Rulebook regulates the conduct of searches of the body cavities of prisoners, which must be performed by a doctor in the presence of security staff.
66. Article 150 of the LECS provides for the following means of restraint: 1) physical force; 2) rubber baton; 3) pepper spray; 4) electro-shock weapon; 5) water hose; 6) firearm.

d. discipline

75. As mentioned in paragraph 30, the 2021 amendments to the LECS provided for some important new features, such as the reduction of the maximum period of solitary confinement to 14 days.[67] In addition, Article 156, paragraph 9, of the LECS reserves the right for prisoners subject to disciplinary proceedings to be assisted by a legal counsel and to receive a written decision on the initiation of proceedings, even in the case of less serious disciplinary offences.[68] The delegation noted that there was limited resort to the disciplinary procedure and that the sanctions imposed appeared to be proportionate, with some cases being suspended or dismissed. Furthermore, the use of solitary confinement was very limited in Zagreb Prison[69] and suspended in Lepoglava Prison due to the impossibility of ensuring medical checks in the absence of a prison doctor.

In addition, initial and daily checks of the health status of persons placed in solitary confinement could now be carried out by nurses and medical technicians, whereas previously this had been the prerogative of doctors.

e. transportation of inmates

76. The delegation received several complaints from prisoners concerning the lack of safety in vans used for transporting them around the country to court or another prison establishment, such as a lack of seat belts and handholds. Further, during long journeys prisoners said that they were unable to alert staff to request a toilet stop.

Moreover, the routine hand and ankle cuffing of prisoners serving sentences of more than five years during all transfers and escorts, regardless of their risk assessment (see paragraph 108), is both dangerous and disproportionate.

The CPT recommends that the Croatian authorities ensure that all prisoner transportation vehicles are equipped with safety belts and fitted with a means for prisoners to communicate with escort staff during the journey.

The CPT also recommends that the Croatian authorities ensure that, when prisoners are transported within a secure compartment of a vehicle, the use of hand and ankle-cuffs should be exceptional and based upon an individual risk assessment, and that the application of any means of restraint does not pose additional risks of injury to the prisoners during their transfers.

f. contact with the outside world

77. The amendments to the LECS now entitle sentenced prisoners to receive two-monthly visits of one hour each[70] and remand prisoners to receive six visits a month of 15 to 60 minutes each.[71] Furthermore, as a consequence of the Covid-19 pandemic, the prison authorities had introduced arrangements in the legislation[72] for additional entitlements to videoconference calls for sentenced prisoners. Prisoners may also be offered, as a benefit in case of satisfactory behaviour, up to four unsupervised conjugal visits of up to four hours per month with a spouse/partner, at the discretion of the prison director.[73] The Committee is of the opinion that all prisoners should be entitled to a minimum of the equivalent of one hour of visiting time every week. **The CPT recommends that prisoners' entitlements to visits be revised accordingly.**

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67. Pursuant to Article 154, paragraph 4 of the LECS.
68. Previously such rights were granted only for those offences which could be the object of sanction of solitary confinement.
69. That is, one case from January 2021 to September 2022 for a duration of five days.
70. Pursuant to Article 117, paragraph 1, of the LECS.
71. In accordance with Article 19 of the Rulebook on House Rules on the Execution of Pre-Trial Detention.
72. Pursuant to Article 124, paragraph 3 of the LECS.
73. Pursuant to Article 130, paragraph 2, of the LECS. The duration of the visit is at the discretion of the competent investigative judge.

78. In terms of visiting arrangements, child-friendly premises with decorations have been introduced at both Zagreb and Lepoglava prisons (with the assistance of UNICEF and the "*Roda*" Association). The visiting arrangements for sentenced prisoners, consisting of a spacious conference room with pictures and child-friendly toys, and a cafeteria were adequate. However, the arrangements for pre-trial detainees in Zagreb Prison remained the same as those observed during previous visits, consisting of a liftable glass partition, with visits generally taking place in a chaotic and noisy environment in cramped conditions due to the vicinity and number of the partitions (that is, they were up to 15 in one single room).

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 and/or be monitored. However, "open" visiting arrangements should be the rule and "closed" ones the exception, for all legal categories of prisoners. 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.

The CPT recommends that the Croatian authorities review the visiting arrangements at Zagreb Prison in light of the above remarks.

79. Sentenced prisoners were entitled to a minimum of one telephone call per week lasting 10 minutes;[74] remand prisoners continued to be allowed six phone calls per month with a maximum duration of 15 minutes each. That said, the delegation received complaints from prisoners about the disproportionate cost of their telephone conversation in comparison to the prices in the community.[75] Further, remand prisoners complained about the long delays in having their lists of permitted contacts approved by the relevant judge. The CPT considers that all persons entering prison should be offered the opportunity of one phone call to let their families know where they are and what they require. This is all the more important given that many persons deprived of their liberty by police do not contact their families prior to being transferred to prison.

The CPT recommends that the Croatian authorities offer all newly arrived persons in prison the possibility to make one short phone call to a family member as part of the admission procedure. Further, the Committee also recommends that the Croatian authorities ensure that telephone call charges from prison establishments do not exceed those in the outside community.

80. Article 131 of the LECS stipulates that sentenced prisoners are entitled to unlimited mail correspondence at their own expense; the content of the letters is systematically checked by the prison authorities (with the exception of complaints to the supervisory judge, the Ombudsman and international organisations) resulting, *inter alia* in significant delays in the sending and receiving of correspondence. In the CPT's opinion, the current systematic censorship procedures in place should be reviewed. It is not only an interference in a prisoner's private life but a waste of resources to read every single letter; only if there are reasonable concerns that the content of a letter may pose a security threat or signal criminal intent should it be read. Otherwise, incoming and outgoing letters should only be checked to ensure that no contraband is being mailed.

The CPT recommends that the Croatian authorities review the current systematic screening of prisoners' correspondence.

g. complaints and inspection procedures

81. The delegation examined complaints lodged by prisoners with the prison management or, in the case of judicial protection, with the supervisory judge at Zagreb and Lepoglava prisons. In principle, complaints were dealt with promptly and received a rapid and reasoned response. However, in some cases concerning overcrowded conditions and allegations of ill-treatment, the complaints did not appear to have been investigated effectively, including interviewing the prisoner

74. Such entitlement may be increased in relation to the prisoner's classification.
75. For example, a one-minute phone call from prison would cost two Croatian Kunas (HRK) instead of 0.76 HRK in the community.

and challenging the version given by the prison. Too many decisions appeared to merely rubber-stamp the version of events put forward by the prison administration. **The CPT recommends that the Croatian authorities ensure that all complaints lodged by prisoners are investigated effectively.**

82. One of the main novelties of the LECS is the provision for the creation of centres for the enforcement of criminal sanctions, staffed by a team of dedicated supervisory judges at the level of each county court hosting a prison establishment. The supervisory judges remain responsible for issues relating to access to alternative sanctions, the processing of complaints against prison management or judicial protection and are required to visit the prison establishments under their responsibility at least once a year.

83. The investigative judges of the Zagreb Municipal and County Courts had resumed their visits to the remand units of Zagreb Prison in accordance with the provisions of the Zagreb CCP following the suspension of Covid-19. However, the supervisory judges of the Zagreb and Varaždin County Courts had not yet resumed their visits to prison facilities and were holding hearings/interviews with convicted prisoners via video link in suitably equipped rooms. **The CPT recommends that the supervisory judges from the Zagreb and Varaždin County Courts resume their visit of prison establishments in person in order to better assess the conditions of detention of the prisoners under their legal remit.**

84. As mentioned in paragraph 7 the NPM has also resumed its visiting activities to prison establishments following the suspension related to the COVID-19 pandemic.

6. Women in prison

85. The delegation visited for the first time the only prison establishment in the country accommodating female sentenced prisoners. It also visited the female department (No.10) of Zagreb Prison. At the outset of the visit, the Croatian authorities informed the delegation that they were aware that the limited number of women in prison and the concentration of sentenced women in a single establishment could give rise to problems of marginalisation and neglect.[76] In the context of developing a gender-sensitive approach to women in prison, consideration was being given to the construction of a new prison establishment in Gospić, which would include a separate detention unit for sentenced female prisoners and in which those from the south of Croatia would have greater opportunities to receive family visits. **The CPT would like to be informed about the plans to construct additional detention units for women in order to take account of their geographical marginalisation. Further, it would like to receive a copy of the prison administration's strategy for the treatment of women in prison. Finally, the remarks in paragraph 42 concerning the resort to non-custodial measures in order to tackle the phenomenon of prison overcrowding also apply in the context of female prisoners.**

86. Požega Prison is an historical prison complex dating back to 1915, which also served as a female prison in former Yugoslavia. Since 1991, the prison also accommodates juvenile offenders serving a criminal or educational measure in a separate unit.[77] At the time of the visit, the establishment was accommodating 120 female sentenced prisoners, with closed regime prisoners held in a two-storey building, a unit for semi-open prisoners within the main perimeter of the establishment and two open-regime sections.

Further, the establishment included a small mother and child unit located above the prison canteen. Finally, a new two-storey building named *"Orljava"* was being completed to accommodate sentenced

76. See in this respect the CPT's Factsheet "Women in Prison" CPT/Inf(2018)5 as well as Rule 1 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).
77. Under the management responsibility of the establishments there were also six female juvenile offenders serving an educational or criminal measure.

male prisoners (134 in 32 cells) who had been evacuated from the Glina Prison Pavilion following the 2020 earthquake.[78]

As mentioned in paragraph 31, female prisoners at Zagreb Prison were accommodated at Department No. 10, which is located above the infirmary. The unit consisted of seven cells and was accommodating 34 women, with 24 on remand detention and 10 sentenced.

a. ill-treatment

87. The large majority of female prisoners interviewed by the delegation stated that they were treated correctly by custodial staff. Nevertheless, the delegation received some allegations of physical ill-treatment, consisting of slaps and occasional punches, inflicted by prison staff, mainly in reaction to frequent episodes of disruptive behaviour and inter-prisoner violence. The alleged ill-treatment took place in a separate room (library or treatment office) in Departments Z1 or Z2 of the closed regime. Several prisoners also complained of excessive use of force in the form of shoving and abrupt pulling of arms when being escorted or when they showed disobeying behaviour. Finally, female prisoners in the closed regime units also alleged that prison staff often addressed them in an unpolite and derogatory manner and frequently shouted at them as a means to maintain order.

The CPT recommendation regarding the need to prevent ill-treatment and excessive use of force, as developed in paragraph 34, also applies in this context. In addition, the Croatian authorities should develop specific training modules for supervisory staff serving at Požega Prison on how to manage episodes of recalcitrant behaviour and agitation by women prisoners and on how to act in a proportionate manner.

88. Episodes of inter-prisoner violence were frequent at the closed-regime units (Z1 and Z2) of Požega Prison and consisted of physical altercations between the women, linked to issues such as trading of therapy, thefts and accumulated debts. Such conflicts were exacerbated by the women being accommodated in large dormitories and also due to the lack of activities for all women. The CPT also received allegations from female prisoners serving long sentences about the derogatory remarks made towards them by fellow inmates in relation to the nature of their criminal offence. **The recommendation in paragraph 36 on the need to develop a national strategy for the prevention of inter-prisoner violence is also valid in this context. Furthermore, the CPT considers that such a strategy should also take into account the specificities of Požega Prison, as regards the poor and impersonal material conditions and the presence of dormitories, as well as the underlying tensions among the prison population, in light of its specific risk assessment and criminological profile.**

b. conditions of detention

89. The two open-regime sections[79] provided good conditions of detention to prisoners, cells were spacious, well ventilated and adequately equipped with beds, personal closets, tables and chairs. However, the conditions in the closed-regime and semi-open[80] regime units were deficient and inadequate for accommodating the women prisoners (in particular those serving long sentences). At the Z1 and Z2 units on the two floors of the closed-regime units, the large dormitories offered 4 m^2 of living space per person (11 prisoners in 46 m^2 and seven prisoners in 36 m^2).

Despite the walls having been recently decorated and in principle being in an acceptable hygienic state, the dormitories were austere and impersonal, metal beds were separated by a metal chair and no other furniture was permitted. Female prisoners had their personal belongings stored in a locked

78. Pending the transfer of sentenced male prisoners, the building in question was set to temporarily accommodate female prisoners from the closed regime unit, which was also being considered for refurbishment.
79. There was a total of 15 prisoners under the open regime in two sections: one section was located right outside the prison perimeter while the second, named "*Čekić*", was located in a separate building approximately 1.5 kilometres from the establishment.
80. The semi-open regime unit was located inside the perimeter of the prison and accommodated 30 female prisoners.

facility from which they could retrieve them at any time. The separate common sanitary facilities were also in a poor state of repair and insufficient to meet the needs of the population (two toilets and two showers were in use for 36 prisoners at Department Z1) with long queues evident, especially in the morning. Further, the damages caused by the recent hailstorm to the ceiling was visible throughout the unit, with mould, and water leaking in the sanitary facilities. The semi-open unit located in an adjacent building shared the same design and austere conditions as well as the high-occupancy levels (seven persons in 22 m^2 and four prisoners in 17 m^2).

The delegation was informed that, following the damage caused by the hailstorm, units Z1 and Z2 would be subject to extensive renovation, including measures to improve insulation and energy efficiency. By letters of 21 November 2022 and 8 February 2023, the Croatian authorities informed the Committee that the female prisoners from the closed regime units (Z1 and Z2) had been temporarily accommodated in the new "*Orljava*" building pending the refurbishment of the closed regime units. The renovation works would consist of partitioning the dormitories into smaller four-bed units, each with its own sanitary annex, and increasing the number of communal showers. Furthermore, upon completion of the renovation, some of the closed regime prisoners would be relocated to the semi-open regime building, which was also being upgraded. **The CPT would like to be informed of the progress of the refurbishment of the closed regime units (Z1 and Z2) of Požega Prison and, in particular, of the creation of smaller living units for up to four prisoners in light of the information already provided.**

In the Committee's view, there is also a need to improve the personalisation of spaces by allowing female prisoners to have a personal locker in their cells and to freely dispose of their personal belongings. Furthermore, the renovation of the closed regime departments should include the upgrade of sanitary facilities, including an increase in the number of toilets and showers in use. In the CPT's view, ready access to sanitation is all the more important for women, given their special needs during menstrual periods. Positive differentiation in terms of additional access to washing facilities may also be necessary.[81] **The CPT recommends that the renovation of the closed regime sections of Požega Prison should comply with the above-mentioned requirements. The Committee would also like to receive an update, including photographic evidence, on the renovation work carried out in relation to the material conditions of accommodation and sanitary facilities in the closed regime departments (Z1 and Z2) of Požega Prison.**

90. At Department No. 10 of Zagreb Prison, the design and layout of the cells were identical to those in the rest of the establishment. However, the levels of overcrowding were even more severe than in the neighbouring male departments with up to eight women held in a dormitory of 19.5 m^2 (representing less than 2.4 m^2 per person). A communal shower facility in use and accessible twice a week and the provision of toiletries, hygiene products, bedding and sanitary towels appeared to be adequate. **The remarks outlined in paragraph 42 in relation to the material conditions and occupancy levels observed at Zagreb Prison also apply in this context. Furthermore, the Committee considers that the cumulative adverse conditions of severe overcrowding, combined with the impoverished regime and lack of activities on offer (see paragraph 93), may well amount to inhuman and degrading treatment.**

c. regime

91. At Požega Prison, in principle, all prisoners who were physically fit and willing to work were offered this opportunity and at the time of the visit 80 of the 120 women were working.[82] It was also positive that work activities were offered to prisoners with a mandatory security measure of psychiatric treatment. In terms of special treatment interventions, a socio-educational group on anti-alcoholism held weekly sessions for prisoners. In addition, the range of extra-curricular activities was varied and adequate, and included choir, handicrafts, reading workshops, art and drama workshops, sports and dance. There was also a good level of use of benefits such as daily and

81. See the CPT's Factsheet "Women in Prison" CPT/Inf(2018)5.
82. On the day of the CPT's visit, 12 were employed in the textile workshop, 10 in the kitchen, 50 in various maintenance and general tasks such as gardening, storage, laundry, canteen, staff restaurant and library.

weekend leave. Further, prisoners were allowed access to the courtyard for two hours per day (equipped with benches but no shelter against inclement weather).

One of the two Departments of the closed regime (Z2) was organised as a respect module for 36 prisoners according to the same modalities and guidelines observed by the delegation in respect of male prisoners (that is, voluntary admission and commitment, clear rules of behaviour, assessment on a points system, dedicated staff). The delegation was able to observe that the structure of the respect module promoted a certain level of inclusiveness and responsibility in particular for inmates with longer sentences. Its activities were, however, hampered by the architectural limitations of the building and the understaffing of the treatment unit.

92. Despite the fact that the offer of remunerated and extracurricular activities was at an adequate level, several factors (including the specific architectural environment, disproportionate restrictions in force and understaffing of the treatment department) negatively impacted the regime and the quality of life and rehabilitation of female prisoners in Požega Prison. For example:

- The austere dormitory environment and the ban on personal belongings did not allow for the personalisation of living space for female prisoners. Several women serving long sentences told the delegation that such depersonalisation, combined with the length of their sentences, was the most distressing part of their incarceration.
- The closed regime Departments (Z1 and Z2) do not have a common room and prisoners spend their free time (outside working hours) in the main corridor, which is equipped with tables and chairs and small kitchenettes for the preparation of hot drinks.
- The courtyard used by female prisoners from the closed regime departments had no shelter against inclement weather, forcing inmates to gather in a tiny space at the entrance to the main building in case of rain.
- Several existing restrictions were applied systematically and without any apparent security concern. These included in particular the obligation to wear the work uniform denim outside working hours and during transfer outside the prison (for example, to medical appointments etc.), and the prohibition of certain items of clothing such as hoodies.
- In practice, the regime on the semi-open unit was the same as that on the closed unit, with the only difference being the provision of two communal rooms.
- There were only three treatment officers (out of nine budgeted posts), whose workload did not allow them to provide the necessary level of individual attention, particularly to women serving long sentences or requiring special interventions.[83]

93. The CPT recommends that the Croatian authorities support the management of Požega Prison in addressing the above-mentioned deficiencies. In particular, the closed regime departments (Z1 and Z2) should be renovated and all women offered adequate personal space in smaller rooms and permitted to personalise their living space. The departments should each have a common room where the women can associate during the day. Further, a shelter against inclement weather should be installed in the courtyard in use by female prisoners from the closed regime departments.

Furthermore, any restriction imposed on female prisoners regarding the use of personal items and types of clothing should be based on an individual security risk assessment, and the women should be allowed to wear their own clothes outside working hours.

The vacant posts of treatment officers for the female prison population should be filled. Finally, the Committee would like confirmation that the semi-open regime department will be moved outside the perimeter of the prison, replacing the existing open regime unit.

83. Treatment officers spent a considerable amount of time preparing regular reports for the relevant courts on the observation and progress of prisoners' behaviour and were also involved in the process of granting benefits to prisoners, such as temporary leave.

94. The regime in Department No.10 of Zagreb Prison was the same as for the rest of the remand prison population and consisted of two hours of outdoor exercise per day in the internal parking for the transportation vans of the institution. For the rest of the day, remand and convicted female prisoners remained locked in their cells with no activities on offer. There was no communal facility for sentenced prisoners, who spent their time watching TV and reading magazines, and one was employed for maintenance tasks. The CPT considers that females in prison should enjoy access to a comprehensive programme of meaningful activities (work, training, education and sports) on an equal footing with men. The small number of women such as Department No. 10 of Zagreb Prison may mean that it is not considered viable to establish a workshop exclusively for them. However, such a discriminatory approach can only serve to reinforce outmoded stereotypes of the social role of women.

The CPT calls upon the Croatian authorities to take concrete measures to develop a programme of activities for female prisoners accommodated at Zagreb Prison. The aim should be to provide prisoners with at least eight hours of out-of-cell activities (work, vocational courses, education, recreation and sports).

d. Mother and Child Unit

95. Article 119 of the LECS regulates the situation of women who are pregnant and give birth during their time in prison. These women are accommodated in a special mother and child unit of Požega Prison, where children can stay until the age of three. The prison administration, in cooperation with the competent social welfare authorities, is responsible for the needs of the mother and child in terms of healthcare, pre-school activities, etc. In exceptional cases, the child may remain with the mother beyond the age of three until the completion of her sentence, provided that this does not exceed six months.

The delegation visited the mother and child unit of Požega Prison (the only one of its kind in the country), which accommodated four women and four infants. The unit was located directly above the canteen and consisted of an autonomous area comprising two rooms with metal beds and metal cots, a living room with a play area for children and a kitchen (equipped with a stove and a table) and a call bell. One fellow female prisoner was employed to assist with the daily activities and treatment, while both healthcare staff and prison officers paid regular visits to the unit during the day.

96. The unit was in an acceptable state of repair and hygiene. However, the walls were damp and there was evidence of peeling paint in one of the rooms. The unit was also poorly equipped, with only one pushchair, two carrycots and three sling carriers for four children. There were sufficient supplies of diapers, hygiene products and baby milk. In terms of food provision, children received extra portions of fruit, eggs and snacks twice a day. However, there was a lack of variation in the menu and nursing mothers were offered the same menu as that of other female inmates. With regard to clothing, the women complained that they were only afforded access to two sets of trousers and T-shirts and were forced to change every three days. In addition, the mothers were forced to wear the prison's denim uniform whenever they were transported outside the prison. **The CPT recommends that the management of Požega Prison upgrade the equipment of pushchair and baby carriers of the mother and child unit as well as to provide adequate access to stocks of clothing to mothers. Further, additional efforts should also be made to ensure that a wide variety of food is made available in the right proportions to enable nursing mothers and their children to maintain an adequately nutritious, sufficiently calorific and well-balanced diet.**

97. The regime in the unit was not significantly different from that of the rest of the general population and consisted of two hours of outdoor exercise per day in the main courtyard, which was frequently reduced (sometimes to one hour) due to staff shortages. There was a swing for children in the courtyard, but it was rusted and in a poor state of repair. Mothers were allowed to work while the prisoner assistant looked after their children. At the time of the visit, none of the children were attending a pre-school in the community but the prison management informed the delegation that arrangements were being made to that effect in cooperation with the local social services department. Visiting arrangements (including the possibility to accumulate entitlements) were in place and visits took place in the specially designed children's facility. **The CPT recommends that**

steps be taken to increase the outdoor entitlements of female prisoners accommodated in the mother and child unit to at least four hours per day and that, if necessary, additional staff be provided. In addition, the swing in the courtyard should be repaired and adequately maintained and more playground facilities should be provided and installed.

e. healthcare

98. The staffing of the healthcare component for female prisoners consisted of two nurses (working in shifts during the week) and a contracted general practitioner who visited the facility twice a week. At weekends and public holidays (and when the GP was on leave), an interface was in place to transfer female prisoners to the nearby hospital or a local clinic in the event of an emergency and for medical check-ups. Dental care was provided in an outside clinic by a contracted dentist. The healthcare needs of the children accommodated with their mothers were allocated to a local paediatric clinic, to which they were regularly transferred (each child had a medical record and all vaccination routes were provided in accordance with national regulations). **The CPT recommends that arrangements are in place for the replacement of the general practitioner by another doctor during the periods of leave.**

99. Newly admitted female prisoners were, in principle, screened by nursing staff (and the general practitioner if present) on the day of arrival. The screening consisted of a general medical inquiry (including menstrual history, pregnancies and pap-screening), recording of basic medical parameters and, if there was a history of substance misuse, female prisoners were also screened for HCV and HIV. However, vaccination against hepatitis B was not offered proactively. Further, there was no injury register and no screening for gender-based violence.

The CPT recommends that the Croatian authorities develop the admission procedures at all prisons accommodating female inmates to take into account the gender-specific needs of women prisoners. This should include screening for sexual abuse or other forms of gender-based violence inflicted prior to entry to prison and ensuring that such information is considered in the drawing up of a care plan for the woman in question. Further, steps should be taken to ensure that the admission procedure is always comprehensively carried out, an injury register introduced and vaccination against hepatitis B be proactively offered.

100. The infirmary consisted of an examination room and three medical rooms and was adequately equipped but lacked a defibrillator. There was an adequate supply of medicines, which were normally distributed by nurses, with the exception of the night shift and at weekends when such tasks were performed by custodial staff. **The CPT recommends that an automated external defibrillator be provided at Požega Prison and staff trained in its use.**

101. In terms of OAT, there were eight prisoners with a history of previous drug use who received buprenorphine or methadone[84] and six of them attended the psycho-social standard programme against drug recidivism (the PORTO programme). In terms of psychiatric care, the female prisoners who were subject to a mandatory measure of psychiatric treatment received outpatient care (in terms of medication) and were periodically referred to the prison hospital for consultations.

The CPT must reiterate that the preparation of individual doses and the distribution of prescribed medicines by medically untrained individuals may be harmful to the health of the patients concerned and, in any event, is generally incompatible with the requirements of medical safety and medical confidentiality. **The CPT recommends that prescribed medicines, as a rule, only be prepared and distributed by qualified healthcare staff.**

102. The nurses, in principle, conducted medical checks to persons placed in solitary confinement, and enforced supervision and separation due to the sporadic presence of the doctor and in line with the legal provisions. With regard to the security measure of compulsory testing for psychoactive substances, the nurses told the delegation that they considered their role to be a technical one of checking the biologic results of the test at the request of custodial staff.

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84. Namely, Buprenorphine 2-12 mg daily, Methadone 20-80 mg on a daily basis.

103. The delegation gained a positive impression of the level of healthcare provided to children detained in in the Mother and Child Unit of Požega Prison. Their personal medical records showed that they were frequently referred to a local paediatric clinic in Požega, where they underwent comprehensive developmental screening and a full compulsory vaccination programme.

f. prison staff

104. The staffing complement for women prisoners at Požega Prison consisted of 45 prison officers (including several male custodial officers) out of 53 budgeted posts. The low staffing levels, particularly in the closed regime departments, posed problems of supervision in the event of disturbances.[85] Moreover, prison staff openly carried truncheons in the detention areas and some prisoners complained about their martial and abrupt communicating skills and lack of empathy towards the women.

At the beginning of the visit, the delegation was informed that prison staff working in women's prisons had to undergo a special training module at the Vukomerec Training Centre. However, it was not clear if such a training module contained aspects on gender-specific challenges in the supervision and treatment of female prisoners and addressing their specific needs.

In the CPT's view it is crucial that any prison accommodation unit holding women has female custodial staff in sufficient numbers at all times. **Therefore, The CPT recommends that all staff involved in the management of women's prisons receive training relating to the gender-specific needs and human rights of women prisoners, including the prohibition of discrimination.[86] The Croatian authorities should ensure gender-sensitive and trauma-informed treatment and management of women prisoners as an integral part of the curriculum of custodial staff in women's prisons.**

Further, the Committee wishes to stress that openly carrying truncheons is not conducive to developing positive relations between staff and inmates and recommends that the Croatian authorities put in place a timetable setting out clearly the phasing out of batons as standard equipment for prison officers working in detention areas at Požega Prison. Finally, the Committee would like to receive information on the specific training modules for custodial staff working with female prisoners which is provided at the Vukomerec Training Centre for prison staff.

g. security measures

105. The delegation reviewed the application of security measures for the maintenance of good order (pursuant to Article 143 of the LECS) at Požega Prison. At the time of the visit, two women were serving the enforced supervision measure in the special cell at the end of the corridor in the Z1 Department.[87] The cell measured 16 m^2 and was equipped with three beds, a table and chairs and a separate sanitary facility. It was in an acceptable state of repair and hygiene.

However, there was a triple metal grille on the windows, which limited access to natural light, and the washbasin in the sanitary facility leaked. The women spent the whole day in the cell reading and were not offered any activities, apart from having access to a dedicated courtyard for two hours a day. The placement decision did not include any elements about the duration and the possibility of appeal. Treatment staff visited them regularly and maintained meaningful contact.

The CPT recommends that the cell used for the enhanced supervision of prisoners in unit Z1 be upgraded by removing the triple mesh over the window[88] and repairing the sanitary facilities. Furthermore, prisoners subject to enhanced supervision should receive a reasoned written decision stating the duration and possibilities to review and appeal the measure. They should be offered a more substantial regime.

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85. In principle, one custodial staff was on duty on each floor during every shift and was tasked with the supervision of approximately 30 prisoners.
86. Bangkok Rule 32-33.
87. There had been 29 instances of placement under enforced supervision or separation of female prisoners in the course of 2022.
88. The same applies to the cell in the admission and segregation unit.

106. The measure of separation of an inmate from the rest of the population in case of episodes of inter-prisoner violence was enforced in a special cell located in the disciplinary section in the basement of the closed regime unit. The cell in question measured 8.5 m^2 and was equipped with a bed fixed to the floor, a fold-down table and stool and a semi-partitioned sanitary annex (equipped with a floor level toilet and washbasin). According to the register, the measure could last up to thirty days and prisoners had access to a dedicated small courtyard for two hours a day. In addition, a cell in the prison's reception area, located in the basement of the closed regime building, was occasionally used to temporarily isolate prisoners following an episode of inter-prisoner violence. The cell in question, measuring approximately 10 m^2, was equipped with a bed and CCTV and was in a satisfactory state of repair.

There was also a rubber room of the same type and size as those observed at Zagreb and Lepoglava Prisons which, according to the registers examined and the testimonies of staff and prisoners, had not been used for a long time.

107. The delegation reviewed the procedure and conduct of disciplinary proceedings applied to female prisoners for breaches of good order. It was able to ascertain that there was no excessive recourse to disciplinary sanctions,[89] that the files were in good order and the procedure correctly followed: the prisoner was regularly served with a written motion to initiate proceedings and summoned to appear before the disciplinary commission. Decisions on the imposition of sanctions were well reasoned and showed that the process was surrounded by appropriate legal safeguards in terms of legal advice, appeal and examination of evidence.

Nevertheless, the material conditions in the two solitary confinement cells located in the basement of the closed regime building were not fit for purpose. The cells in question were a mere 4 m^2, extremely dark and damp, with only a wooden fold-up platform for furniture and a non-partitioned toilet and washbasin. **At the end of the visit, the delegation invoked Article 8, paragraph 5, of the Convention establishing the CPT and requested that the two disciplinary cells be taken out of use and that the adjacent cell intended for the separation of prisoners be used as an alternative. By letter of 21 November 2022 the Croatian authorities informed the Committee that the two above-mentioned disciplinary cells at Požega Prison had been put out of service as of 30 September 2022.**

108. The review of the register and data on the use of restraints revealed that prisoners involved in episodes of inter-prisoner violence could occasionally be handcuffed for a limited period of time and placed in temporary isolation as a cooling off measure in a cell in the admissions unit under CCTV (see paragraph 88 above).[90] Reports on their use were complete and included the necessary assessments in relation to proportionality statements on the use of restraints, including medical documentation.

As with male prisoners, all female prisoners sentenced to more than five years' imprisonment were systematically handcuffed outside of the prison and during transportation. Some prisoners had lodged complaints for judicial protection, considering such a measure to be humiliating, and the judicial authorities had confirmed that it was justified in light of the current legislation (see paragraph 76). **The CPT recommends that the Croatian authorities ensure that when female prisoners are transported and escorted outside of the perimeter of Požega Prison the use of handcuffs is exceptional and based upon an individual risk assessment. Further, the Committee invites the Croatian authorities to transmit this recommendation to the supervisory judges of the Brod-Posavina County Court.**

109. Female prisoners in Zagreb and Požega Prisons were subjected to the same systematic strip searches by two female members of the prison staff on admission and on re-entry to the prison establishment after transfer outside, in accordance with the same modalities as described in paragraph 72. **The recommendation set out in paragraph 72 that strip searches should only be carried out on the basis of an individual assessment and with full respect for the dignity of the detainee also applies in this context.**

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89. There were 19 disciplinary sanctions imposed in 2022, including eight involving solitary confinement for up to 10 days.
90. There had been one recorded case in the course of the first months of 2022.

h. contact with the outside world

110. The rights to contact with the outside world of female prisoners were exactly the same as those of the male sentenced population. In view of the fact that Požega Prison was the only institution in the country holding sentenced women prisoners, the prison administration allowed the accumulation of visitation rights for prisoners originating from distant parts of the country such as southern Croatia. The visiting facilities (located in the premises of the adjacent female juvenile correctional facility) appeared to be in good condition and consisted of three open conference rooms equipped with tables and chairs, hot drink machines, a decorated room and a playground for children. There was also a separate room for closed visits with screened booths and a room for conjugal visits.

i. complaints and inspection

111. The relevant registers consulted showed that the procedure for lodging complaints (for judicial protection and to the prison administration) was well established and that replies were received in writing and, in general, were adequately reasoned. However, in some specific cases, in their responses to the relevant report of the prison management, the competent judges appeared to base their rejection of the complaints on issues which would probably have required a more sympathetic and less legalistic assessment, such as in the case of a prisoner who complained about the systematic use of handcuffs during transport given the length of her sentence. **The remarks in paragraph 81 on the necessity for supervising judges to apply the necessary rigour and scrutiny in respect of the examination of the complaints lodged by prisoners also apply in the context of Požega Prison.**

C. Hospital for persons deprived of their liberty

112. The delegation undertook a follow-up visit to the Prison Hospital in Zagreb, which provides psychiatric and somatic outpatient care to convicted and remand prisoners from all prison establishments. Pursuant to Article 23, paragraph 1 of the LECS, the Prison Hospital has been classified as a prison with the status of a healthcare establishment in order to be accredited as such by the Ministry of Health. At the time of the visit, the process of accreditation had not yet been completed and the delegation was provided with a draft rulebook setting out the necessary requirements in terms of technical, staffing and material requirements for that purpose.[91] However, the Croatian authorities could not confirm when the above-mentioned rulebook would be adopted or what concrete steps they would take to adapt the living conditions in the establishment in light of the same.

113. The Prison Hospital, located in the eastern suburbs of Zagreb near Maksimir Park, consisted of a three-storey building with 29 rooms for patients over two floors. The building had undergone an EU funded energy efficiency refurbishment, which included the renovation of the facade and the installation of new windows and doors. At the time of the visit, the hospital was accommodating 120 prisoners (including 12 women) for a capacity of 126 places. There were 53 forensic patients under a mandatory court order pursuant to Article 68 of the Criminal Code, 23 prisoners on remand subject to a mandatory assessment of their mental health status pursuant to Article 551 of the Criminal Procedure Code,[92] and 44 prisoners temporarily transferred from other prison establishments for treatment.

1. Ill-treatment

114. A large number of patients with whom the delegation spoke, in particular those from the forensic psychiatry ward, stated that they had been treated correctly by the custodial staff. Nevertheless, the delegation received a number of allegations of physical ill-treatment consisting of slaps, punches and blows with truncheons, mainly inflicted by custodial staff on agitated patients/prisoners, primarily during episodes of psychiatric crisis or related altercations with other patients. The delegation also received allegations of verbal threats and inappropriate misbehaviour on the part of custodial and occasionally healthcare staff towards agitated patients, who told the delegation that they were afraid and intimidated to ask for the assistance of custodial staff or orderlies during the night, for fear of their reaction.

The CPT recommends that the Croatian authorities reiterate to all staff, notably to prison officers and orderlies, that any ill-treatment (physical ill-treatment and verbal abuse) of patients will not be tolerated and will be punished accordingly.

The CPT also recommends that all staff be properly trained to manage challenging patients, especially when they become agitated, through the regular provision of courses on de-escalation techniques and the use of safe and effective manual control techniques. The CPT also considers that prison officers should not be placed on the wards with responsibility for the management of prisoners with mental disorders. They should provide security outside the wards and should only ever intervene on the wards if called upon by healthcare staff in exceptional circumstances.

115. In the CPT's view, the treatment of certain patients with psychiatric disorders, accommodated in rooms on the second floor in dirty pyjamas, no underwear, on beds with torn mattresses and no bedding, to which they were occasionally fixated during the night (while placed in diapers), might be considered as inhuman and degrading.

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91. By letter of 21 November 2002, the Croatian authorities informed the Committee that medical equipment worth €400 000 would be procured and the kitchen would be renovated for €500 000.

92. Under Article 551 of the Criminal Procedure Code, where the prosecution has requested in the indictment that the defendant's criminal irresponsibility be determined, the defendant may be remanded in custody if there exists the probability that they may commit a further serious criminal offence, and where such "dangerousness" is established in consultation with an expert psychiatrist. In such cases the defendant must be sent to the prison hospital or another appropriate psychiatric institution.

The CPT calls on the management of the Prison Hospital to immediately address the poor conditions of psychiatric patients accommodated on the second floor of the establishment by ensuring that their mattresses are replaced and that they are provided with clean pyjamas and clothing. Furthermore, as stated in paragraph 123, there is no justification for the use of diapers on fixated patients and no person should be left without underwear.

116. The level of inter-patient violence appeared to have decreased slightly in terms of recorded incidents since the CPT's previous visit in 2017.[93] It is positive that the management of the establishment had carried out a detailed risk assessment of all prisoners, classifying their possible behaviour in light of the relevant provisions of the Rulebook on Treatment. Nevertheless, the delegation received some allegations of verbal altercations and occasional fights between patients due to the degree of overcrowding and their agitated state. Further, at the time of the visit, one prisoner was subject to a measure of solitary confinement imposed by the court, having been the protagonist of several episodes of intimidation and sexual harassment of other patients.

The CPT recommends that the management of the Prison Hospital put in place a comprehensive policy to prevent inter-patient violence and intimidation based on the detailed individual risk assessment charts developed. This should include ongoing monitoring of patients' behaviour by all staff (including the identification of likely perpetrators and victims), proper reporting of confirmed and suspected cases of inter-patient intimidation and violence, and thorough investigation of all incidents.

2. Living conditions

117. The living conditions in the rooms had not changed since the 2017 visit and showed the same shortcomings in terms of excessive occupancy rate (that is, five prisoners in some 21 m^2), lack of integral sanitary facilities, poor state of hygiene and repair. Such conditions were inappropriate for a facility seeking accreditation from the Ministry of Health and were far from offering a proper therapeutic environment for prisoners suffering from mental disorders. Further, the separate sanitary facilities located on the corridor and serving each of the four wards, consisting of toilets[94] and communal showers,[95] were also in a dilapidated state (for example, there were only two properly functioning showers out of four in the forensic ward) and in principle, the staff did not respond to patients' calls in a timely manner, especially at night, with the result that patients had to resort to portable urinals or litter bins in order to meet their needs. Finally, the delegation observed that many mattresses were old, occasionally torn, and without bedding, and that some patients wore dirty pyjamas while some were without underwear and complained about the malfunctioning of the central laundry service.

By letter to the Committee of 21 November 2022, the Croatian authorities acknowledged the need to modernise and renovate the rooms of the Prison Hospital in order to comply with the mandatory standards of the healthcare system. In their view, this would require long-term investment.

118. The CPT welcomes the fact that the Croatian authorities are considering the accreditation of the prison hospital as a healthcare facility, as provided for in Article 23, paragraph 1 of the LECS. However, in order to achieve such an objective in terms of basic hygienic and material standards, the rooms of the two wards should be substantially renovated and the occupancy rate reduced (for example, rooms of 21.5 m^2 should not accommodate more than four patients). Further, the regular cleaning of bed linen, pyjamas/personal clothing of patients and the replacement of old mattresses should be ensured.

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93. The establishment's management had noted a decrease in such incidents in recent years. The last recorded episode was in August 2021, and a total of three episodes were recorded during 2021, nine in 2020 and seven in 2019.
94. In principle there were three toilets, three urinals and three washbasins in use for each of the four wards, as well as two separate bathtubs for patients with a physical disability.
95. Each communal shower room included four showers and one was under renovation at the time of the visit.

In addition, the necessary arrangements should be in place (including the reinforcement of custodial staff) to attend to patients' calls for the toilet during the night, and the sanitary facilities (toilets, showers, bathtubs) should be improved and maintained in an adequate state of repair. Finally, the Committee trusts that the damage caused to the ceiling of the establishment by the 2020 earthquake will also be repaired.

The CPT recommends that the Croatian authorities, take action to improve the living conditions in the Prison Hospital, notably:

- **no room should be equipped with more than four beds;**
- **all patients should be provided with clean bed linen and personal clothing on a regular basis;**
- **old, torn mattresses should be replaced;**
- **the shower rooms should be kept in a good state of repair;**
- **all patients should have ready access to the toilet throughout the day and night;**
- **patients' rooms and recreation areas should be decorated and personalised to give patients visual stimulation and to reduce institutionalisation.**

3. Treatment and Staffing

119. The delegation noted that the staffing situation had deteriorated considerably since 2017. According to the Prison Hospital's management, this was partly due to the reduction of posts for budgetary reasons, but more particularly due to difficulties in recruiting psychiatrists and nurses. At the time of the visit, the number of doctors had fallen from 18 to 10, comprising: one medical director, three general practitioners, one surgeon, one neurologist, one internal medicine specialist, one radiologist and one specialist in physical medicine and rehabilitation. According to the information provided to the delegation, there were a further 10 vacant posts (six psychiatrists, an anaesthesiologist, an internist, an infectious disease doctor and the head of the pulmonary/infectious diseases ward). Further, there were 21 nurses and four orderlies working in the prison hospital, out of 33 budgeted posts.[96]

The psychiatric component was particularly worrying, as in practice there were only two part-time forensic psychiatrists (who attended to the needs of forensic patients and those under assessment pursuant to Article 551 of the CCP). Their duties included prescribing medication, writing reports to and correspondence with the courts, and dealing with the most difficult cases. In addition, there was still no specialisation in mental health for nurses.

By letter of 21 November 2022 the Croatian authorities informed the Committee of their intention to launch a competition for the recruitment of three forensic psychiatrists at the Prison Hospital.[97]

In light of the large numbers of psychiatric patients in the Prison Hospital, **the CPT recommends that the Croatian authorities recruit at least three more psychiatrists as a matter of priority. Further, the system of psychiatrists working alternate 12-hour day and night shifts should be reviewed with a view to increasing their therapeutic input during the day. In this context, the CPT invites the Croatian authorities to strive to render employment in the Prison Hospital more attractive, including financially.**

120. Individual treatment plans, including a risk assessment table, were prepared for each forensic patient subject to coercive measures, in accordance with the relevant treatment rulebook. The examination of these plans revealed that the only activities offered were watching television, reading books and access to outdoor exercise. The psychosocial rehabilitation offered consisted of the standard specialised programmes for the prevention of alcoholism (five inmates) and drug abuse (five inmates) and the acquisition of social skills (seven inmates).

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96. The daily presence of nurses throughout the institution was five during the day and three during the night shift.
97. Two of whom are to be assigned to the treatment of forensic patients under a compulsory treatment measure and one to the treatment of prisoners with mental disorders.

Consequently, the treatment offered to patients consisted mainly of pharmacotherapy. The limited range of rehabilitation activities was also related to the severe architectural limitations of the facility, where there was only one common room of about 36 m^2 equipped with a television, a computer and a table tennis table. Furthermore, access to outdoor exercise for two hours a day in the 70 m^2 courtyard, equipped with a basketball hoop and greenery, was the main form of recreation offered. Finally, 10 prisoners were employed in general duties (namely, laundry, cleaning, kitchen assistant, repair and maintenance). By letter of 21 November 2022, the Croatian authorities informed the Committee of their intention to reorganise the treatment of forensic patients at the Prison Hospital by providing a more varied and sustained schedule of daily and weekly individual and group therapeutic activities, modelled on the practice in civil psychiatric hospitals. To this end, the medical, treatment and security staff of the Forensic Psychiatry Unit would receive targeted training at the Vrapče and Popovača Psychiatric Hospitals.

121. The CPT considers that, in adopting the necessary change of approach of the carceral philosophy reigning in the Prison Hospital, due consideration should be given to the level and quality of psychiatric care which is to be provided to forensic patients in terms of a more individualised approach to their treatment. This should consist of an assessment of the clinical needs as well as a risk assessment based on structured professional judgment and the identification of treatment targets in consultation with the patient and a multi-disciplinary approach. Further, preference should be given to individual and group psychotherapeutic treatment programmes with a focus on problem solving and the development of interpersonal skills.

The CPT recommends that the Croatian authorities give serious consideration to a much-needed paradigm shift in the treatment of forensic patients based on the above-mentioned principles and would like to be informed of the progress achieved in the reorganisation of the work of the Forensic Psychiatry Unit.

122. At the time of the visit, the prison hospital was accommodating 23 prisoners on remand pending assessment of their mental disorders pursuant to Article 551 of the CCP. The management of the establishment informed the delegation that it did not consider itself equipped to offer appropriate care to this category of patients. The delegation noted that such patients could remain in the prison hospital for several months after the court decision declaring them criminally irresponsible, as civil psychiatric hospitals were not inclined to admit them to their forensic wards. To this end, an inter-ministerial meeting between the Ministry of Justice and the Ministry of Health had taken place in October 2020, after which the Minister of Health had issued a letter/instruction to all psychiatric institutions inviting them to accept the hospitalisation of patients deemed not responsible for their crimes. Apparently, such a letter had no effect on civil hospitals accepting patients from the Prison Hospital, apparently in light of their lack of capacity (see section 7 (Safeguards), Psychiatry, Part D).

The CPT recommends that the Ministry of Justice and Health give serious consideration to the issue of the prompt transfer of remand prisoners to a forensic ward of a civil psychiatric hospital for the assessment of their mental disorder under Article 551 of the CCP, as soon as the court decision confirming their legal status as not responsible persons has been issued. The Committee considers that, under the current conditions, the prison hospital is not equipped to provide adequate treatment and care for their mental disorders.

123. The delegation examined the application of mechanical restraint to patients, which is regulated by the relevant provision of the Law on Patients with Mental Disorders and the related 2015 Rulebook on the Manner of Executing Restraint to Patients with Mental Disorders (see section 6 (Restraints) in Psychiatry Part D). The regulation is in line with the CPT's standards in terms of the need to be ordered by a psychiatrist, the principle of residuality, the requirement of accurate recording of the restraint, periodic reassessment of its necessity, and debriefing and analysis of lessons learned after its application. According to the same Rulebook, the maximum duration of the measure should not exceed 24 hours.

In the second semester of 2021, the measure of mechanical restraint was ordered 19 times (in respect of 13 patients) for an average duration of 20 hours and 53 minutes and did not exceed 24 hours. For the first semester of 2022, 10 mechanical restraints were applied to six patients for an average of 19 hours and 45 minutes.

The fixation of a patient generally consisted of a five-point restraint to a bed with cloth-straps and was applied either in a dedicated room with CCTV located on the second floor and measuring some 8 m^2 or in a shared room with other patients. The majority of fixated patients were persons in pre-trial detention awaiting a decision on their criminal responsibility, who had been admitted to the prison hospital from a prison establishment, or from a prison hospital in an acute phase of aggressive agitation or suicidal tendencies. The records examined by the delegation showed that the measure could sometimes last up to 24 hours (and lasted on average 20 hours), was ordered by a psychiatrist (or confirmed by such within four hours), and regularly reviewed by a doctor – in principle every four hours. The records also showed that patients were regularly visited by a nurse but not often enough.[98] Nursing staff generally proceeded to disengage an arm in order to provide the patient with water or food. In terms of meeting natural needs, the majority of cases showed that patients were wearing diapers. Finally, it was not uncommon for patients who were allowed to eat to be restrained afterwards, even though the records showed that their behaviour was cooperative.

The delegation found that patients with psychiatric disorders subject to mechanical fixation were put in diapers while restrained and not permitted to go to the toilet. This is unacceptable and could be considered as degrading treatment.

By letter of 21 November 2022 the Croatian authorities acknowledged the need for more stringent supervision by healthcare staff of the application of the measure of mechanical restraint to patients at the Prison Hospital.

124. The Committee understands that the management of the Prison Hospital has in recent years invested efforts in the implementation of the measure of fixation of agitated patients/prisoners, in accordance with the relevant provision of the Law on Patients with Mental Disorders and the related 2015 Rulebook on the Manner of Executing Fixation of Patients with Mental Disorders. However, the delegation was not convinced that the fixation of patients/prisoners was always applied as a measure of last resort, only after all viable alternatives had been proactively explored. Further, the excessive duration of the average fixation measure (approximately 20 out of the legal maximum of 24 hours) also suggested that the principle of proportionality was not rigorously applied. In addition, the delegation remains seriously concerned that patients/prisoners are still being restrained in diapers and that the measure can still be applied in front of other patients/prisoners and is not under the constant supervision of healthcare staff. Furthermore, the CPT considers that there is no justification for prolonging the use of fixation when a patient/prisoner shows cooperative behaviour.

The CPT recommends that the management of the prison hospital take effective steps to ensure that the application of mechanical restraint of patients/prisoners at the Prison Hospital is carried out in accordance with a rigorous assessment of the criteria of immediate danger, proportionality and residuality. Furthermore, the Committee considers that the use of mechanical restraint on psychiatric patients/prisoners at the Prison Hospital should always be carried out in a designated room, with continuous direct supervision of a member of the healthcare staff who engages with the prisoner verbally, and not in front of other patients.

The CPT also reiterates its recommendation that steps should be taken to ensure that patients subject to mechanical restraint have access to the toilet, if necessary, and are not wearing diapers. In addition, the CPT considers that if a patient is temporarily released from restraint for the purpose of feeding and shows cooperative behaviour, there is no justification for the continuation of the measure (see also paragraph 198, in Part D).

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98. In principle every two hours and less frequently during the night.

125. The supply of medication appeared to be adequate and there was no evidence of its overuse. At least 20 percent of the psychiatric patients were prescribed clozapine, subject to a systematic monitoring of their blood cells. In addition, with regard to *pro re nata* (PRN) medication, around 50% of patients had a prescription for PRN medication, which was administered only after consultation with the doctor on duty.

126. As in previous visits, the delegation generally gained the impression that the quality of somatic care provided to patients accommodated in the Prison Hospital continued to be adequate. The interface with the various civilian hospitals in Zagreb in terms of referrals and specialised examinations/treatment was good. In addition, the stock and supply of medicines was satisfactory and, even though the facility had not been admitted to the CEZIH system (see paragraph 53) there were no practical obstacles to the issuing of referral slips and prescriptions of patients.

4. Other issues

127. The component of custodial staff reflected the vacancy rate of other categories (51 officers employed out of 66 budgeted posts). In principle there were three officers on duty on each floor during the day shifts and one during the night. **The CPT recommends that the vacant posts of custodial staff at the Prison Hospital be filled and their presence in wards during the night substantially increased in order to meet the needs of patients who wish to use the toilet.**

128. Patients' contact with the outside world was regulated in the same way as for prisoners in other establishments and call for no particular comment. However, the visiting facility, which was equipped with tables, chairs and a glass partition, consisted of a tiny passageway located between a storage facility and the admissions examination room. Given its compressed and transitory nature, the facility in question was not suitable for such a purpose. **The CPT recommends that the Croatian authorities find a more suitable area within the Prison Hospital for patients to meet their families and friends in a more spacious environment expressly designed for this purpose.**

129. The facility had a functioning complaints system: complaint boxes and forms were available and patients appeared to be aware of their rights, and were addressing all relevant institutions.[99] The number of complaints remained limited[100] and their subject matter concerned the poor material conditions as well as, in some cases, instances of staff misconduct and, to a lesser extent, involuntary treatment (for example, forced administration of medication during a fixation measure).

As regards inspections, the delegation noted that the supervisory judges had not yet resumed their visits following the pandemic break. Moreover, it appeared that the judicial authorities did not even pay for videoconferences with patients or management in order to exercise at least a minimum level of supervision over the work of the establishment (as was the case at, for example, Zagreb Prison). **The CPT's recommends that the Croatian authorities transmit a message to the competent supervisory judges of the Zagreb County Court reminding them of their duties to pay annual visits to the Prison Hospital in light of the relevant provision of the LECS.**

99. In the course of the first nine months of 2022 a total of 13 complaints had been recorded (namely, two to the supervisory judge, three to the Ministry of Justice, six to the director of the establishment and three to the Ombudsman).
100. A total of 13 complaints, to various instances such as supervisory judges, prison administration and the Ombudsman Office, had been lodged in the course of the first nine months of 2022 and 15 during 2021.

D. Psychiatric institutions

1. Preliminary remarks

a. background

130. At the time of the CPT's 2022 visit, Croatia was in the process of developing an updated and more specific strategy on mental healthcare. The previous strategy for mental healthcare fell within the broader national health strategy for the period of 2017-2021; its main objectives continued from its predecessor,[101] with a primary focus on the improvement of the quality of life of persons with mental disabilities through social inclusion and protection of their rights and dignity. More recently, as part of the overall National Development Strategy 2021-2030,[102] the next Mental Health Strategy 2022-2030 has been developed and was due to be adopted at the end of 2022.[103] The new Strategy focusses on a more inter-disciplinary approach to joint working between two Ministries, Health and Social Welfare, to increase the outreach of mental healthcare provision and community service[104] and reduce the number of persons needing hospital beds, with increased support from international stakeholders.[105] **The CPT would appreciate an update on its status and adoption**.

131. The legal framework regarding *involuntary hospitalisation* of a civil nature underwent various reforms from 2015 onwards with the adoption of the Law on the Protection of Persons with Mental Disorders (LPPMD). The LPPMD introduced a number of positive changes and new safeguards for psychiatric patients, such as revised procedural requirements concerning involuntary hospitalisation (including an obligatory oral hearing of the patient by the court). Safeguards were also strengthened by procedural reforms to the use of means of restraint, including a reporting obligation for all psychiatric establishments to the State Commission on the Protection of Persons with Mental Disorders.

Further, the CPT noted positively that Croatia abolished total deprivation of legal capacity and total guardianship for adults, pursuant to Article 234(2) of the 2015 Family Law, encouraging support to patients to exercise their legal capacity.[106] Instead, Croatia has initiated the concept of "person of trust" as an alternative safeguard to the traditional guardian concept. Equally, a specific safeguard was established with respect to persons admitted to psychiatric establishments with the consent of their guardian or person of trust,[107] and such admissions must now be systematically notified to the Ombudsperson for Persons with Disabilities within 48 hours. These reforms, outlined in detail in the CPT's 2017 visit report,[108] are positive; however, there have been few significant reforms made to the LPPMD since then and not all reforms translate into fully effective safeguards in practice (see section 7 (Safeguards)).

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101. The 2011-2016 National Mental healthcare strategy focussed on awareness raising of mental health issues in the population, improvement of the quality of life of mentally disabled persons through social inclusion and protection of their rights and dignity. Analysis of its successful implementation has, however, been less clear. Various stakeholders have criticised the slow roll-out of community mental healthcare services.
102. Adopted in February 2021.
103. This had not yet been adopted at the time of the adoption of this report.
104. According to the Ministry of Heath, the objective is to use hospital expertise to provide increased day care to the community through the use of mobile teams, greater numbers of day care centres and use of tele-medicine consultations, among other measures.
105. Including, the World Health Organisation (WHO), United Nations (especially the UN Convention on the Rights of Persons with Disabilities (CRPD) and the European Commission; according to information provided to the CPT by the Ministry of Health and the Ministry of Social Welfare.
106. The decision as to the extent of deprivation of legal capacity in respect of an adult person is taken by the court on the basis of an expert medical opinion, and guardianship may cover questions concerning health.
107. Article 26 of the LPPMD.
108. CPT/Inf (2018) 44, Report to the Croatian Government on the visit to Croatia carried out by the CPT from 14 to 22 March 2017, paragraph 122.

132. Overall, during this visit the CPT was pleased to note improvements in the documentation and procedural safeguards of the formal involuntary placement process.[109] Nevertheless, most of the patients in the three psychiatric establishments visited were purportedly "voluntary" admitted patients, albeit that many of those interviewed said that they had been told or persuaded to sign their consent forms, or did not know what they were signing. Many such patients said that they wished to leave and some of whom had indeed tried to "escape" without official discharge from their doctors. In addition to being prevented from leaving, they had been subjected to the use of means of restraint, and yet even in these cases the involuntary process had not been initiated. The delegation got the distinct impression that while the involuntary process was well regulated under the law, in practice, it was rarely used; instead, many "voluntary" patients were *de facto* deprived of their liberty and these patients were systematically treated under the voluntary procedure, which afforded them fewer safeguards than under the involuntary procedure (see section 7 (Safeguards)).

133. Reforms were underway to increase out-patient care where possible and increase the number of "chairs" (that is, patients treated in the community and in outpatient care services), in combination with reducing the numbers of in-patient hospital beds.[110] The average length of stay in both the Clinics for acute patients visited by the CPT (see below) was declining (average stay of around 9 days).

134. Nevertheless, the slow pace of *deinstitutionalisation* in the specialised psychiatric hospitals was evident, as seen in the case of Ugljan Hospital (visited by the CPT (see below), where the lengths of hospitalisation for psycho-geriatric and/or patients with a chronic illness were still very long, with some patients having been hospitalised there for as long as 25 years.[111] These patients had often become deeply institutionalised. While they did not want to stay, they often had no friends or family willing to look after them and no visits or contact with the outside world. The deinstitutionalisation process had clearly stalled in Ugljan Hospital, where a quarter of all patients had been at the institution for over three years.[112] Indeed, some 10% of patients had been at Ugljan Hospital for over 10 years, several patients as long as 25 years, with many patients stating that they had nowhere else to go and feared the lack of support in the outside world should they be forced to leave. There were no indications that there were any plans to move the majority of the longest-staying patients into the community. Overall, Ugljan Hospital, in its remote island location and specialising in longer-term chronic psychiatric inpatient treatment, was considered by many patients and staff as the end of the line and acted as the only home available to a number of its patients.

Clearly, further efforts are required to ensure that the de-institutionalisation process becomes a reality. Further, the fact that certain existing institutions, such as Ugljan Hospital, are hard to access due to their remote island locations and that large-capacity establishments entail major risks of institutionalisation for both patients and staff, which can have adverse effects on the care provided. Life in large institutions, far from ordinary household structures and daily life occupations, have a counter-therapeutic, depersonalising effect on patients, and infringe on their privacy.

Community social care options, with associated mental healthcare provision, can not only shorten or avoid institutional stays, but also improve experiences and proper re-integration into the community. Such community accommodation should consist of small group home living units in the community, ideally in towns, with all the relevant facilities close at hand. **The CPT recommends that the Croatian authorities step up their efforts to reorganise the system for provision of care to persons with mental disabilities, in light of the above remarks** (see also Social Care and Deinstitutionalisation, Section E).

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109. Articles 27-49, LPPMD 2015, as amended.
110. In line with the National Development Strategy 2021-2030 and according to information provided by the Croatian authorities.
111. The longest lengths of hospital at stay at Ugljan Hospital were: 25.5 years, 24.7 years and 18 years.
112. At the time of the visit, 86 of 332 patients (some 25%) had been hospitalised at Ugljan for over 1 000 days (approximately 3 years) or more.

b. hospitals visited

135. The CPT visited for the first time the Psychiatric Clinic of the Split Clinical Hospital Centre (*Klinički Bolnički Centar*) ("KBC"), the Psychiatric Clinic of Rijeka KBC and the Psychiatric Hospital of Ugljan.

136. The Clinical Hospital Centre of Split (KBC Split) is one of five clinical hospital centres in Croatia and is the central health institution of the Split-Dalmatia County and the entire southern part of Croatia.[113] In addition to inpatient care, the hospital also provided outpatient care and a daily clinic.

The Psychiatry Clinic comprised three main wards: biological, social and clinical psychiatry, as well as an intensive care unit. The Clinic had a capacity of 82 beds, including 6 beds in intensive care, 25 beds on the Social Psychiatry ward, 26 on the Biological Psychiatry ward and 25 on the Clinical Psychiatry ward. The intensive care unit was situated within the ward of Biological Psychiatry and aimed to provide care for patients with somatic complications; it was also where ECT could be performed (paragraph 175). Although the wards had different names, there was no significant difference between them in practice. The criteria for admission were the same and the treatment and approach to patients did not differ (see section 5 (Treatment)).

All types of patients could be admitted, except forensic patients, children and adolescents, and the Clinic had approximately 1,500 admissions per year. Most of the admissions were unplanned, the focus being on the provision of mainly acute psychiatric care. The average length of stay was approximately 16 days: when longer hospital treatment was necessary, patients were transferred to other specialist psychiatric hospitals such as those located on the islands of Rab and Ugljan (see below). At the time of the visit, the Psychiatric Clinic was accommodating 62 patients, of whom 27 were women and 35 were men. Wards were mixed gender, but rooms were gender separated. The majority of the patients were voluntary 58/62) (see section 7 (Safeguards)).[114]

The main door to the Clinic was locked 24/7 and patients could not leave without specific authorisation from a psychiatrist. The wards were considered closed wards by the management (that is, a ward from which a patient cannot leave at will). From the observations made by the delegation, in particular concerning restrictions on leaving the closed units, many patients appeared to have been *de facto* deprived of their liberty and required an official discharge slip from the treating doctor before they were allowed to leave the Clinic. Without this slip, if they left unauthorised, then they would be considered an "escapee" (see section 7 (Safeguards), for further details).

137. The Clinical Hospital Centre of Rijeka (KBC Rijeka) is another of the five clinical hospital centres in Croatia and is a regional hospital covering three counties, providing medical care for approximately 600,000 inhabitants.[115] KBC Rijeka is situated in three city locations (Rijeka, Sušak and Kantrida). The delegation was informed of plans to move the majority of the KBC Rijeka's clinics, including the Psychiatry Clinic (starting with the Child and Adolescent Unit in early 2023) to a newly built hospital in Sušak which, at the time of the visit, was in its construction phase. **The CPT would appreciate being sent an update on the timing of this move.**

The Psychiatry Clinic specialised in both the diagnosis and treatment of all types of psychiatric disorders and was composed of three floors covering four in-patient wards with a total capacity of 74 beds: Admissions and acute patients on the ground floor (25 beds), Clinical Psychiatry patients on the first floor (22 beds), with a separate closed unit of eight beds for children and adolescents (14 years old and over) (the Child and Adolescent Unit), and the Psychological Medicine ward on the second floor (19 beds). There was also an outpatient clinic located on this floor.

113. It is situated at three locations in Split, as well as one location outside Split, with a catchment area of around 500,000 persons. KBC Split had 1500 acute and 30 chronic beds and 15 clinics. The Psychiatry Clinic specialised in both in the diagnosis and treatment of all types of psychiatric disorders.
114. From January to September 2022, there were 59 involuntary hospitalisations, 62 in 2021 and 55 in 2020.
115. KBC Rijeka is a teaching and research base of the Faculty of Medicine of the University of Rijeka and has 18 clinics and various clinical institutes. The total capacity is 1069 hospital beds.

At the time of the visit, the Clinic had 44 patients, of whom 18 were women, 22 were men and four were juveniles (18 years old and under), three of whom were girls and one was a boy). Written consent to the placement of the young patients had been provided by parents or guardians. The average length of stay overall at the Clinic was between 14 and 21 days.

In a similar fashion to Split KBC, the main door to the Clinic was locked 24/7 and patients could not leave without specific authorisation from a psychiatrist. The wards were considered as closed wards by the management. The Child and Adolescent Unit was shut off in a discrete separate section and the unit door remained constantly locked. From the observations made by the delegation, in particular concerning restrictions on leaving the closed units, a significant number patients appeared to have been *de facto* deprived of their liberty notwithstanding the fact that the majority of patients were formally voluntary patients (see section 7, Safeguards).

138. The Special Psychiatric Hospital of Ugljan, located on the small island of Ugljan on the Dalmatian coast, was constructed during World War II by Italian soldiers, to serve as a concentration camp. In 1955, the purpose of the complex was changed to that of a psychiatric hospital. The hospital grounds comprise woodland and reach to the private shore.

Due to the original intended use and the age of the buildings, continuous renovation is necessary. In the 1970s, two new buildings were constructed to accommodate an outpatient clinic as well as administrative facilities. Later the hospital received a subsidy from European funds (23 million Kuna), which helped to renovate five buildings. Three large buildings remain in their original, unrenovated state and they house six of the eight inpatient psychiatric wards (see section 3 (Living Conditions)). Their reconstruction is envisaged but the idea remains on paper only and is dependent upon obtaining financial support.

The capacity of the hospital is 400 beds and the occupancy, at the time of the visit, was 332 patients. Nonetheless, even with this occupancy rate, most of the wards gave the impression of being severely overcrowded (see section 3, (Living Conditions)). The hospital consists of eight inpatient wards covering acute admission, biological, forensic, geronto-psychiatric and palliative care, social psychiatric and alcohol dependent patients. In addition to the inpatient wards, the hospital also provides outpatient services.

At the time of the visit, the majority of the patients (301) were voluntary inpatients, 28 were involuntary and three patients had an unclear legal status (see section 7, (Safeguards)).[116]

2. Ill-treatment and inhuman and degrading treatment

139. The delegation found that there was a generally calm atmosphere at all three hospitals visited, and the vast majority of the patients were clearly well-cared for by staff.

At KBC Split, no allegations of *physical ill-treatment of patients by staff* were received. However, at KBC Rijeka, the delegation received a small number of allegations of occasional physical violence (slapping, pushing of patients and rough handling, especially at night, as well as an alleged attempted strangulation of a patient during a restraint procedure (see section 6 (Restraints)) by a male nurse on the Clinical ward.

At KBC Rijeka, KBC Split and Ugljan Hospital, the delegation also received several allegations of staff shouting at patients.

140. There can never be any justification for the deliberate ill-treatment and verbal abuse of patients who are mentally ill. **The CPT recommends that the Croatian authorities reiterate to all staff working in psychiatric hospitals that any ill-treatment (physical ill-treatment and verbal abuse) of patients with mental disabilities will not be tolerated and will be punished accordingly.**

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116. The Hospital's records labelled the status of three of the patients as "unknown".

The CPT also recommends that all staff are properly trained to manage challenging patients, especially when they become agitated, through the regular provision of courses on de-escalation techniques and the use of safe and effective manual control techniques.

141. The CPT also considers that the findings of its delegation concerning the excessive, very frequent and unjustifiably long use of means of restraint on psychiatric patients, as well as the practice of phased fixations, in KBC Split and KBC Rijeka may, in its view, *amount to inhuman and degrading treatment* (see section 6 (Restraints) and the relevant recommendations contained in paragraph 198).

142. As regards *inter-patient violence*, although some disagreements and conflicts between patients did occur, this was not a major problem in any of the hospitals visited. At KBC Rijeka and Ugljan Hospital, while there had been a couple of serious incidents of inter-patient violence, these had been recorded and resolved properly.

Nonetheless, at KBC Rijeka, several nursing staff had been assaulted by patients over the previous two years and staff had raised concerns for their own safety, including that they considered that there were too few staff to maintain adequate safety on the wards (see section 4 (Staff)).

3. Patients' living conditions

143. The CPT noted that in all three hospitals visited, patients' accommodation remained generally austere, with very limited lockable personal space and a lack of privacy and personalisation, which was not even in line with minimum standards outlined in the relevant national regulations.[117] In particular, the premises must ensure at least 6 m^2 for each patient. Further, patients' rooms should accommodate a maximum of four beds, and must have integral sanitary facilities.

144. The Psychiatric Clinic of KBC Split accommodated patients in three mixed (male and female) wards (with approximately 25 beds per ward) within two buildings. The main building contained two wards – the closed biological and social psychiatric acute wards; the second building contained one clinical psychiatric closed ward.

The three closed wards of the Psychiatric Clinic of KBC Split were each composed of two to four-bed sufficiently spacious rooms,[118] designated as male or female only. All rooms were clean, furnished with a small non-lockable bedside cabinet beside each hospital bed, a table and chair, as well as a mirror and wash basin in each room and personal locker (however, these were kept constantly locked by the staff, who retained the keys), and were well ventilated; they also had good access to natural light and artificial lighting. Patients kept their belongings in plastic bags beneath their beds, despite the presence of (locked) cupboards.

Each ward had two to three common sanitary annexes with toilets, washbasins and showers, one of which on each ward was equipped for patients with disabilities. Two rooms had en-suite sanitary annexes with a shower and toilet, however these rooms were used for Covid positive patients and quarantine (see section 5 (Treatment)).

The communal showers afforded no privacy with no shower curtains and the doors were unlockable. The corridors and the rooms were spartan, with little to no decoration or personalisation. Overall, the environment was that of an austere institution.

The CPT recommends that the norms stipulated in the Rulebook, to the effect that patients' rooms should be equipped with integral sanitary facilities, be respected.
It also recommends that the authorities ensure that:

117. "Rulebook on minimal conditions with respect to space, staffing and medical and technical equipment" (*Pravilnik o minimalnim uvjetima u pogledu prostora, radnika I medicinsko-tehničke opreme,* (NN 61/11 and 128/12) and the *Pravilnik o izmjenama i dopunama Pravilnika o minimalnim uvjetima u pogledu prostora radnika i medicinsko-tehničke opreme za obavljanje zdravstvene djelatnosti (*NN 124/2015)).
118. Measuring approximately 18 m^2 each.

- **the showers afford sufficient privacy with due consideration to patient safety;**
- **visual stimulation and personalisation of rooms and common areas of KBC Split Psychiatric Clinic is proactively encouraged and provided; and**
- **patients are allowed to make use of the lockable cupboards for their belongings.**

145. Patients in the biological and social psychiatric wards had access to a common terrace that ran the entire length of both wards with a small barrier, to which they had unrestricted access during the day. A similar terrace was available for the patients of the clinical ward, located in a different part of the hospital, and which also ran the length of the ward. Nonetheless, patients had no access to a yard or any area for outside exercise. **The CPT recommends that measures be taken to ensure that all patients of the Psychiatric Clinic of KBC Split benefit from unrestricted access to outdoor exercise within the hospital grounds during the day, in a secure setting, unless treatment activities require them to be present on the ward.**

146. Patients also had access to one common room per ward furnished with tables, chairs and a television and equipped with CCTV, where patients were permitted to smoke; non-smoking patients were obliged to tolerate passive smoking if they wanted to make use of these rooms. The delegation observed that there was no special ventilation for removing smoke (although windows could be opened). Moreover, patients also smoked on the balconies, where smoke wafted into the rooms of the other patients. **The CPT recommends that a designated smoking area be set up for patients in each of the closed units of the Psychiatric Clinic of KBC Split, which is properly ventilated and separated from the common room used by non-smoking patients.**

147. While there was an option for patients to wear their own clothes, most patients with whom the delegation spoke wore pyjamas – either their own, or provided by the hospital – and apparently stayed in them for the length of their stay at the hospital (average 14 days). The Committee considers the practice of continuously dressing patients in pyjamas not to be conducive to strengthening personal identity and self-esteem; individualisation of clothing should form part of the therapeutic process. Even patients who prefer to wear pyjamas should be encouraged to change into other clothes during the day to preserve a sense of normal routine, which contributes to a therapeutic environment. If necessary, indigent patients should be provided with appropriate, individualised and non-uniform, clothing adequate for the season by the hospital, free of charge, and all patients' clothes should be regularly cleaned. **The CPT recommends that patients should be allowed and encouraged to wear their own clothes. If necessary, indigent patients should be provided with appropriate non-uniform clothing.**

148. The Psychiatric Clinic of KBC Rijeka accommodated patients in four wards located over three floors. The Admissions and Acute ward, the Biological / Clinical Psychiatric ward and the Psychological Medicine ward of the Psychiatric Clinic were mostly composed of four-bed rooms, designated as male or female only, with some smaller two-bed and a few larger six and eight-bed rooms (on the Biological and Psychological Medicine wards), as well as two single "observation rooms" (isolation rooms, used for fixation[119]) on the ground floor. The ward multi-occupancy rooms were cramped and afforded approximately 4.5 m^2 per patient.

149. All rooms were clean, but sparsely furnished with a small, non-lockable bedside cabinet beside each hospital bed and a cupboard per room, which was not allowed for patients' belongings and was kept locked by the staff, who retained the keys. The rooms were relatively old but airy and had access to adequate natural light and artificial lighting and each was covered by CCTV. Patients kept their belongings in plastic bags beneath their beds, despite the presence of (locked) cupboards. Patients also said that there were no facilities for washing their clothes and no laundry was apparent to the delegation.

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119. Measuring some 5 m^2

Each ward had two common washrooms with toilets, washbasins and showers, however the washroom doors were not allowed to be locked and privacy could not be ensured. Indeed, the patients alleged that one of the washrooms was constantly kept locked and that male and female patients had to use the same washroom. Moreover, patients were not provided with hygiene products, soap, shampoo or toothbrushes and paste, which they had to ask relatives to bring in for them. There was no bathroom equipped for patients with disabilities.

The corridors and the rooms of the Admission and Biological wards were utterly spartan with no decoration or personalisation. The environment was that of an austere institution. In contrast, the Psychological Medicine ward was reasonably decorated.

By letter dated 8 February 2023, the Croatian authorities informed the CPT that intensive construction works were ongoing at the Psychiatric Clinic of Rijeka, with the aim of improving living conditions. **The CPT welcomes this development and would appreciate a status update when the works have been finished and information on what has been changed.**

150. **The CPT recommends that the Croatian authorities take the necessary steps to ensure that, in all psychiatric hospitals, multiple-occupancy rooms accommodate no more than four patients and that premises must ensure at least 6 m² per patient, in line with the norms stipulated in the Rulebook and, also in line with the Rulebook, should be equipped with integral sanitary facilities.**

The CPT also recommends that the authorities ensure that:

- **the showers and toilets afford sufficient privacy with due consideration to patient safety;**
- **both patient washrooms are kept in daily use;**
- **a washroom is adequately equipped for patients with disabilities;**
- **patients are provided with a hygiene pack on arrival including soap, shampoo and toothbrushes and paste, should they not have access to these immediately, and indigent patients should be provided with a hygiene pack for free, which is renewed when necessary;**
- **visual stimulation and personalisation of rooms and common areas of the Biological and Admission and Acute wards of KBC Rijeka Psychiatric Clinic are proactively encouraged and provided; and**
- **patients are allowed to make use of the lockable cupboards for their belongings.**

The CPT would also like to be informed whether clothes washing facilities are available at KBC Rijeka, and should there not be any, then these should be established.

151. Further, while the CPT appreciates that CCTV cameras in certain rooms can be a useful safeguard in particular cases, for example when a person is considered to be at risk of self-harm or suicide. However, cameras cannot be a replacement for an active staff presence in high-risk situations; the best way of reducing the risk posed by individual patients is personal interaction between staff and the relevant patient. Moreover, video surveillance is a gross intrusion into the privacy of patients and the decision to impose CCTV surveillance on a particular person should always be based on an individual risk assessment and should be reviewed on a regular basis. Accordingly, the Committee is opposed to the routine and systematic installation and use of CCTV cameras in patients' rooms.

The CPT recommends that the authorities of Croatia end the systemic use of CCTV cameras within patients' rooms in KBC Rijeka in line with the above precepts and any CCTV surveillance should always be based on an individual risk assessment and should be reviewed on a regular basis.

152. Patients in the Admission and Biological/Clinical wards had access to a common dining room (furnished with tables, chairs and a television and equipped with CCTV) and, in theory, a small, derelict and unkempt (with leftover broken furniture piled in corners) closed garden for those patients on the ground floor (Admissions) ward and a barred small terrace on the first (Biological) floor ward, to which they had unrestricted access during the day. In practice, patients on the first floor had no access to the yard, and those on the ground floor were only allowed out there when accompanied by a staff member, which patients (and staff) said was extremely rare due to a lack of staffing available to accompany and supervise the patients. It was clear to the delegation that the outside yard was very rarely used. **The CPT recommends that the Croatian authorities ensure that all patients of the Psychiatric Clinic of the KBC Rijeka benefit from unrestricted access to outdoor fresh air within the hospital grounds during the day in a secure setting unless treatment activities require them to be present on the ward. Further, steps should be taken to ensure that the closed garden area is adequately maintained.**

153. The separated mixed Child and Adolescent Unit was more modern, having been relatively recently refurbished, and was decorated in the common areas. The three rooms (three, four and one-beds respectively) were sufficiently spacious and bright. The rooms were clean and furnished with a small, non-lockable bedside cabinet beside each bed and a lockable cupboard. There was a common room with books and activities, as well as a TV. There were two separate sanitary annexes, one for boys and one for girls, with showers and toilets.

The Unit also had access to its own, well-maintained, closed garden and a terrace where relatives could have visits with the patients (see also section 5 (Treatment)). The juvenile patients had only supervised access to this garden and, given that there was only one staff member on duty (see Staff, section 4), the patients told the delegation that they did not go out regularly.

In light of the particular importance for access to outside fresh air and exercise for children and adolescents, **the CPT recommends that measures be taken to ensure that all the patients of the Child and Adolescent Unit benefit from unrestricted access to outdoor fresh air within the Unit grounds during the day, unless treatment activities require them to be present on the ward.**

154. At Ugljan Special Psychiatric Hospital patients were accommodated in rooms ranging from four to 10 beds in three main in-patient blocks, and there was an “observation room” equipped with CCTV located on each ward. The blocks were unrenovated, dilapidated, and dated back to 1955 and the living conditions were dire.

155. The living space was extremely cramped in the three in-patient blocks, despite the fact that the hospital was only operating at 83% of its official capacity. By way of example, several of the multiple-occupancy rooms in the geronto-psychiatric, acute male and biological psychiatry female Wards Nos. 1, 4, 5, 6 and 9 were each accommodating eight to 10 beds with beds touching and patients were afforded a mere 3 m^2 of living space each.[120] The multiple-occupancy rooms were so cramped that in many rooms personal bedside cabinets and/or lockers could not fit into the room, and movement around the room was severely restricted.

All the patients with whom the delegation spoke had virtually no personal belongings and were totally reliant on donations to the hospital for a set of clothes and shoes to wear. In many cases, this state of affairs had lasted their entire hospital stay, of between 10 and 25 years (see Preliminary Remarks).

The three main in-patient buildings were in an extremely dilapidated and shabby state; the walls were damaged (holes in plaster), there was visible mould and humidity, and peeling paint flaking off the ceilings. In some wards, such as Ward No. 5, the floor was sticky with grime and many of the patients stood or crouched in bare feet by the locked unit door, some covered in their own urine and some only partially dressed (see section 4 (Staff)).

120. At least four multiple-occupancy rooms on Wards Nos. 4, 5 and 9 accommodated eight beds in a space of 25 m^2 and 10 beds in a space of only 29 m^2.

156. None of the rooms had integrated sanitary facilities, and the common sanitary facilities (one per ward, with showers adapted for persons with disabilities and a toilet) were generally clean, but had unlockable doors to the showers and toilets, and were in a poor state of repair, most notably on Ward No. 4 (female patients).

There was one communal dining room per ward, which had a TV and also served as a smoking room. Smoke wafted into the corridors and permeated each of the rooms, making life uncomfortable for non-smoking patients.

157. Patients were allowed access to the designated ward outdoor gardens, which were spacious, green and leafy. Nevertheless, only a few of the patients were deemed by staff to be capable of going outside to the gardens alone, and many of the bed-ridden, semi-mobile or dementia patients had to be accompanied by a staff member and staff acknowledged that this was not possible on a regular basis given the low staffing numbers on the wards. As a result, many patients remained indoors for many weeks or even months on end, either due to the perceived risk that they would leave/escape, get lost (those with dementia) or due to insufficient staff numbers to accompany and supervise these patients outside.

Moreover, in the forensic ward (Ward No. 1), 17 of the 25 patients (formally closed part) had no permission to leave the ward at all, even for access to fresh air and remained locked on the ward for the entire duration their court-mandated sentence. Further, five of those 17 patients, had no access to therapeutic activities. Such treatment or more specifically lack of treatment is of particular concern to the Committee. It is further exacerbated by the lengthy stays in the Hospital (see Preliminary Remarks), where one quarter of all patients had been at the hospital for three years or more.

158. The delegation was informed that the renovations in the 1970s, and more recently in the 2000s, had only focused on the administrative block and the social therapeutic block, leaving the acute and long-term chronic patients (that is, the most unwell and longest staying patients) in appalling conditions. The management confirmed that they had been looking for EU funding, but the priority was apparently to focus on deinstitutionalisation and thus on helping patients to get prepared for discharge and out-patient work, rather than on renovating in-patient hospital wards.

159. As long as patients will continue to be accommodated at Ugljan Special Psychiatric Hospital in locked wards, it is incumbent on the Croatian authorities to provide them a therapeutic environment with decent living conditions. **The CPT recommends that the Croatian authorities renovate the accommodation rooms, common areas and sanitary facilities of the three main in-patient blocks of Ugljan Special Psychiatric Hospital (including Wards Nos. 6, 4, 9, 1, 5 and 11) in accordance with the relevant national standards; and the CPT would appreciate being sent the timetable for the above-mentioned renovations.**[121]

In particular, they should ensure that:

- **multiple-occupancy rooms accommodate no more than four patients and are equipped with integral sanitary facilities;**
- **the showers and toilets afford sufficient privacy with due consideration to patient safety;**
- **visual stimulation and personalisation of rooms and common areas of the wards are provided;**
- **each patient is provided with access to a lockable cupboard and allowed to make use of personal lockable cupboards for their belongings;**
- **designated smoking areas, which are adequately ventilated, are provided;**
- **the furnishings and equipment in the rooms, common areas and sanitary facilities are regularly deep-cleaned and maintained; and**
- **all patients benefit from unrestricted access to outdoor fresh air within the hospital grounds during the day in a secure setting unless treatment activities require them to be present on the ward and that bed-ridden, semi-mobile or patients requiring assistance also have daily access to the fresh air;**

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121. *Pravilnik o minimalnim uvjetima u pogledu prostora, radnika I medicinsko-tehničke opreme,* (NN 61/11 and 128/12) and the *Pravilnik o izmjenama i dopunama Pravilnika o minimalnim uvjetima u pogledu prostora radnika i medicinsko-tehničke opreme za obavljanje zdravstvene djelatnosti (*NN 124/2015).

In addition, **the CPT recommends that all patients on the forensic ward should be afforded access to outdoor fresh air within the hospital grounds during the day in a secure setting, unless treatment activities require them to be present on the ward.**

4. Staff

160. As regards *staffing*, overall, at KBC Split and KBC Rijeka there was a reasonable number of psychiatrists and other specialised doctors.[122] Nevertheless, at Ugljan Psychiatric Hospital, staffing rates were relatively low at all levels, including psychiatrists and other doctors.[123]

161. The Psychiatric Clinic of KBC Split was well staffed, with 45 psychiatrists, specialised doctors and medical residents, nine psychologists, 70 nurses, and two occupational therapists. Three social workers employed at the social work unit of the KBC also worked with the patients of the clinic. Psychiatrists saw their patients regularly.

162. The Psychiatric Clinic of the KBC Rijeka employed 28 psychiatrists and specialist doctors, 47 nurses, three psychologists, one physiotherapist and two social workers. The psychiatrists were present on weekdays from 7:00 to 15:00, and outside these hours there were two psychiatrists on duty for the entire hospital. The CPT considers that the number of nurses in the psychiatric clinic of KBC Rijeka should be increased in order to enhance care at night and on weekends.

At KBC Rijeka, management openly acknowledged that their work was hampered by too few ward-based staff, echoing the findings of the recent NPM February 2022 visit report, which raised concerns that the low level of staff was particularly problematic. Equally, the delegation found management formally responding in registered incidents of violence that prevention of inter-patient or patient-on-staff violence or aggression could be improved by having a greater number of staff.

Apart from creating a stressful working atmosphere for staff, such staffing deficiencies also increase the risk of harm to patients, including via neglectful treatment, strict, oppressive regimes and excess resort to measures of both mechanical and chemical restraint (see Restraints, section 6).

163. The Ugljan Hospital staffing complement included 18 psychiatrists and specialised doctors (three of these positions were vacant at the time of the visit), six psychologists, 125 nurses (eight vacant positions) and 11 caregivers, nine occupational therapists and physiotherapists and five social workers. The CPT considered that numbers of regular ward-based staff at Ugljan Hospital were insufficient to offer the level of personalised care and attention that such patients deserve.

For example, on the afternoon and night shifts, and on weekends, there were only two nurses and one caregiver/orderly caring for up to 56 patients on an acute ward (such as Ward No. 11) or the psycho-geriatric wards (Nos. 5 and 6) for the majority of the time. Indeed, patients on the official "closed" parts of the wards could not leave the Unit on a regular basis, even to go outside to the gardens, as they were deemed unsafe or incapable of being allowed out by themselves and so needed a staff escort: in practice there were simply not enough staff to accompany and supervise them (see Living Conditions and Regime, section 3).

In addition, in some wards, such as Ward No. 5, the delegation found dire living conditions for the elderly and vulnerable patients (see Living Conditions), where there was clearly insufficient ward-based staff to ensure patients that could live in decent conditions and receive an adequate level of personalised care.

Similarly to the situation at KBC Rijeka, apart from creating a stressful working atmosphere for staff, such staffing deficiencies also increase the risk of harm to patients, including via neglectful treatment, strict and oppressive regimes.

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122. KBC Split had 27 psychiatrists and other specialised doctors, as well as 18 medical residents, for a capacity of 82 acute patients; KBC Rijeka had 28 psychiatrists and other specialised doctors for an overall capacity of 74 acute patients.

123. 18 psychiatrists (with three psychiatrist positions vacant/unfilled at the time of the visit) and other specialised doctors for 382 patients.

Cumulatively, the CPT considers that the situation of poor conditions combined with insufficient ward-based staffing levels may well amount to degrading treatment for many of the geronto-psychiatric patients in Wards Nos. 5 and 6 as well as for patients in Ward No. 4 **and recommends that staffing levels be urgently increased in Wards Nos. 4,5 and 6 of Ugljan Hospital.**

164. At both Ugljan Hospital and KBC Rijeka multi-disciplinary clinical staff who could offer psycho-social rehabilitation, such as psychologists, social workers and occupational therapists, were insufficient in number to meet the many psycho-social treatment and rehabilitation needs of patients, which greatly hampered their effective therapeutic improvement.

By letters dated 7 and 21 November 2022, and 8 February 2023, the Croatian authorities informed the CPT that work was ongoing to try to fill nursing vacancies at all three hospitals visited by the CPT, through continuous job advertisements, but that this process had been somewhat hampered due to a shortage of nurses in the general labour market. In particular, the authorities underlined that when recruited, some of the new nurses would be allocated to the Psychiatric Clinic of KBC Rijeka. **The CPT requests an update once the vacancies have been filled, along with information on how many new nurses are allocated to both KBC Rijeka Psychiatric Clinic and Ugljan Psychiatric Hospital**.

165. **Overall, the CPT recommends that the Croatian authorities take decisive steps to ensure that the necessary numbers of ward-based staff (nurses and caregivers) and multi-disciplinary clinical staff of appropriate quality, such as occupational therapists, are deployed on each ward to provide adequate and safe therapeutic input and care for the many needy and dependent patients in Ugljan Psychiatric Hospital in particular, as well as at KBC Rijeka.**

5. Treatment

166. Overall, the CPT considered that the *pharmacotherapy treatment* offered at all three establishments was generally of a reasonable standard and afforded individualised pharmacotherapeutic care. There was no shortage of medication, and the delegation found no evidence of its overuse.

Nevertheless, individual treatment plans for patients were not available in any of the three establishments visited and there was very little indication of any individualised programme of psycho-social activities tailored to the patient.

167. At KBC Split (in the Biological and Clinical wards), the treatment was exclusively based on pharmacotherapy. Patients' pharmacological treatment was based on the administration of combinations of different psychopharmaceuticals, depending on the patients' diagnosis.

168. At KBC Rijeka, treatment was also mainly based solely on pharmacotherapy for the vast majority (some 75%) of the patients in the Acute and Clinical/Biological wards. Nonetheless, in the Psychological Medicine ward on the top floor, all seven patients had access to the newly refurbished outpatient unit which provided various psycho-therapeutic activities.[124] These included activities in the central therapy rooms or visits from occupational therapists to less-mobile patients and covered a range of social and occupational skills such as ceramic work and bibliotherapy.

169. At Ugljan Hospital, treatment varied according to the ward. In some wards, such as the forensic ward (Ward No. 1)[125] and the dementia and palliative care ward (Ward No. 6)[126] most

124. In the Social Psychiatry Ward, Ward Nos. 9 had 10 of 30 patients involved in one or more psycho-therapeutic activities, however in other wards, such as Ward 11, only four of the 29 patients were involved in any such activities.
125. 42 of the 49 forensic patients partook in some type of group psycho-therapeutic activities on a weekly basis.
126. Activities were undertaken three times per week and were adapted to the patients' needs and capabilities.

patients had fairly regular access to some psychotherapeutic activities, designed around their needs, in addition to pharmacotherapy. Equally, in the male Acute Admission ward, a third of patients had regular access to some type of psycho-social activity.[127] In other wards the treatment was based solely on pharmacotherapy[128] including in the male and female Biological Psychiatric wards (Wards 11 and 4), and the geronto-psychiatric ward (Ward No. 5).[129] In the forensic ward (Ward No. 1), 17 of the 25 patients (formally closed part) had no permission to leave the ward at all, even for access to fresh air and remained locked on the ward for the entire duration their court-mandated sentence. Moreover, five of those 17 patients, had no access to therapeutic activities. This was particularly concerning given the lengthy stays in the Hospital (see Preliminary Remarks), where one quarter of all patients had been at the hospital for three years or more. Therapeutic activities for the psychogeriatric patients were especially limited, in part owing to their physical condition. Moreover, it was not clear from the information provided to the delegation whether any specialised facilities for providing therapeutic activities for psychogeriatric patients had been foreseen in any investment/refurbishment plans. **The CPT would like to receive information on this matter.**

170. **The CPT recommends that the Croatian authorities take the necessary steps at KBC Split, KBC Rijeka (Biological/Clinical ward, Acute ward and the Child and Adolescent Unit (see paragraph 176 below)) and Ugljan Psychiatric Hospital (Wards Nos. 1, 4, 5, 6 and 11) to:**

- **develop and broaden the range of therapeutic options (including group therapy, individual psychotherapy and creative therapies such as art, drama and music, as well as sporting activities) and involve all patients, including involuntary patients and patients placed in a forensic psychiatric institution, in clinically appropriate rehabilitative psycho-social activities, in order to prepare them for more independent living and/or a return to their families; further, occupational therapy should be an important part of the rehabilitation programme, providing for motivation, development of learning and relationship skills, acquisition of specific competences and improvement of self-image. This will require the recruitment of more specialists qualified to provide therapeutic and rehabilitation activities (psychologists, occupational therapists, and social workers); and**
- **ensure that all patients are offered a range of recreational activities suited to their needs.**

171. As regards *individual written treatment plans* covering all aspects of a patient's care (pharmacotherapy, psychosocial and rehabilitative activities, etc.), in none of the hospitals visited were these in evidence. The delegation found very little indication of any individualised care tailored to the patient. Many patients were not fully aware of their diagnosis and/or medications and their side effects, nor had they apparently been sufficiently involved in their own treatment planning.

The CPT considers that the precepts of patient-centred care (enhancing patient autonomy by providing them with better and transparent information in a suitable manner, engaging patients more effectively and collaboratively in consultations, empowering patients to participate more actively in their treatment and properly considering their viewpoints and facilitating their rights around their own treatment and care) were not applied.

127. These activities included the use of central therapy rooms or visits from occupational therapists to less-mobile patients, and covered a range of social skills training, relaxation techniques, creative workshops and cognitive training.
128. Some 200 patients, amounting to some two-thirds of all patients (around 330).
129. In other wards, such as Ward No. 11 (Biological psychiatry), only four of the 29 patients were involved in any such activities.

Moreover, many patients indicated being forced to accept the medication and therapy proposed by the medical teams, without the possibility to discuss a more appropriate individualised treatment plan. There were several accounts of patients that would not understand the purpose, nature, consequences, uses and risks of the proposed medical treatment. At all three establishments, it was also clear that relevant information (results, etc.) were not systematically provided following treatment.

Some patients pretended to take medication to avoid unwanted secondary effects and some patients also indicated being forced to open their mouth so the medical staff could check whether they ingested the medicine. It was also common practice, in both KBC Split and Ugljan, to fixate and give injections to patients who "may be" aggressive on admission and refusing to take medication (see also Restraints, section 6).

172. The Committee is of the view that psychiatric treatment should be based on an individualised approach which must cover both pharmacotherapy and psycho-social activities. An individual treatment plan should be drawn up for each patient (taking into account the special needs of acute, long-term patients, and patients placed in a forensic psychiatric institution, including the need to reduce any risks they may pose), indicating the diagnosis, the goals of treatment, the therapeutic means used and the staff member responsible, with timescales. The treatment plan should also ensure regular review of the patient's mental health condition and a review of the patient's medication. Patients should be informed of their individual treatment plans and progress; further, they should be involved in the drafting and implementation of these plans.

For patients accommodated in acute wards, the plans should clearly address the patient's immediate needs and identify any risk factors, as well as focus 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 identify the objectives to be achieved for discharge and specify the follow-up care.

The CPT recommends that the Croatian authorities take measures to ensure that the aforementioned precepts are effectively followed in practice as regards patients in KBC Split and Rijeka and in Ugljan Psychiatric Hospital.

173. Further, the CPT wishes to stress once again as a general principle, all categories of psychiatric patient, i.e. voluntary or involuntary, civil or forensic, with legal capacity or legally incapacitated, should be placed in a position to give their free and informed consent to treatment. It is axiomatic that consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition, the treatment which is proposed and its possible side effects, as well as about the possibility to withdraw the consent. Further, it is essential that all patients who have given their consent to treatment are continuously informed about their condition and the treatment applied to them and that they are placed in a position to withdraw their consent at any time. In addition, every patient capable of discernment should be entitled to refuse a particular 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 CPT recommends that a note be placed on the medical files to the effect that appropriate information on treatment has been provided to the patients. The CPT recalls that all categories of psychiatric patient 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 should not be construed as authorising treatment without their free and informed consent. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances.**

174. As regards the use of PRN prescriptions, the CPT was concerned to note that in the case of many of the acute patients in KBC Rijeka, there appeared to be a regular use of PRN prescriptions without systematic control by doctors,[130] including for the administration of medication by intramuscular injection in combination with mechanical restraint (see *Restraints*, section 6). The use of PRN prescriptions was recorded in medical or nursing files but not the reason for the administration or any subsequent effect.

The CPT considers that, while such prescriptions may be appropriate for selected patients over limited periods of time, their regular use without systematic control by doctors places too much responsibility on nurses and opens the door to abuse. This is all the more relevant in light of the combination of this practice with the use of mechanical restraints. As with any drug treatment, its clinical effects should be carefully monitored at sufficiently frequent intervals. PRN medication could also, in certain instances, amount to involuntary treatment; if so, it should be regulated by appropriate safeguards.

The CPT recommends that steps be taken to ensure that a doctor is systematically and immediately notified whenever medication is administered under a PRN prescription and that the clinical effects of such medication are carefully monitored at sufficiently frequent intervals. Furthermore, the potential adverse effects arising out of the interaction of different medications should be the object of particular attention on the part of all staff.

175. The Psychiatric Clinic of KBC Split is one of the only facilities in Croatia[131] where courses of *electro-convulsive therapy* (ECT) are administered. At the time of the delegation's visit, it had only recently restarted, after a break of 15 years, and was only being used on one patient. ECT is performed according to national clinical guidelines, whereby the patient signed an informed consent for the procedure, and pre-procedure examinations were undertaken including laboratory tests, X-ray of the heart and lungs, electroencephalogram (EEG) and subsequently computed tomography and magnetic resonance imaging (CT and MRI) scans of the brain. KBC Split used a Thymatron IV machine for the procedure and monitored ECG, EMG and EEG during the procedure. ECT is performed in an intensive care unit, where all resuscitation equipment is available and there are trained staff. After the procedure, the patient was monitored for two hours, with blood pressure and saturations measured every 30 minutes.

Overall, the CPT considered that the procedure, preparation and follow-up monitoring was generally adequate, with two notable exceptions. First, the ECT procedure performed at the time of the delegation's visit was performed by a doctor who was in training. The CPT considers that the doctor should be supervised by a psychiatrist. Second, the anaesthesiologist used Propofol to induce sedation, but the patient was not given myorelaxants, which ensure muscle relaxation and a smoother procedure without potential complications. The administration of myorelaxants during ECT should be an integral part of the procedure. **The CPT recommends that the management of the Psychiatric Clinic of KBC Split take measures to ensure that ECT is administered by a doctor with supervision of a psychiatrist, and that the administration of myorelaxants is an integral part of the ECT procedure, and as required by national guidelines.**[132]

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130. The CPT noted a large number of patients at KBC Rijeka, in addition to regular therapy also had prescribed therapy "as needed" by a psychiatrist (PRN). The CPT was informed by the authorities that the therapy is given only with the prior approval of the psychiatrist, and that the prescribing psychiatrist knows the patient much better than the psychiatrist who may be on duty that day.
131. Along with Psychiatric Clinic of the KBC Zagreb.
132 Guidelines of the Croatian Psychiatric Society on the Application of Electroconvulsive Therapies (Smjernice Hrvatskog Psihijatrijskog Društva o primjeni elektrokonvulzivne terapije (EKT)), Article 10.3 medicines, sub-paragraph (a).

176. As regards the *treatment of juveniles*, the juvenile and adolescent patients (aged 11, 15, 17 and the young adult of 18 years old) in the Child and Adolescent Unit of KBC Rijeka had only very limited access to any pedagogical or therapeutic activities. Only one juvenile patient interviewed by the delegation did any activity (some yoga). All the juvenile patients stated that they had nothing to structure their days other than reading, watching television or some drawing with coloured pencils provided in the small common room. There was no indication that any sports, or individual or group therapy sessions were organised for the juvenile patients. No education was provided, and it was assumed that the children would continue their education once they had left the ward or continue studying remotely over the telephone with friends or parents, who might bring in a study book.

Further, no treatment plans had been established for these juvenile patients, and the delegation noted that medical files were often incomplete; in particular, progress notes of patients were lacking in many cases.

177. The CPT considers that a lack of purposeful activities is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation. Juvenile patients should have access to a wide range of pedagogical and therapeutic activities, including individual and group therapy sessions, art and music classes, relaxation and psycho-educative therapy. In addition, primary and secondary education should be provided. The situation in the Child and Adolescent Unit was all the more concerning given that there was a newly refurbished psychotherapy department which provided a range of therapeutic activities on the top floor of the same building, to which both outpatients and in-patients, in theory, were allowed access.

The CPT recommends that treatment plans be established for all patients at the Psychiatric Child and Adolescent Unit of KBC Rijeka and that medical files be adequately maintained.

Further, **the CPT encourages the Croatian authorities to take measures to ensure that juvenile psychiatric patients are able to continue their education, including at secondary level, while being hospitalised in the Child and Adolescent Unit of KBC Rijeka or indeed at any psychiatric facility in Croatia.**

Lastly, the CPT recommends that the management of KBC Rijeka take steps without delay to ensure that juvenile patients are offered specific programmes tailored for their specific needs, including a range of pedagogical and therapeutic activities, such as individual and group therapy sessions, art and music classes, and psycho-educative therapy, as well as some physical activities.

178. As regards appropriate *safeguards*, the delegation also received allegations, and saw in the complaints' registers, that on occasion juveniles were placed and treated on the adult Admission and Acute ward, together with adult patients at KBC Rijeka.

Indeed, a couple of days prior to the CPT's visit, a complaint had been registered concerning the inappropriateness of placing a 15-year-old girl patient on the adult unit. Moreover, an official complaint was previously submitted[133] concerning an alleged sexual assault on a 14-year-old girl by a male nurse. The girl had been placed on the adult admission ward while the eight-bed Child and Adolescent Unit was temporarily full. The delegation noted that a criminal case had been opened and an investigation had been conducted into the allegation, and the girl had been transferred to Rab psychiatry hospital. The findings of this investigation were unclear and **the CPT would appreciate being sent more details on this case**.

133. KBC Rijeka's complaint register, complaint dated 16 September 2022; another complaint dated 21 November 2019 in the incidents register of KBC Rijeka.

179. The Committee must emphasise that in view of their vulnerability and special needs, juveniles requiring psychiatric care should be accommodated separately in establishments with facilities suited to their age, which have staff especially trained to cope with the psychiatric needs of young persons (see Staffing section 4). **The CPT recommends that the Croatian authorities ensure that forthwith juvenile patients are only cared for in the age-appropriate Child and Adolescent Unit at KBC Rijeka. Juvenile patients must receive specific arrangements tailored to their particular vulnerabilities, in accordance with the law and their best interests.**

180. With regards to the *Covid-19 pandemic*, all three hospitals had treated patients with Covid-19 since the beginning of the pandemic and KBC Split was treating four patients with Covid-19 during the CPT's visit to the hospital. The prevention measures taken by KBC Rijeka and Ugljan Hospital were generally reasonable; there was a short mandatory quarantine period to await the results of a mandatory admission antigen test. Staff made use of PPE (personal protective equipment) when necessary, there was some ad hoc Covid-19 testing and planning for quarantine areas if required, all staff used disinfection and – along with some visitors – wore obligatory face masks. The delegation was informed that there had been no patient deaths caused by Covid-19 in KBC Split, KBC Rijeka and Ugljan Hospital during the main wave of the pandemic.

Lastly, in KBC Split patients who tested positive for Covid-19 were not allowed to leave their rooms during quarantine and were denied the right of access to fresh air, despite the fact that the Clinic was located on the ground floor of the building and that each patient room has a direct exit to the terrace. **The CPT recommends that all patients, including those testing positive for Covid, should have daily access to fresh air.**

181. As regards *deaths* and *suicide prevention* in the hospitals visited, in the Clinics of KBC Split and Rijeka the number of deaths for acute patients since 2020, numbered eight and 19 respectively.[134] At Ugljan, the number of deaths was much higher (on average around 70 per year since 2019), but the vast majority of these (all but five) occurred in the palliative care unit (and concerned elderly chronic patients).[135]

None of the hospitals visited had a central death register, and information was only available in the patients' medical files. As a result, the hospitals did not have an overview of exactly how many autopsies had been performed. From what the delegation could find, at KBC Split, two autopsies had been commissioned over the last two years, despite the nature of the deaths (some classified as "sudden" and of young patients); at KBC Rijeka similarly, only one autopsy had been commissioned; and two autopsies had been performed at Ugljan (including of a patient who had drowned in the sea (the hospital has a private beach on its grounds)). The delegation was informed by each of the three hospitals' management that while the hospital would like to have an autopsy on every death, it was up to the deceased patients' relatives to decide whether they would like one to be undertaken. Nevertheless, national law[136] outlined a variety of situations where an autopsy is obligatory, including if a patient dies within the first 24 hours of arrival. **The CPT recommends that the Croatian authorities remind the management of the hospitals visited of the obligations arising out of article 36 of Law on Healthcare Protection.**

182. In the Committee's opinion, just as is the case for other establishments in which persons may be deprived of their liberty by a public authority, when a patient in a psychiatric hospital dies sudden and unexpectedly, an autopsy should follow, unless a medical authority independent of the establishment indicates that an autopsy is unnecessary. The Council of Europe Committee of Ministers Rec R(99)3 Recommendation on Harmonisation of Medico-Legal Autopsy Roles sets out these requirements clearly. Moreover, there should be an investigation into the cause of each such death to see whether any lessons could be garnered to prevent future deaths, especially when it was a case of a person taking his or her own life.

134. KBC Split, in 2022 (January to September) there were three patient deaths; in 2021, four patient deaths and in late 2020 (November and December), one patient death. At KBC Rijeka, in 2022 (up to August), there were five patient deaths; in 2021, there were three patient deaths and in 2020, there were 11.
135. In 2022 (up to August), 45 patient deaths; in 2021, 76 patient deaths; in 2020, 72 patient deaths and in 2019, 77 patient deaths. Outside of the palliative care unit there had been five deaths since 2019.
136. The LPMD, article 22 and article 36 of the Law on Healthcare Protection.

183. **The CPT recommends that the Croatian authorities take the necessary steps – including at the legislative level – to ensure that, whenever a patient dies suddenly and unexpectedly in a psychiatric hospital or, following a transfer from a psychiatric hospital, in a general hospital:**

- **an autopsy is carried out, unless a clear diagnosis of a fatal disease has been established prior to death by a doctor and that disease led to their death. In order to prevent any potential conflict of interest, this assessment should be performed by a medical authority that is independent of the hospital;**
- **whenever an autopsy is performed, its conclusions are systematically communicated to the management of the psychiatric hospital, with a view to ascertaining whether there are lessons to be learned as regards operating procedures; and**
- **a central register of deaths is held in each hospital and a record of the clinical causes of patients' deaths is kept at the psychiatric hospital.**

Further, when a patient dies under suspicious circumstances or following an injury, relevant investigative authorities should always be informed.

184. Further, in this context, the CPT noted with concern a case, the death of patient I. R., at KBC Split on 3 February 2020.

Patient I.R. was transported by police to the psychiatric clinic of KBC Split for involuntary hospitalisation on 29 January 2020. The CPT has learned of information[137] showing that I.R. had had visible external injuries: bruises and abrasions on the skin of the eyelids, ears, neck, right shoulder, right upper arm and right side of the chest, as well as damage to the skin of the occipital region on the head and right part of the chest, which injuries had been incurred several days previously. Moreover, an internal examination revealed a head trauma.[138] In connection with the above, the CPT also notes that the medical documentation of the Clinic of Psychiatry was incomplete, unclear, illogical, and in some parts even contradictory. Further, the CPT learned of a pending court decision brought by the patient's family concerning the death.

The Committee requests to be provided with information on the outcome of the post-mortem examination and any police investigation and court proceedings into the death of patient I.A. at KBC Split, who had died on 3 February 2020 in the Intensive Care Unit.

185. In Ugljan Hospital, the delegation also found that a third of all patients[139] were receiving *Clozapine* and were not having blood tests with the regularity recommended in international guidelines (some patients had not had any blood tests for over two months).

The Committee underlines that Clozapine can have severe side-effects such as a potentially lethal reduction of white blood cells. **The CPT recommends that the Croatian authorities take steps to ensure that a protocol for a system of mandatory monitoring of the white blood cell count of patients treated with Clozapine be drawn up at the national level. Further, staff should be educated, in particular about the early signs of the potentially lethal side-effects of Clozapine.**

137. Information received from a lawsuit, dated 4 February 2020, that went before the relevant municipal court.
138. Subarachnoid haemorrhage in the brain, contusion of the brain, fracture of the base of the skull, blood in the right middle ear, bruise in the muscles of the neck, developed cerebral swelling and purulent basal bilateral pneumonia.
139. 120 patients of the hospital (120/332 - 36%) had Clozapine (an antipsychotic of the second generation) in their daily therapeutic protocol.

6. Means of restraint

186. The use of means of restraint is regulated by Chapter VIII of the LPPMD.[140] The details as to the means of restraint and methodology of application are set out in the relevant national Rulebook[141] and were described in detail in the CPT's previous visit report.[142] Under national legislation means of restraint may only be used as a last resort, in situations where the patient's behaviour gives rise to serious and direct threats to the patient's own or another's life or health.

The decision to resort to restraint must normally be taken by a psychiatrist. In cases of emergency where it is not possible to wait for the psychiatrist's decision, a non-psychiatrist doctor, nurse or other healthcare staff member may take the decision; however, the psychiatrist must be immediately informed and must examine the person and decide on whether to continue the use of the restraint. The law also requires that professional healthcare staff monitor the physical and psychological condition of the restrained person.[143]

The law does not contain any obligation on psychiatric institutions to maintain a register of restraint measures; however, the means of restraint, the reasons for their use, the type and duration of the restraint, and the name of the person who ordered the restraint must be recorded in the medical and nursing files. The person of trust, legal guardian, and ethics commission of the institution must also be informed by the psychiatric institution, which is obliged to report to the State Commission for the Protection of Persons with Mental Disorders twice a year on the use of means of restraint. Where restraint is used on juveniles, the psychiatric establishment must inform the State Commission of every instance of use.

187. The LPPMD does not explicitly refer to the use of chemical restraint; however, Article 9(1) of the Rulebook on Restraint sets out that mechanical restraint (*sputavanje*) may involve the use of equipment (such as magnetic straps or belts, straightjackets, etc.) and also "chemical means, for example, rapid tranquillisation or sedation" (Article 9(1)). The Rulebook also covers seclusion as a means of restraint.

The Rulebook further provides that, where possible, patients should be mechanically restrained in their own room under constant CCTV surveillance and monitoring by healthcare staff (Article 11(4)); however, the continuous physical presence of a staff member in the room with the restrained patient is not specified. Mechanical restraint may be applied for a maximum of four hours, after which a psychiatrist must review the use of the measure, and after 24 hours a psychiatrist must see the patient and evaluate their psychological and physical state (Article 9(3)-(5)). There is no reference to a systematic debriefing of the patient after the measure (see paragraph 145).[144] **The CPT recommends that the Rulebook be amended to reflect the precepts governing the use of means of restraint outlined in recommendations in paragraph 198, including that patients should not be restrained in view of other patients and the need for continuous physical presence of a staff member in the room with the restrained patient.**

Furthermore, unlike the LPPMD (see Article 61(3)), the Rulebook does not make explicit that when the emergency situation resulting in the application of restraint measures ceases to exist, the patient should be released immediately. As this deficiency has still not been remedied despite a recommendation in the CPT's report on its 2017 visit, **the Committee reiterates its recommendation that the Rulebook be amended accordingly**.

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140. Articles 60 to 67. The definition of restraint refers to "means and methods of physically restricting the movement and actions of a person with serious mental disorders who is placed in a psychiatric institution".
141. "Rulebook on the types and methods of applying means of restraint to persons with severe mental disorders" which came into force in February 2015 ("Rulebook on Restraint").
142. CPT/Inf (2018) 44, paragraphs 144 to 153.
143. Article 14(4) of the Rulebook on Restraint.
144. In addition, psychiatric establishments must provide detailed written guidelines for staff on how to deal with aggressive patients and the use of restraint measures, along with an obligation on staff to become familiar with them, and there should be a copy in each office or department (Article 4(4)-(5)). Each instance of use of restraint must be analysed within the department (Article 18(1)), and the establishment must devise a strategy for the prevention of the use of restraint and to this end must put in place appropriate training for staff in alternative measures (Article 19).

188. In all three establishments visited, both mechanical and chemical restraint could be used. Seclusion was also used in "observations rooms" in all three hospitals.

189. At the Psychiatric Clinic of KBC Split, patients could be subjected to fixation in their own beds by mechanical restraint using cloth straps with magnetic closures over four limbs and their chest (five-point fixation) and then over time this could be reduced to two and then one-limb fixation. At the Psychiatric Clinic of KBC Rijeka, patients could be subjected to fixation by mechanical restraint in the two small windowless isolation rooms, and also their own beds in multiple-occupancy rooms, using cloth straps with magnetic closures over four limbs and their chest, which over time could be reduced to two and then one-limb fixation.[145] At both clinics, chemical restraint was used and recorded in the medical and nursing files, however, it was not distinguished from pharmacotherapy.

190. Regarding the overall use of restraint and its *frequency*, at KBC Split on average over the previous two years, around 30% of patients had been subjected to some means of restraint, and many several times. However, in practice, the frequency of use of means of restraint was even higher; at the time of the CPT's visit 32 of 62 patients were immobilised with mechanical restraints, some with a combination of mechanical and intra-muscular chemical restraints. The Biological ward was the location with the highest number of fixations, where some two thirds of patients were under restraint at the time of the CPT's visit.[146] Indeed, 11 out of 20 patients (55%) of patients were restrained (with a combination of mechanical and chemical restraints) on the Social Ward at the time of the CPT's visit.

Regarding the overall use of restraint and its *frequency*, at KBC Rijeka on average over the last two years, some 50% of patients had been subjected to fixation by mechanical restraint, and many several times (that is, one in every two patients had been subjected to restraint). In 2021, 65% of all patients had been restrained at some point during their hospitalisation (usually immediately after admission).[147]

191. Regarding the *length of time* that patients were restrained, according to the information gathered by the delegation, the average recorded duration of fixation in the statistical data sent to the LMPD Committee was some 7 hours, however, this did not correspond with the findings of the delegation in the hospital during the visit. The CPT interviewed patients who had been – and many who still continued to be – under five to one-point mechanical fixation for periods of 36, 46, 72, 93 and even 208 hours (some eight and a half days), with regular checks by a doctor every four hours but without interruption/temporary release for the entire duration of the restraint. The CPT interviewed all patients who were awake and restrained and found the vast majority to be calm, not aggressive or threatening, and desperate to be released from the fixations. Indeed, the lengths of time that patients were subject to fixations were so long that many patients were even prescribed Clexane to prevent blood clotting from inactivity, despite the fact that they were fully mobile while not restrained.

145. The clinical staff at both Clinics followed the 2016 Guidelines on the Prevention of Aggressive Behaviour and on the Use of Means of Restraint in Psychiatry issued by the Croatian Psychiatric Society, as well as internal guidelines on restraint and on dealing with aggressive patients, which followed the relevant provisions of the LPPMD and the Rulebook on Restraint.

146. Biological psychiatry ward: 16 restrained patients of 25 patients; social psychiatry ward: 11 restrained patients of 19 patients; Clinical psychiatry ward: 5 restrained patients of 16 patients.

147. Of the 782 admitted patients from 1 January to 30 June 2021, 510 of these persons were restrained for an average of approximately 18 hours each.

Regarding the *length of time* that patients were restrained at KBC Rijeka, the average recorded length of fixation, over the previous two years,[148] in the statistical data sent to the LMPD Committee was approximately 18 hours; however, as in the case of KBC Split (see above) this did not correspond with the findings of the delegation in the hospital during the visit. The CPT interviewed patients who had been under four-point fixation for over 40 hours, with regular checks by a doctor every four hours but without any noted interruption/temporary breaks for the entire duration of the restraint – including not being allowed to go the toilet or have shower (see below). In other cases, for example, a patient was fixated for 23 and a half hours per day and released for 30 minutes only before being restrained again for three days continuously.

The CPT considers that these periods of mechanical fixation at both KBC Spit and KBC Rijeka are unnecessarily long.

192. At KBC Split, patients were also fixated without being released (the delegation found several cases where a patient's fixation lasted for between three and five days, with temporary release after 23 and a half hours, for 30 minutes maximum) to be taken to the *toilet:* they had to urinate in bottles beside the bed or were placed in absorbent underwear for the entire length of the period of restraint.

As was the case in KBC Split, restrained patients at KBC Rijeka were also not released to be taken to the *toilet*, instead they were placed in diapers for the entire length of the fixation.

Moreover, at both Clinics, those who had five or four-point fixations applied to them were unable to *eat* by themselves and had to be spoon-fed by the nurses.

193. At KBC Split, the documented *reasons* for the use of mechanical restraint were vague, and it was unclear why the fixation needed prolonging for such lengths of time. No detailed description of the patient's behaviour was recorded, or any specific detailed reason for the continuation for the restraint. Numbers with generic descriptors ranging from 1-10 (the most common being prevention of self-harm or aggression (nos. 8 or 10) were circled, time-dated and signed every 4 hours by a doctor.

At KBC Rijeka, the documented *reasons* for the use of mechanical restraint were also vague, and it was also unclear why the fixation needed prolonging for such lengths of time. Equally, no detailed description of the patient's behaviour was recorded, or any specific reason for the continuation of the restraints' measure.

Neither KBC Split or KBC Rijeka had a dedicated register for detailed descriptions of the use of restraint measures, which were instead noted on the patients' individual medical files.

194. The delegation was particularly concerned to note that patients at KBC Split were mechanically restrained *in full view of other patients*, in shared rooms, and without the continuous and direct monitoring of a staff member present in the room. Room doors were kept continuously open, subjecting fixated patients to the view of other patients as well as that of their fellow roommates. Toileting needs were conducted in front of other patients (see above). Further, the restraints left patients vulnerable and created a potentially unsafe, exposed environment for the fixated patients. There were also no call bells in the vicinity so patients had to shout to attract the attention of nurses along the corridor.

Patients at KBC Rijeka were typically transferred half-way through the duration of their restraint to their own (multiple-occupancy) rooms and were mechanically restrained *in full view of other patients* and without the continuous and direct monitoring of a staff member present in the room. Patients were kept in diapers to address their toilet needs. As was the case in KBC Split, such practices left the restrained patients vulnerable and created a potentially unsafe, exposed environment for the fixated patients. While there was CCTV in every room, there were again no call bells, so here too patients had to shout to attract the attention of nurses along the corridor.

148. 1 July 2020 to 30 June 2022.

195. At both KBC Split and KBC Rijeka, fixated patients received no psychological support from, or indeed any meaningful contact with, staff during, or after, their often lengthy periods of restraint. They had no access to psycho-therapeutic support or any access to outside exercise or even fresh air on the balcony for the duration of their fixations.

196. The CPT considers that the use of means of restraint at KBC Split and KBC Rijeka was deeply concerning and was excessive, very frequent and unjustifiably long, along with little to no release for sanitary or toilet needs of the patients concerned; this treatment of psychiatric patients (the vast majority of whom were voluntary (see "Safeguards", section 7) may, in the CPT's view, amount to inhuman and degrading treatment (see also section 2 on "Ill-treatment and inhuman and degrading treatment").

197. In light of the above, in its Preliminary Observations to the authorities, the delegation invoked Article 8, paragraph 5, of the Convention and requested that the Croatian authorities urgently review the way in which the measure of fixation is applied at KBC Split and KBC Rijeka, with a view to ensuring that such a measure is only used as a last resort, for the shortest possible time and to prevent patients from inflicting imminent harm upon themselves and/or other persons.

The CPT recalled that patients should not be fixated in front of other patients, should be subject to continuous direct supervision by staff and be released immediately when the emergency situation resulting in the application of restraint ceases to exist.

The response from the Croatian authorities, dated 7 and 21 November 2022 and 8 February 2023, highlights, as regards KBC Split, that the Psychiatric Clinic was facing a significant increase of patients in need of acute psychiatric care and an "overload of work in acute cases", which resulted in an increased number of cases when means of restraint (fixation) had to be used on serious acute psychiatric patients. As regards KBC Rijeka, the authorities also acknowledged that measures of restraint were commonly used on psychotic patients who refused to cooperate and had a tendency to act aggressively.

Both clinics were apparently examining ways to separate and to better protect those patients who were subject to restraint from the view of other patients, and to develop procedures to only restrain patients for a minimal amount of time and as a last resort. The authorities also acknowledged that both clinics were short of staff and were continuously advertising for more nurses' positions.

The CPT takes note of this information and fully acknowledges the challenges facing both clinics. However, it underlines its serious misgivings at the rationale provided by KBC Split for the frequency of its implementation of means of restraints on patients. Further, given the overall extreme frequency of use of means of restraint, as well as the lack of safeguards found at both Clinics visited, the CPT can only recall its recommendations on the safeguards concerning the means of use of restraint (see below) and its recommendation on the increase of staffing numbers (see Staff, section 4).

198. The CPT urges the authorities to take concrete and immediate action to address these concerns and reiterates its recommendations made in previous visit reports[149], notably that:

- **patients should only be restrained as a measure of last resort (ultimo ratio) to prevent imminent harm to themselves or others and restraints should always be used for the shortest possible time. When the emergency situation resulting in the application of restraint ceases to exist, the patient should be released immediately;**
- **patients should not be subjected to mechanical restraint in view of other patients; visits by other patients should only take place with the express consent of the restrained patient;**
- **every instance of the use of restraint (including chemical restraint and seclusion) should be recorded in a specific register established for this purpose (as well as in the patient's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by patients or staff. Such a measure will greatly facilitate both the management of such incidents and the oversight of their prevalence, and will contribute to the prevention of means of restraint;**
- **in the case of mechanical restraint, a qualified member of staff should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide them with assistance. If patients are held in seclusion, the staff member may be outside the patient's room (or in an adjacent room with a connecting window), provided that the patient can fully see the staff member and the latter can continuously observe and hear the patient. Clearly, video surveillance (CCTV) cannot replace continuous staff presence; and**
- **once the means of restraint have been removed, it is essential that a debriefing of the patient takes 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 themselves, thereby possibly preventing future eruptions of violence and subsequent restraint.**

- **Additionally, it recommends that patients under restraint should be properly dressed and, as far as possible, be enabled to eat and drink autonomously and to comply with the needs of nature in a sanitary facility.**

199. Moreover, the CPT was deeply concerned during this visit to see the apparent practice of phasing fixation from five and four points down two and one-point fixation (that is, right ankle and left hand and then just one hand) based on patient behaviour over time. It views one-handed fixations for long periods of time (see above) as unnecessary, humiliating and unsafe. **The CPT recommends that the national Rulebook be amended to abolish the practice of phased fixation (from five and four points down to two or one-point fixations) and recalls that patients should only be restrained as a measure of last resort.**

200. Further, during the visit to KBC Rijeka, the delegation noted that the restraint equipment present on the wards included several straightjackets, which had apparently not been in use (which is in itself positive). **The CPT recommends that the straightjackets be removed from the wards.**

201. Concerning *juvenile patients*, the CPT notes that Croatian legislation does not specifically regulate the use of restraints on children in psychiatric establishments. Indeed, the only relevant reference is in Article 64(4) of the LPPMD, which sets out that all instances of the use of restraint on juveniles must be reported to the State Commission for the Protection of Persons with Mental Disorders. Restraint measures could be used at the Child and Adolescent Psychiatric Unit at KBC Rijeka. It appeared that the hospital had not established any internal guidelines, despite the fact that Article 4(4) of the Rulebook on Restraint explicitly specifies this as an obligation on all psychiatric establishments.

149. CPT/Inf (2018) 44, CPT 2017 Visit to Croatia.

Juvenile patients could be subjected to mechanical restraint using magnetic cloth straps in a similar manner as adult patients (see above). Such measures were carried out in one of the rooms, usually the close supervision room in the Child and Adolescent Unit, which other children were prevented from entering for the duration of the measure and occasionally in the isolation rooms of the adult ward. Mechanical restraint of juveniles was recorded on a special form which was placed in the incidents records, and a copy of the report was sent to the State Commission for the Protection of Persons with Mental Disorders, in accordance with Article 64(4) of the LPPMD. Such measures were relatively infrequent according to interviews with juvenile patients and staff but they did occur.

202. In light of the particular vulnerability of juvenile patients, the CPT considers that special attention is required whenever it is judged necessary to use any form of restraint on such patients. The CPT is of the view that, as a matter of principle, persons under 18 years of age should not be subjected to mechanical restraint. The risks and consequences are indeed more serious taking into account the juveniles' vulnerability. Where it is deemed necessary to intervene physically to avoid harm to self or others, staff should resort to manual restraint, that is, staff holding the juvenile until they calm down.

Furthermore, measures of restraint should never be used as a punishment, and the fact that the patients spoken to obviously regarded them as such calls into question the efforts made by staff to exhaust all alternative measures. The CPT considers, in addition, that the necessity of carrying out a debriefing following the application of means of restraint is all the more pressing in the case of juveniles, in order to ensure that they are not left with a feeling of injustice and frustration, potentially aggravating their existing mental and psychological condition.

In light of the above remarks, the CPT recommends that the Croatian authorities take steps to end the application of the restraint of immobilisation to a bed with straps for agitated children accommodated in psychiatric facilities. In parallel, they should ensure that staff are trained in manual restraint techniques and that children's wards possess calming down rooms. In addition, it recommends that a central register on the use of any means of restraint on children be kept and updated when necessary in the relevant Juvenile unit.

203. At Ugljan Hospital, patients could be subjected to means of restraint, including mechanical restraints (fixation) and seclusion. The CPT noted positively that each use was carefully documented and a central restraints log on each ward was maintained by the head nurse along with the underlying reasons for the measure indicated.

According to the statistics provided by hospital management, use of means of restraint was relatively infrequent and was not excessively long; on average over the previous three years this had involved approximately 20 out of 326 patients.[150] The longest duration of such a measure noted by the delegation was 16 hours. Fixation with magnetic cloth straps, with two or four-point fixations, took place in the isolation rooms on each ward, where the patient is held alone and monitored by CCTV. Nevertheless, fixated patients could be viewed by other patients as the room door was not always shut and observation was possible through a window in the isolation room door.

The CPT recommends that patients should not be fixated in view of other patients and should be subject to continuous direct supervision by staff (see recommendations contained in paragraph 198 above).

150. Records analysed from 1 January 2019 – 30 June 2022 showed an average of 20 patients were restrained in a given six-month period, for an average duration of 13 hours.

7. Safeguards

204. Very few civil patients admitted to the three psychiatric establishments were subject to a measure of involuntary hospitalisation.[151]

Nonetheless, the CPT was concerned to note that according to the LPPMD, a person can be legally detained against their will for up to 60 hours before a court is informed of their case.[152] The LPPMD's provisions appear to indicate that a person could thereafter potentially wait for days to be discharged after the court has decided that involuntary placement is not necessary, simply because of the time taken for the court to issue a written decision. **The CPT recommends that the Croatian authorities take steps to ensure that compulsory detention, while a decision on involuntary placement is being made, is kept to a strictly necessary and proportionate timeframe in view of the process and that damages are perceived by persons unjustifiably detained, as appropriate.**

205. Overall, the CPT noted positively that at the three establishments visited, the time limits and procedure set out in the LPPMD for the placement of patients subject to involuntary hospitalisation appeared to have been mostly followed. It appeared, in practice, that a lawyer was present at all stages of the procedure[153] and the patient attended the oral hearing on placement, which took place at the psychiatric institutions, or online in some cases.

However, patients generally did not know how to contact their lawyer nor were they aware of their right to appeal the placement to the local county court within three days of the decision according to the LPPMD (sections 41-44). The delegation did not find the required forms for making an appeal in the patients' files nor any other information on the existence of appeals brought by patients or their legal representatives. Moreover, the delegation noted some incoherence in the court files due to minor administrative errors, namely related to the practice of copy-pasting decisions or improper recording of timelines, as well as missing documents such as reasoned "referral slips" by doctors who would have personally examined the persons (in accordance with section 28 of the LPPMD), or decisions to discharge the patient when underlying reasons for the placement had ceased to exist (and which required the court to be informed). The CPT considers that the timeframe and deadline specified in national legislation governing the right to appeal the placement to the local county court (within three days of the decision) is not sufficiently long to have adequate impact as a safeguard; it generally considers that 14 days is a sufficiently long period of time to enable the right of appeal to be exercised and **invites the Croatian authorities to consider amending the relevant legislation to reflect this**.

In addition, the LPPMD does not require the presence of an independent psychiatrist during the court hearing, as this is now at the court's discretion (section 37 of the LPPMD). In practice, it was usually the institutions' psychiatrist who attended the court hearings.

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151. Section 27 of the 2015 Law on the Protection of Persons with Mental Disorders (hereafter "LPPMD") requires involuntary hospitalisation of a person to be justified by the "serious and imminent threat to their own or another's life, health or security". At KBC Split, there were 59 involuntary hospitalisations from 1 January until September 2022, 62 overall in 2021 and 55 in 2020; at KBC Rijeka, there were 42 involuntary patients from 1 January until September 2022, 40 overall in 2021 and 68 in 2020. At the time of the CPT's visit, in Ugljan Hospital, 28 patients out of the 332 patients present in the hospital were subject to a measure of involuntary placement. Three patients had an unknown status and others were admitted on a voluntary basis. In KBC Split, out of the 62 patients present, four patients were involuntarily placed.

152. The person is admitted to a psychiatric hospital on the basis of the referral slip, and a psychiatrist must examine the patient and take a decision within the next 48 hours as to whether there are reasons for compulsory detention (Section 29(1) of the LPPMD). If the psychiatrist determines that the compulsory detention is justified, they must inform the local county court within 12 hours (Section 32 of the LPPMD). On being notified of the compulsory detention, or otherwise learning of it, the court will start proceedings, and a judge of the court must then visit the patient no later than 72 hours from the moment of receiving the notice. The court must take a decision as to involuntary placement at the end of the hearing and inform the person, and must issue a ruling without delay and at the latest before a period of eight days has elapsed since the court was informed of the compulsory detention (Section 39(1)-(2)).

153. According to Section 15 of the LPPMD, all persons subject to court proceedings pursuant to its provisions must have legal counsel. If the person concerned, or their person of trust or guardian does not choose one, then the court must assign an *ex officio* lawyer.

206. The Committee considers that commissioning a psychiatric expert opinion which is independent of the hospital in which the patient is held would offer an additional, important safeguard to the independence, impartiality and objectivity of the psychiatric assessment required for the purposes of the legal proceedings on involuntary placement, and **it recommends that the relevant legal provisions in the LPPMD be amended.**

Furthermore, the CPT recalls the need for the Croatian authorities to take steps to encourage proactivity by patients' legal counsel so that they do not become passive observers of the proceedings, and **it recommends that particular efforts should be made to provide timely advice, to explain the contents of reports and court decisions, and the right to appeal them, to patients and to ensure that they understand them.**

The CPT also recommends that steps be taken to ensure that the patients concerned receive copies of the psychiatric assessment reports as well as copies of any court decisions on their psychiatric placement. The patients concerned should be asked to sign a statement attesting that they have received a copy of the court decision.

In addition, the CPT recommends that the Croatian authorities ensure that appropriate information and relevant training is given, as a matter of priority, to all structures and persons involved (in particular, psychiatrists, hospital management, judges and lawyers) on the legal provisions pertaining to civil involuntary placement of patients in psychiatric establishments in Croatia.

207. As indicated, the vast majority of *civil psychiatric patients* had signed a *written consent* to placement in the establishments visited by the CPT and were considered "voluntary" patients. However, in all three institutions, many patients did not remember having signed a consent form, and most patients were unaware of, or did not understand, the information provided on their status and rights on admission.[154] This would include understanding that their status as a "voluntary" patient would allow them to leave and to withdraw their consent at any moment.[155]

Many patients on locked wards in Ugljan, although registered as voluntary patients, did not seem to be in a position to consent to their placement and to their treatment, because of severe cognitive deficiencies. In KBC Split, staff refrained from offering the possibility to withdraw the consent as it could "cause complications". Whereas in KBC Rijeka, a standard form indicating the doctor's assessment of the patient's capacity to consent would be systematically attached to the patient's consent form, and a brochure on rights available to patients clearly indicated the right for voluntary patients to leave the clinic.

Similarly to the situation raised by the CPT in 2017,[156] at all three establishments the CPT found that that legally competent patients, who had signed consent forms to hospitalisation and were still deemed voluntary, were nevertheless subject to a number of *restrictions*. In KBC Split, most voluntary patients were not free to leave the Clinic premises as the Clinic's entrance door was permanently locked.[157] In Ugljan Hospital, only approximately one third of voluntary patients placed on open and closed wards (and who were deemed capable by the nursing staff) were allowed outside by themselves, and then only on the hospital premises and within certain hours, after asking a nurse. Further, in some cases, voluntary patients were not given permission to leave the wards, for unspecified reasons, and were left without knowing why their requests had been denied to them. At KBC Rijeka, voluntary patients placed on notionally open (top floor (see Treatment, section 5) and closed wards were not allowed outside of the Clinic's premises and could only go to the Clinic's yard or closed terrace.

154. The CPT's findings also corroborate the 2020 findings of the Croatian Ombudsperson, who in their 2020 Annual report, found that patients who had been committed to secure units voluntarily had emphasised that they gave their consent in fear of being held forcibly, that is, by a court order.
155. Section 12 of the LPPMD stipulates that a "[p]erson with mental disorders may be subjected to a medical procedure only on the basis of their written consent, which may be withdrawn at any moment".
156. CPT/Inf (2018) 44, para. 155.
157. They could leave only with a discharge slip given by the treating doctor.

In all three establishments, patients who tried to leave without official discharge from the doctors were treated as "escapees",[158] and some were restrained thereafter; this situation was particularly concerning in KBC Split, where the use of restraints for such reasons was particularly frequent and excessive (see Restraints section). This situation happened generally without the initiation of the change of their legal status. The situation was better in Ugljan where "escapees" who were taken back to the hospital, were asked to sign the consent form again.

At all three establishments visited, no effective, or very little, distinction was made when placing voluntary and involuntary patients on the various wards[159] and applying house rules.

208. In light of the above, the CPT considers that in practice at all three establishments a significant number of voluntary patients were *de facto* deprived of their liberty without being afforded the safeguards provided for by law in respect of involuntary patients. Yet, the CPT found very little information on the review of legal status and placements in all three establishments, which is in line with information provided by the Ombudsman for Persons with Disabilities indicating that it receives around 10 requests per year to review the legal status of patients across all Croatian psychiatric institutions.[160]

The CPT recalls that the assessment of the patient's capacity to consent and fully understand their rights and responsibilities, and information on how they may exercise those rights, should be carried out adequately and a note to this effect must be placed on the individual file, in accordance with national law. **The CPT recommends that the Croatian authorities ensure that persons admitted to psychiatric establishments are provided with full, clear and accurate information, including on their right to consent or not to consent to hospitalisation, and on the possibility to withdraw their consent subsequently. Consent to psychiatric hospitalisation should always be fully informed and free from any undue pressure.**

Further, the CPT recommends that, a procedure for involuntary placement be immediately launched if voluntarily admitted patients indicate at any moment a wish to withdraw their consent to admission, or when a person under guardianship opposes the "consent" of their guardian to their hospitalisation. If the provision of in-patient care (including the application of means of restraint) to a voluntary patient who wishes to leave the hospital is considered necessary, the involuntary civil hospitalisation procedure provided by the law should be fully applied and take into account their particular vulnerabilities in terms of both physical health and cognitive deficiencies.

209. In all three establishments visited, it became apparent that no distinction was made in practice between consent to placement and consent to treatment. The delegation found that many patients who gave consent for placement were unaware whether they were *also consenting to treatment*. In all three establishments, the standardised consent forms signed by patients on their admission did not distinguish between consent to placement and consent to treatment. Indeed, this is not surprising in light of the fact that the LPPMD itself does not clearly distinguish between the two concepts; it is the LPPMD itself which defines the "medical procedure" patients may consent to as "admission, detention and placement in a psychiatric institution, as well as diagnosis and treatment of a person with mental disorders" (Article 3(4) of the LPPMD). However, the CPT welcomed the fact that, in accordance with the law, the signature of the guardian of a person who has been deprived of their legal capacity is no longer sufficient to satisfy the requirements of the law, where informed consent must be obtained to specific kinds of treatment.

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158. In the incident register of 2022 of KBC Split, in total 47 incidents of which 28 were 'escapes'.
159. In KBC Split, justification for placement on the various wards was particularly unclear. There was an indication that patients with acute mental illnesses were sometimes placed on the other two wards in the clinic, because of a shortage of beds.
160. The CPT welcomes the additional safeguards that were introduced by the LPPMD (section 26), where consent is given by the guardian or person of trust. In particular, the psychiatric institution is obliged to inform the Ombudsperson for Persons with Disabilities within 48 hours, and the Ombudsman may refer the case to the court if there is a suspicion that the placement of the person is not justified. The court must then initiate the procedure for involuntary placement.

210. As was the case in 2017, the CPT wishes to underline once again that psychiatric patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment, and the admission of a person to a psychiatric establishment on an involuntary basis should not preclude seeking informed consent to treatment. Every patient capable of discernment, whether voluntary or involuntary, should be fully informed about the treatment which it is intended to prescribe and 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.

211. The CPT reiterates its recommendation[161] that all patients, whether voluntary or involuntary, or where appropriate, their guardian or other legal representative, be provided systematically with information about their condition and the treatment prescribed for them, and that doctors be instructed that they should always seek the patient's consent to treatment prior to its commencement. Relevant information should also be provided to patients, or their guardian or other legal representative, during and after treatment.

The CPT recommends that the LPPMD is revised to clearly distinguish between a patient's consent to hospitalisation and their consent to treatment and to provide for the exceptional circumstances for provision of treatment on an involuntary basis. The law should also provide for relevant safeguards, e.g. the possibility of another, independent, medical assessment to authorise administration of specific medication on an involuntary basis for a specific period and right of the patient to challenge a compulsory treatment decision before an independent outside authority.

Further, the CPT recommends that all psychiatric institutions clearly register separate written and signed consent forms for placement and treatment, in addition to the psychiatrist's assessment of the patient's capacity for discernment.162

212. Overall, it was positive that the Croatian authorities are pursing the approach that patients should be provided support to exercise their legal capacity, rather than being deprived of part of their legal capacity. Yet, the CPT found that this was currently not fully effective in legislation nor in practice. During this visit, the CPT was concerned to note that the 2015 abolition in law of full guardianship has mostly not affected the situation of persons placed involuntarily in psychiatric establishments.[163] "Persons of trust" empowered to give or withhold consent to specific medical procedures, in circumstances where the person concerned is no longer capable of giving consent, were not clearly identified. In practice, none of the records consulted by the delegation distinguished between guardians and persons of trust. The lack of clear records and proper identification caused confusion among patients and medical staff who were often performing medical procedures, including the application of restraints, with very little information about the status of their patients and their person of trust or guardian to be contacted, if any. In addition, it was not clear how the role of a person of trust interacted with that of a guardian, where a person who had designated a person of trust would be subsequently deprived of legal capacity.

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161. CPT/Inf (2018) 44, CPT 2017 Visit to Croatia, paragraph 157.
162. Section 12(3) of the LPPMD states that "Legal incapacity does not mean incapacity to give consent and, prior to a medical procedure, the person's capacity to given consent must be determined, including for those persons who have been deprived of their legal capacity".
163. The Croatian Family Act, which came into force on 1 November 2015, has abolished full guardianship for adults deprived of their legal capacity, but has retained the power of courts to place people under partial guardianship, to the extent necessary to protect their rights. Of all the patients present in Ugljan Hospital (332 in total), 37 had full legal capacity, seven partial legal capacity, 30 still no legal capacity and five cases were pending. No information on legal capacity was available for the other patients. In KBC Split, it was not possible to get the information on the number of patients under guardianship as it was not recorded in a central register and individual files only very rarely indicated whether the person had a guardian or a person of trust or included court decisions on guardianship. In KBC Rijeka, while the administration could provide the CPT with the list of patients with guardians, there was no information on court decisions about guardianship.

In Ugljan Hospital, the usual practice would be for guardians to contact social workers in the hospital once a month to monitor the situation of the patients. Guardians were obliged to seek once a year medical advice on the state of health of the patient and the reasons for deprivation of legal capacity. Communications between the guardians and the hospital, however, were not recorded. In Ugljan, for example, there were several instances where patients wanted to be vaccinated against Covid-19, or were considered patients "at risk" and were vaccinated by the hospital staff, despite their guardians' objections. In addition, Social Care Centres were in charge of monitoring the situation of persons under guardianship in Ugljan at least twice a year, but it was clear that in practice they did not have the means to adequately monitor the situation of persons under guardianship. The Social Care Centre was obliged to review and draft a report every three years on the need for guardianship.

The CPT recommends that information on guardianship and persons of trust is clearly recorded in each patient's file, kept in a register on guardianship and shared as appropriate with the respective hospital staff in charge of patients. Staff should be able to contact legal guardians or persons of trust to the extent necessary, at short notice. Patients should have clear information on the roles of guardians and persons of trust. Every patient that requires a guardian or a person of trust to support a co-decision process regarding their condition and treatment should be provided with a guardian or person of trust, on the basis of their free and informed choice. Social Care Centres who often work as guardians, and monitor the situation of persons under guardianship, should be provided with adequate means and resources to carry out their functions.

213. As mentioned above, it was evident that at all three establishments visited, patients were not fully aware of their rights, and *information on rights* was generally provided only on demand. In Ugljan and KBC Split, brochures on rights (guardianships, treatment, coercive measures, etc.) were not systematically given to patients upon admission nor were these readily available in all areas of the institutions.[164]

The CPT recommends that easily accessible information brochures be provided to all patients and their families on admission, outlining useful information regarding their stay and treatment, their rights and the complaints systems available to them. Brochures should be made visible at all times and any patient unable to understand the contents of the documents provided should receive appropriate assistance.

214. The situation as regards *contact with the outside world* was generally satisfactory. Generally, house rules on visits from family and friends were clear to patients in all three establishments.

Covid-19 safety rules (namely, meeting visitors outside, keeping a safe distance, wearing facemasks) were still highly encouraged. In some situations, such as where patients were affected by Covid-19 and patients were being restrained, visits could be restricted. Otherwise, visits were allowed daily.[165]

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164. In KBC Rijeka, there were two brochures on rights, the contents of which were also visible on the walls of the main hallways.

165. In KBC Rijeka, every ward had information on visits which were allowed on a daily basis (15:30 – 17:00 on workdays, and 14:00 – 17:00 on weekends). In Ugljan Hospital, visiting arrangements were flexible as the hospital was located on an island. Visits were allowed every day. In KBC Split, the patients could have visits everyday within a certain time slot.

More restrictions seemed to apply to the rights of all patients, whether voluntary or involuntary, to communicate with the outside world[166]. In Ugljan Hospital, patients on closed wards were not allowed to have their personal mobile phones at night.[167] In KBC Split, some patients indicated having their phone taken away upon admission and given their phone back after a certain time. Patients being restrained also had their phones taken away for reasons unclear to them and could access them upon request to the doctor (not the nurse). In Ugljan and KBC Split, KBC Rijeka, there was no Wi-Fi and internet access was dependent on the individual means of each patient. Patients were not aware whether a computer with internet connection was available to them.

The CPT recommends that the Croatian authorities ensure that all patients are allowed access to a phone or their mobile phone on a daily basis, unless there are serious security contraindications or there is a lawful and reasoned doctor's order based on an individual risk assessment or a court order to the contrary. Furthermore, steps should be taken to ensure that there are clear, written, and accessible ward-level policies in psychiatric hospitals in Croatia.

Moreover, all patients should be able to communicate by telephone under conditions allowing privacy and in particular confidentiality when communicating with their lawyer, unless there is a reasoned doctor's order to the contrary for safety or security reasons.

215. The law also sets out the right to *submit complaints*, and make use of other legal remedies, to the competent judicial and other state bodies. The contacts of the office of the Ombudsperson for Persons with Disabilities for instance were indicated in the brochures made available by all three establishments. The CPT noted that it was positive that various pathways to complain existed.[168]

Nevertheless, while formal avenues for complaint existed in theory, they were not used in practice and the delegation found that patients at all three establishments were generally unaware of their existence. Very few complaints were ever made. In all three establishments, the informal rule was to orally complain to the head nurse, a treating doctor, or the Director. Yet, even then, patients indicated that there were very few opportunities to speak to the staff alone.

In KBC Rijeka, complaints could be filed with the head nurse who transferred them to the Director and the hospital's ethics commission. There was no centrally held complaints register at the Ugljan Hospital or KBC Split, but there was a register at KBC Rijeka. In KBC Split, patients did not know of the existence of a book of complaints nor the possibility to send a complaint through the website for those who had access to the internet. The complaints book covered the period from 2019-2022 and complaints were poorly recorded and not dated.

In both KBC Split and Rijeka, the delegation was informed that the complaint boxes either disappeared or were destroyed by patients and were never reinstalled. In Ugljan Hospital, there were complaint boxes with pen and paper available in each ward. However, according to the hospital, no complaints were received via these boxes between 2020 and 2022. During that period, only four complaints were made via other means, by family members only, not patients themselves. When complaints were made, they seemed to be handled correctly by the staff in Ugljan.[169]

166. Section 14 of the LMMPD outlined the regulations around making telephone calls and using electronic technology and means of communication.
167. Patients had to return their phones before they went to bed, around midnight. The house rules on Ward IV (with no distinction between the closed and open parts) indicate that the phones had to be handed to staff between 20:00 and 7:00.
168. Including a general phone number (free of charge), which was clearly listed in the brochures for patients, notably, in KBC Rijeka. This included information on the possibility to lodge an application to the European Court of Human Rights, after all national remedies had been exhausted.
169. Section 14 of the LPPMD sets out the rights of all patients, whether voluntary or involuntary. They include the right to lodge a complaint with the head of the psychiatric institution or the head of the department and receive immediately an oral answer and, upon written request, a written answer within eight days.

216. The CPT recommends that the Croatian authorities take measures to establish, in all psychiatric hospitals, more formalised and effective complaints systems,[170] which are safe, confidential, and reliable, with a central register of complaints with records of complaints, responses and actions taken to subsequently improve the quality of patient care. Brochures on the complaint system should be made available to all patients on admission and thereafter at any time during their stay. Complaint boxes should be adequately labelled as such, and patients should be provided with paper and writing material to draft their complaints. Persons with acute mental disorders who are not in a capacity to make a complaint should be provided particular attention to ensure their needs are met with accordingly.

217. Regarding the *internal and external monitoring* of psychiatric establishments, the CPT notes the work of the State Commission for the Protection of Persons with Mental Disorders,[171] tasked with monitoring the observance of the rights, freedoms and dignity of persons suffering from mental disorders, as well as the medical procedures they are subjected to, with a view to making recommendations and the CPT sees that it does conduct some visits. **The CPT would like to receive details concerning the activities of the State Commission following its work in all three psychiatric establishments. It encourages a close and important dialogue between the Commission and the establishments.** Concerning external monitoring, the CPT welcomes the work of the Ombudsman, the NPM and the Ombudsman for Disabilities.

[170] See 27th General Report of the CPT, 1 January - 31 December 2017, substantive section on Complaints Mechanisms.

171. “*Povjerenstvo za zaštitu osoba s duševnim smetnjama*”, which was set up on 26 January 2015 pursuant to Article 78(4) of the LPPMD. The 11-member Commission is tasked with monitoring psychiatric establishments and social care institutions with a view to protecting the rights, freedoms and dignity of persons suffering from mental disorders.

E. Establishments under the responsibility of the Ministry of Labour, Pension System, Family and Social Policy

1. Preliminary remarks

218. The CPT paid follow-up visits to the Stančić Centre for Rehabilitation and the Mirkovec branch of Zagreb Adult Home[172] to examine the treatment and care of residents and the implementation of the Committee's previous recommendations made in 2012 concerning these Homes.

219. The Stančić Centre for Rehabilitation, founded in 1955, is situated in 22 hectares of wooded land, some 25 kilometres from Zagreb. It is one of Croatia's flag-ship deinstitutionalisation projects and has been subject to various renovations since 2012. It now consists of numerous buildings, including four main accommodation blocks onsite, but also of various day centres, community outreach programmes and several small, assisted living group homes both on and off site.

The Centre accommodates adults with severe learning disabilities as well as some adults with mental illnesses; it had stopped accommodating children several years ago. The Centre cares for 600 residents (the majority within the community), with a capacity to accommodate 205 residents within the premises of the Centre itself; at the time of the visit, there were 213 residents present. A further approximately 80 residents lived in supported housing units in the community. Of the residents accommodated onsite, aged between 19 and 90 years old, 100 were female and 113 were male. They were accommodated in five wards, each divided into two sub-wards.

220. The Zagreb Adult Home was founded in 1954, and its Mirkovec Branch was established in 1978 and is located in a 17th century two-storey listed manor house on a hillside near the village of Mirkovec, some 35 km from Zagreb. It accommodates adult residents, of whom the majority have mental illnesses and some have developmental disabilities. With an official capacity of 76 beds, it was holding 72 residents (36 men and 36 women) aged between 25 to 90 years at the time of the visit.

The catchment area of the two establishments was country-wide.

221. Various reforms have been underway in the area of social welfare since 2012. These include changes introduced by the Family Code in 2015 with a view to ensuring better implementation of individuals' rights, and strengthening safeguards in respect of legal capacity and guardianship.[173] Reforms also include the adoption of the new Social Welfare Act, on 9 February 2022,[174] which reorganises the structures of the welfare system and aims to strengthen a number of rights and services, through consolidation, central oversight of local care provision and increasing the training available to staff.

222. Further, according to the Croatian authorities, efforts are underway to continue work on Croatia's Plan for *Deinstitutionalisation* ("DI") and Transformation of Social Care Homes, building on the previous DI Plan for the period 2011-2018, which had aimed at moving 30% of persons with intellectual disabilities and 20% of persons with mental disabilities out of institutions and developing instead community-based support for these persons, such as organised assisted housing. In 2017, the authorities indicated that a lack of financial resources was hampering the whole process, which was then still in its infancy. The Operational Plan for DI, prevention of institutionalisation and transformation of social service providers in the Republic of Croatia from 2022 to 2027

172. Follow-up visit from the CPT's previous 2012 visit; see CPT/Inf (2014)9, paragraphs 111 to 136.
173. Family Law ("Official Gazette", no. 103/15 and 98/19).
174. "*Zakon o socijalnoj skrbi*"; Law on Social Welfare adopted by the Croatian Parliament at its session 28 January 2022.

(the Operational Plan) will serve to implement the measures related to the continuation of the process of DI in the program period 2021-2027.[175]

As of the date of the CPT's visit, it was clear that efforts had been underway to pursue the objectives of the DI Plan. According to the authorities, 19 of the 44 social welfare institutions had ongoing DI projects, and 247 residents had left long-term accommodation in institutions over the previous five- year period;[176] smaller, community and assisted living housing projects had increased[177] and one social welfare institution had stopped providing accommodation services and now provides exclusively non-institutional services in the community.[178]

However, the authorities acknowledged that DI remained a work in progress and faced considerable challenges, including adequate financial resources, to fully achieve the objectives set out in the previous DI Plan. The numbers leaving institutions for the community or for supported living were still relatively low when compared to those remaining in long-term accommodation in the social welfare system, namely some 2 400 residents on average (this figure having remained relatively unchanged over the previous three years).[179]

223. The CPT noted significant differences in practice in the success of the DI approach in the two social welfare homes visited during this 2022 visit.

As regards Stančić Centre for Rehabilitation, from 2013 to 2015, some 120 residents had been deinstitutionalised from the onsite establishment, 80 into 20 smaller, assisted housing units organised by Stančić Centre in the community, both in the nearby town and elsewhere, and 40 to other service providers, in accommodation closer to their respective families. However, the CPT was informed that from around 2015, the momentum for DI stopped, given various challenges faced by social service providers including insufficient staff numbers, housing units and resources to adequately continue the DI process. The management shared various plans with the delegation to renovate the buildings and to seek additional finances to supplement their primarily state-funded resources but increasing costs were envisaged which would delay the full realisation of these plans.

At the Mirkovec Branch of the Zagreb Home, very few residents had moved from the institution and the DI process was not in evidence at all. While in 2012 the CPT had found that individual plans had been initiated for deinstitutionalising residents and 24 residents had been identified for living in the community, in fact only six had agreed to leave the establishment. 10 years on, in 2022, the situation was exactly the same and, in some areas, had in fact deteriorated (see Sections on Living Conditions and Treatment). Some 100 persons were on the waiting list for the establishment, but places rarely became available and some residents lived their entire adult lives here (for example, the longest resident had been in the establishment for 42 years). The establishment ran entirely on its small, state funded 6 million Kuna (€800 000) budget and very little progress on DI, or indeed any change, was apparent since 2012.

175. According to the authorities, this Operational Plan aims to reduce the number of users in institutions and ensure their life in the community, as well as the development of support services in the community. It is foreseen that the Social Welfare Ministry will provide technical assistance for the creation of individual plans and the preparation of projects of state-run service providers, as well as for the improvement of the system for monitoring the implementation of the process by establishing better monitoring techniques.
176. For example, Stančić Rehabilitation Centre has reduced its capacity for onsite accommodation of residents from nearly 400 to 218, moving residents to smaller, supported-living accommodation in the community.
177. The number of persons with disabilities including persons with mental impairments who use the service of organised housing is as follows: there were 971 users of the service of organised housing in 2019, there were 1 087 users in 2020, 1 120 in 2021 and on June 30, 2022, 1 249.
178. Community Service Centre Jaškovo in Ozalj.
179. The total accommodation capacity for persons with disabilities (children with developmental disabilities and adults with disabilities) in Croatian social care homes was 3 778 in 2019, 3 632 in 2020 and 3 725 in 2021; the number of persons with mental impairments accommodated in social care homes founded by the Republic of Croatia was 2 504 in 2019, 2 385 in 2020 and 2 359 in 2021.

224. The CPT welcomes the efforts to further progress the DI objectives, and takes notes of the challenges facing the Croatian authorities in fully implementing these objectives.

Nevertheless, regrettably, only modest progress has been made since 2015 in speeding up the concrete implementation of the strategy for DI, which should include establishing sustainable effective services in the community, for all 44 providers of social services for children with developmental disabilities and adults with disabilities.

Despite the efforts (noted at one of the two establishments visited by the CPT) to transfer some patients to smaller, supported living arrangements or community care, too many residents still continued to reside long-term in the establishments, and often in multiple-occupancy dormitories (such as the 10+ person male dormitories in the Mirkovec Branch of the Zagreb Adult Home) (see section 3 (Living Conditions)). The lack of movement from these large institutions was in large part due to a scarcity of alternatives available in the community and the absence of sufficient funds and resources to be implemented at local level.

The CPT urges the Croatian authorities to take swift and effective measures to implement the DI goals established in relevant national strategies, operational plans and action plans, and to set up appropriately funded smaller structures in the outside community to ensure that residents may be cared for in the community.

225. The Committee would like to receive updated information about the implementation of the above-mentioned De-institutionalisation Operational Plan for social care homes in Croatia, and in particular as regards the Mirkovec Branch of the Zagreb Home for Adults, as well as its timeframes and interim reporting on the extent of its implementation and the concrete measures to be implemented in 2023.

2. Ill-treatment

226. The delegation did not receive any allegations of physical *ill-treatment* of residents by staff at either Stančić Centre for Rehabilitation or Mirkovec Branch of the Zagreb Home for Adults. Indeed, many residents spoke positively of the staff, and the delegation observed a generally caring and calm atmosphere in both establishments, and in particular at Stančić Centre for Rehabilitation.

227. Equally, *inter-resident violence* and verbal abuse was generally not a problem at Stančić Centre for Rehabilitation and was well managed through talking and de-escalation techniques, in which the staff had been trained (see section 5 (Staff)).

Nevertheless, at the Mirkovec Branch of the Zagreb Home for Adults, quarrels and physical conflicts did occur between residents, which required better reporting procedures (see section 7 (Safeguards)). Physical assaults between residents appeared to be a regular problem and the delegation found that several serious incidents had occurred in the few days before the visit. By way of illustration, in one case the delegation observed a recent head injury[180] on a vulnerable resident, which allegedly occurred during an inter-resident incident. In this case, one of the female residents, Ms X, known for being a “trouble-maker” according to the staff and other residents, was allegedly attacked by Mr A, another resident, in the evening before the delegation’s arrival.

Moreover, mid-way through her interview with the delegation, Ms X suffered from what appeared to be an epileptic seizure, according to the delegation’s medical doctor. The nursing staff informed the delegation that she always did this and it was a “fake” seizure to attract attention, as she was not epileptic. Upon consultation of the residents’ medical records by the delegation, the CPT was concerned to note that this patient did suffer from epilepsy and was receiving treatment.[181]

180. Examination by the delegation’s medical doctor found that there was a triangular shaped abrasion, with dimensions of 1.2 x 0.8 x 1cm on the right side of the forehead. In front of the right ear, there was a discrete abrasion of 0.5 x 0.3 cm.

181. G40 (Epilepsy and recurrent seizures) and receiving two anti-epileptics belonging to a group of anti-convulsant medication as part of her treatment.

Further, no record had been made of the alleged incident or the injuries sustained, despite the resident complaining orally to the management and nurses around her, indicating both her visible injuries and how upset she was. The lack of record was not surprising because the nurse had not examined Ms X after the incident, despite her oral complaints. It was also unclear whether the incident had been internally investigated, even unofficially, and whether other residents implicated had been interviewed, indeed if any measures at all had been taken to prevent a recurrence of violence. Staff informed the delegation they had been unaware of the incident but were unsurprised given that she often "annoyed" other residents.

228. Several months prior to this,[182] resident Mr A had again been involved in a previous incident where he had returned to the establishment drunk late at night and had had a physical conflict with resident Mr C, who consequently sustained a facial injury. The police and an ambulance were called and Mr C was taken to hospital and returned the following morning. No detailed description of the injuries other than "blood all over Mr C's face", had been made in the incidents' register, and no follow-up action was outlined therein.

229. Another illustrative case of serious inter-resident violence is seen in the case of Mr B who, on the night of 13 September 2022, attempted to strangle Ms D. The book of accidents and injuries kept on the ward described the event, but did not mention any injuries or if any follow-up action had been taken.

230. The CPT considers that these cases raise a number of concerns including issues around safeguards and the complaint process (see section 7 (Safeguards)), the prevention approach to inter-resident violence, as well as issues of the adequate recording of injuries (see section 4 (Treatment)).

In the Committee's opinion, the authorities' obligation to care for residents includes the responsibility for protecting them from other residents who might cause them harm. This means, in particular, that staff should be alert to residents' behaviour and be both resolved and properly trained to intervene when necessary. Likewise, an adequate staff presence should be ensured at all times, including at night and weekends.

In light of the above remarks, **the CPT recommends that the Croatian authorities take steps to ensure that residents in the Mirkovec Branch of the Zagreb Adult Home are effectively protected from other residents who might cause them harm. This requires not only an adequate staff presence and supervision at all times, but also that staff be properly trained in handling challenging situations/behaviour by residents.**

3. Residents' living conditions

231. The *living conditions* at Stančić Centre for Rehabilitation were generally reasonable; the rooms had undergone some refurbishment over the years and were clean, adequately heated, well ventilated and sufficiently lit. The state of the beds and bedding was also adequate. The majority of the rooms were sufficiently spacious[183] with four beds per room and each resident was provided with personal lockers and cupboards. Some rooms were particularly well decorated, such as the Women's Unit on Block 3B, with pastel-coloured walls, artwork and bright common areas, equipped with radios, television, a small library and games. Small housing units for some of the residents (those considered by the staff to be capable of more independent living) were available at the far end of the estate, with two to four-bed rooms and bright, airy common rooms.

The sanitary facilities were generally clean, in an adequate state of repair and access did not pose any problem. The Centre provided a range of hygiene items, including padded underwear, and immobile, bed-ridden patients were seen by a physiotherapist on a regular basis. These residents were well cared for and were moved regularly – with no bedsores apparent.

182. 28/29 January 2022.
183. Affording approximately 5 m^2 per resident in 20 m^2 multi-occupancy rooms.

Nonetheless, some of the Units, such as Unit 4B were more impersonal, less decorated and rather austere. **The CPT recommends that the management of Stančić Rehabilitation Centre take measures to ensure that all rooms of each Unit have decoration and a degree of personalisation, most notably in Unit 4B.**

232. In 2012, the CPT raised its concerns about the use of small isolation rooms measuring approximately 4 m^2. In 2022 while these rooms were no longer used as a means of seclusion, they were used for the placement of various residents apparently to afford them more privacy and apparently at their own request. However, their size is too limited to be used for any accommodation purposes and **the CPT recommends that these former isolation rooms be taken out of service, given the limited space and untransparent selection criteria of the patients placed in them.**

233. Residents benefited from an *open-door regime* during the day where, if they were mobile, they could freely access the outside extensive grounds and, if they were partially mobile, they were assisted by staff on a regular (daily) basis.

234. As regards the Mirkovec Branch of the Zagreb Home for Mentally Ill Persons, male and female residents were accommodated in separate areas over the two floors of the establishment. As was the case in 2012, the CPT underlined that the possibilities for the old manor to fully meet the needs of the current resident population were limited.

With the exception of the women's dormitories, the accommodation areas were spartan and barely decorated; while they were clean and well-ventilated, the old manor house itself was poorly insulated and draughty. Some dormitories were large (up to 10 residents) and impersonal, despite a recommendation made in 2012 by the CPT in this regard. Further, they lacked privacy as very few possessed a lockable space in which residents could keep personal belongings, and access to many dormitories entailed passing through another dormitory.

The sanitary facilities offered adequate conditions and access was not a problem.

The day rooms were equipped with a television, tables, sofas and chairs, and on the women's unit, these were pleasantly decorated and painted in bright colours, but on the men's unit and in the mixed common areas, were spartan and impersonal.

235. Fully mobile residents benefited from an open-door regime during the day, with access to the partially-covered paved courtyard, the gardens (with outside tables and chairs) and the estate, with Unit doors closed at night. However, the delegation was not convinced that partially mobile or bed-ridden residents with severe physical disabilities were able to have daily access to outside fresh air. There were at least five steps from the female accommodation rooms to the courtyard and, while the management informed the delegation that there was a back entrance access on the same level as the (women's unit only) residents with mobility issues or bed-ridden patients, it was quite clear that this was rarely used.

Only the most mobile residents were going outside regularly for activities or meals. For the others, some 30% of the residents, who had limited mobility or who could not move without assistance, access to outdoors was made on an irregular basis and some were not accessing any outdoor area at any time.

236. At both establishments, the food appeared to be of sufficient quality and quantity.

237. The CPT acknowledges the efforts being made, notably at Stančić Centre for Rehabilitation, to provide a decent living environment to residents. However, as regards the Mirkovec Branch of the Zagreb Home for Adults, the CPT stresses that it will be nearly impossible to offer satisfactory conditions in facilities which have not been purpose-built or adequately renovated to modern standards, and that large-capacity dormitories, such as those found at the Mirkovec Branch of the Zagreb Home for Adults, are far from ideal for persons with learning disabilities.

The CPT recommends that the Croatian authorities take measures to provide residents with personal lockable space for their belongings, as well as more visual stimulation and personalisation in all of the rooms at the Mirkovec Branch of the Zagreb Home for Adults.

Further, it recommends that the large-capacity dormitories be renovated to ensure that the rooms accommodate a maximum of four residents in sufficient living space.

In addition, the CPT recommends that the Croatian authorities take the necessary steps to ensure that all residents in the Mirkovec Branch of the Zagreb Home for Adults have unlimited access to fresh air. In this context, particular efforts should be made to assist residents with physical impairments, and a ramp or lift installed to help such residents to access the outside courtyard. All residents should have access to outdoors, at least daily.

238. The CPT considers that accommodation structures based on small groups is a crucial factor in preserving/restoring residents' dignity, and also a key element of any policy for their psychological and social rehabilitation. Structures of this type also facilitate the classification of residents to relevant categories for therapeutic purposes. **The CPT reiterates its recommendation that the above-mentioned considerations be borne in mind when reforming social welfare service provision for persons with disabilities; in the meantime, in this context, the large dormitories should be replaced by smaller units.**

4. Treatment

239. At both establishments, appropriate medication was available and adequately administered and there was no indication of the overuse of psychotropic medication.

It was positive that, at Stančić, all newly-arrived residents underwent a somatic and psychiatric examination upon arrival. In contrast, at Mirkovec, this was not the case and the delegation found that some residents had not been checked by a psychiatrist for several years.[184] Moreover, psychiatrists' reports on the course of the disease were often brief, generally consisting of only a few words, without a description of the psychiatric evaluation.

The CPT considers that, bearing in mind that the Mirkovec Home cares for many residents with mental illnesses, it is unacceptable that newly admitted residents were not examined by a psychiatrist in the first days after arriving at the Home, even in circumstances where admission to the Home was preceded by discharge from a psychiatric hospital. It is also unacceptable that several years pass between two check-ups by a psychiatrist for some users, especially considering the relatively small total number of residents (72) at the Home. **The CPT recommends that the management of Mirkovec Home ensure that all newly-arrived residents undergo an initial medical examination including a psychiatric assessment upon arrival and that the distinctive needs of all the residents are fully met.**

240. At both establishments, residents who took Clozapine were not regularly supervised in their follow-up and did not have regular blood tests. For example, at Mirkovec Home, 14 residents had Clozapine included in their therapeutic protocol at the time of the visit. Despite the psychiatrist's report indicating the need for a month-long blood count check for users on Clozapine therapy, the delegation observed that this psychiatrist's recommendation was not followed in practice. Equally, at Stančić, an inspection of the blood counts of individual users who had Clozapine in their therapeutic protocol was also undertaken by the delegation, which showed that residents who use Clozapine daily in therapy did not have a regular blood count check (white blood count) in accordance with the recommendations for the use of this drug.[185]

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184. Upon inspection of the health records of the 10 most recently-arrived residents, six had not been examined by a psychiatrist, either upon arrival or thereafter, even though several of these residents had been at the Home for longer than one year. For those four residents who had in fact received a psychiatric examination, the period between exams was three to four years.
185. (F.D. last inspection March 2022; Dj.A. last inspection December 2021, J.I. last inspection January 2022, S.Z. last inspection July 2022, T.N. last inspection December 2020).

Bearing in mind the possibility of a fatal outcome as the most serious complication of the use of Clozapine, **the CPT recommends that the management of the Mirkovec Home ensure that all measures are taken in accordance with the recommendations for the use of this drug, which include regular white blood counts, in order to detect and prevent all potentially unwanted effects of the use of this medicine in time (see also recommendation contained in section 5 (Treatment), Psychiatry Part D).**

241. Further, at Mirkovec Home, 15 residents, in addition to regular therapy, also had prescribed therapy "as needed" by a psychiatrist (seven users of tablets as needed, and eight users of the first generation neuroleptic Talofen (Prazine-generic name) in injection form) (that is, *PRN medication*). The CPT recalls that every administration of drugs from the group of psychopharmaceuticals must be prescribed and immediately approved by a doctor. This is especially problematic in the Mirkovec Home, which does not have a permanently employed doctor. In this context, **the CPT recommends the immediate termination of the current practice of prescribing and administering PRN medication in this home.**

242. In addition, there had been a case of acute tuberculosis (TB) in 2020 at the Mirkovec Home and it was unclear whether other residents sharing the same room as the TB positive resident, and the staff caring for him, had been subject to regular TB tests thereafter. **The CPT recommends that should a resident or staff member contract TB, then regular TB tests should be implemented for those residents and staff members who had been in close contact with that person, on an equivalent basis to the follow-up care taken in the outside community. The CPT also requests information on the protocol for TB and follow-up care at the Mirkovec Home**.

243. The provision of *somatic care* appeared to be generally satisfactory at Stančić Centre for Rehabilitation, and transfers to an outside hospital were reportedly not problematic. Further, residents had adequate access to specialists.[186]

244. At Stančić Centre for Rehabilitation, a broad range of psychosocial and *therapeutic activities* were on offer, including hippotherapy (horse therapy) with the Centre's own therapy horse and riding arena, pottery, arts and crafts, a specialist therapeutic sensory garden equipped with aromatic herbs and therapeutic swings and equipment, music therapy and daily accompanied walks in the Centre's grounds and woods. All mobile residents attended activities on a daily basis, and semi-mobile residents were taken outside in wheelchairs on a regular (but not daily) basis.

In contrast, at Mirkovec, the range of activities was extremely limited and only a small number of residents actually participated in these. Since the pandemic, it appeared that fewer excursions and activities were on offer. More generally, the situation appeared to have deteriorated in the 10 years since the CPT's previous visit, where the range of therapeutic activities was broader and clearly more utilised by more of the residents.[187] The residents complained of having little to structure their days beyond watching television in the common rooms.

245. The CPT recommends that the management of the Mirkovec Home take measures to offer a greater range of psychosocial rehabilitative activities and to take proactive steps to involve a greater number of residents in psychosocial rehabilitative activities on a permanent basis, preparing them for a more autonomous life or return to their families; occupational therapy should be an important part of a patient's long-term treatment program, providing for motivation, development of learning and relational skills, acquisition of specific competencies and improved self-image. To this end, the staffing levels of psychologists, occupational therapists and other professionals should be increased accordingly (see also section 5 (Staff)).

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186. In both the Homes, dental services were provided externally in a nearby health clinic, and residents appeared to have access when required.
187. In 2012, a range of activities were on offer included physiotherapy, speech therapy, gardening, painting, drawing, music therapy, horse-riding and excursions and residents also went to the cinema and theatre once a month.

246. As was the case in 2012, the CPT found again that at both establishments there were virtually no *individual care plans* in the residents' files, and those which did exist only contained information on medication, lacked details of residents' involvement in psycho-social rehabilitative activities and some files had only been revised eight years previously. There was no evidence of clearly defined treatment and recovery goals made in accordance with the possibilities and wishes of the residents themselves.

The CPT reiterates its recommendation[188] that the management of both Stančić and the Mirkovec Home should ensure that an individual care plan be drawn up for each resident, including the goals of the treatment, the therapeutic means used and the staff members responsible. Residents should be involved in the drafting of their individual plans and be informed of their progress. Residents should be fully informed about possible treatment and their views and decisions should be respected.

The CPT recommends that the authorities ensure that individual plans are regularly revised, at least every year, with the participation of the resident concerned.

247. Turning to the adequate *recording of injuries*, as stated above, the delegation received various allegations of inter-resident violence at the Mirkovec Branch of the Zagreb Home, including the case of Ms X (see above paragraph 227). The delegation was concerned to note that the above-mentioned injury had not been recorded in resident's files or in any other journal, logbook or report and that the complaints book was completely empty, despite allegedly repeated attempts by residents to make complaints (see Safeguards section).

The Committee also wishes to stress that ward-based staff in the Mirkovec Branch of the Zagreb Home must receive clear instructions that any traumatic lesions observed on residents should be immediately reported to the most senior nurse or a doctor working on the ward. The resident should be carefully examined preferably by the doctor (and in their absence, a nurse reporting to a doctor) and, when possible, a full history taken of the circumstances in which the trauma occurred. The doctor should draw a tentative conclusion as to the origin of the lesion or lesions observed: an accidental fall, self-harm, violence by other residents, or ill-treatment by staff members. The quality of medical notes concerning lesions can be enhanced by using "body charts" and, when appropriate, photographs. Accounts of any incident should be sought from other residents, in a tactful manner, avoiding the impression that a disciplinary enquiry is being carried out. The results of the medical examination and any relevant accounts should be noted in the medical file and in a centralised register of traumatic lesions, and reported to the Director of the social welfare establishment.

The CPT recommends that the Croatian authorities issue instructions to the management of Mirkovec Branch of the Zagreb Home, as well as to all social welfare institutions, on the recording and reporting of injuries in the institutions, in accordance with the above precepts. Further, existing procedures should be reviewed in order to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment of a resident, the record is systematically brought to the attention of the competent authorities.

188. CPT/Inf (2014)9, paragraph 120.

5. Staff

248. At Stančić Centre for Rehabilitation, the staffing complement included some 30 nurses (23 in practice), 100 care-givers[189] (99 in practice), four psychologists (two in practice), five physiotherapists, nine rehabilitation therapists (none in practice), four occupational therapists (three in practice), four social workers, 38 activities' (horse-riding, ceramics, art, music therapists, etc.) instructors (28.5 in practice). There was provision for the equivalent of a full-time general practitioner (GP) and adequate access to specialists, including arrangements for access to a part-time psychiatrist.[190]

The delegation found that the number of ward-based staff on the night shifts appeared far too low (one caregiver per unit of 20 to 30 residents) and one nurse for the entire establishment. Despite the clear dedication of the ward-based staff observed by the delegation, the CPT considers such a limited staff presence totally inadequate for 213 learning disabled residents, who have significant 24-hour mental and physical healthcare needs.

Equally, the CPT considers that there was insufficient staff in the Centre to adequately implement all the envisaged psycho-social rehabilitation and occupational therapy activities.[191] **The delegation recommends that Croatian authorities ensure that action is taken to fill the vacant staff positions at the Centre.**

249. Care staff at the Mirkovec Branch of the Zagreb Home for Adults consisted of 32 employees, including six nurses, nine caregivers, an occupational therapist, a physiotherapist and three social workers. During the night shift (18:00 to 06:00), there was only one nurse and one caregiver for the entire establishment, which the CPT considers is too low a staff presence to safely meet the potential needs of the residents. This concern was raised by the CPT in 2012, and it remains the same in 2022, if not worse, 10 years on.

There was no medical doctor employed at the Home, however, a GP from the local health centre was available on call to visit Mirkovec, if needed. A psychiatrist visited twice per month and was available on call. Residents were taken to the local health centre for dental services when required.

250. The CPT was deeply concerned, at both establishments, by the fact that there was a notable lack of Unit-based caregivers and nurses on duty at night.

251. **Taking into consideration the above, the CPT reiterates its previous recommendations[192] that:**

- **the psychiatric input be significantly increased as a matter of priority at the Stančić Centre for Rehabilitation and the Mirkovec Branch of the Zagreb Home for Adults; consideration should be given to recruiting the equivalent of one full-time psychiatrist at Stančić and the equivalent of one part-time psychiatrist at Mirkovec, preferably with training in caring for learning disabled persons;**
- **the overall numbers of staff be significantly increased at the Mirkovec Branch of the Zagreb Home for Adults, including ensuring that there is the equivalent of a part-time GP, at least 10 nurses, 30 caregivers/orderlies, a psychologist, the equivalent of two full-time physiotherapists, three rehabilitation therapists, two occupational therapists, two social workers and 15 activities' therapists (art, music, speech, etc.); and**
- **the number of ward-based staff (including nurses and caregivers) be significantly increased during the night shift at Mirkovec Branch of the Zagreb Home for Adults and at Stančić Centre for Rehabilitation, as a matter of priority.**

189. These are the ward-based staff who are most in contact with the residents on a day to day basis.
190. Who visited the Centre one day per week.
191. Only 28.5 of the 43 staff positions were filled.
192. CPT/Inf (2014)9, paragraphs 123 and 124.

In this regard, the Committee would like to receive, within six months, full details of the working schedule, including the number and category of staff assigned to each ward in the afternoon and night shifts, at both the Mirkovec Branch of the Zagreb Home for Adults and at Stančić Centre for Rehabilitation.

252. As regards *staff training*, there appeared to be on-going refresher training organised by the State for caregivers working at the Mirkovec Branch of the Zagreb Home for Adults. Given the challenging nature of their job, it is essential that ward-based support staff receive appropriate initial and on-going training. While carrying out their duties, such staff should also be closely supervised by qualified healthcare staff. **The CPT recommends that appropriate steps be taken at the Mirkovec Branch of the Zagreb Adult Home in light of the above remarks.**

6. Means of restraint

253. At the Mirkovec Home, it was positive that no means of restraints were being used.

254. At Stančić Rehabilitation Centre, it was also positive that the numbers of recourse to means of mechanical restraints using fixation belts and seclusion/isolation had been significantly reduced since the last visit in 2012. It was also positive that the recording of all use of means of restraint was done systematically and sent to the Ministry of Social Welfare every six months, which facilitated monitoring of their use.

255. However, the number of "immobilisations" (the informal tying of the residents with strips of cloth to the bed or wheelchair) had significantly increased. The recording of these immobilisations is made in the same register on use of means of restraint, but is differentiated from other means of restraint, according to the Centre's management for the reason of their prevention of self-harm. **The CPT would appreciate an update on what monitoring and other measures the Croatian authorities take after disaggregating and analysing this information.**

From an examination of the records, while these were used mostly as a form of prevention of harm measure (that is, to prevent the resident from falling out of their wheelchair or from their bed), it was clear that they had, in several instances, also been used to prevent or punish aggressive behaviour against staff and other residents or acts of auto-aggression. In fact, these immobilisations were used on a very regular basis, and in the first half of 2022, two thirds of all the Centre's live-in residents had had these immobilisations applied to them.[193] They often were applied to patients in bed in multi-occupancy rooms, with no continuous supervision by staff but their durations were rarely recorded.

256. The CPT considers that "immobilisations" with informal cloth strips to prevent a resident from falling are a type of movement-restricting measure (attaching residents to a wheelchair). While these were recorded (see above), the Stančić Centre, however, did not appear to have internal guidelines regarding the use of such restrictive measures. **The CPT recommends that the Croatian authorities ensure that all residential care centres in the country develop written guidelines on the use of movement-restricting measures. Such guidelines should make clear which movement-restricting measures may be used, under what circumstances they may be applied, the need for a preventive risk assessment and the exploration of less restrictive alternatives. They should also contain sections on the involvement and consultation of different categories of staff prior to their application, medical prescription and nursing intervention, recording of the measure, periodic monitoring and re-assessment, the supervision required, and consent forms. The care staff should be provided with initial and on-going training on the use of movement-restricting measures.**

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193. Use of restraint records, 1 January to 30 June 2022; 146 persons (out of 219 residents) had been immobilised.

Moreover, the CPT considers that the use of "immobilisation" with informal cloth strips to fixed furniture, such as a bed, especially when combined with a tranquiliser, to prevent aggressive behaviour to other residents, staff or themselves, is a form of mechanical restraint.[194] Moreover, the use of such restraints as a form of punishment for behaviour (such as scratching or biting staff or other residents) on a repetitive basis is totally unwarranted. In its analysis of the use of immobilisation over a two-year period at Stančić Rehabilitation Centre,[195] it was clear that in several instances, immobilisation was being used as a form of punishment for aggressive behaviour rather than as a form of prevention. Further, given the large numbers of immobilisations (two thirds of the residents had been immobilised over a six-month period), many residents were immobilised in beds in multiple-occupancy rooms or wheelchairs in communal areas, in full view of other residents.

257. **The CPT recommends that the Croatian authorities take measures to ensure that the precepts regulating the use of restraints, including "immobilisation" with informal cloth strips to prevent aggressive behaviour to other residents, staff or themselves, when is used as a form of mechanical restraint, as outlined in the recommendation contained in paragraph 198 (Psychiatry, Part D) are also applied in the social welfare context and are followed at Stančić Centre for Rehabilitation.**

Further, the CPT recalls its long-standing view that means of restraint should never be used as punishment; and means of restraint are security measures and have no therapeutic justification.

258. The CPT was concerned by an apparent terminology issue. By far the largest number of measures recorded in the Centre's restraints reports related to the administration of "chemicals" ("*kemiska*" – the term used by the Centre itself). These were also marked as therapy with drugs from the group of psychopharmaceuticals (antipsychotics, anxiolytics or hypnotics in the form of tablets) as needed (*PRN medication*) in the residents' therapeutic files. In this context, the CPT underlines the clear difference between PRN medication and formal chemical restraint and emphasises that the data from the Centre's official reports, when referring to the use of "chemicals", is instead describing the *de facto* use of PRN medication.

In this context, the CPT recommends that PRN medication should not be recorded at Stančić Centre for Rehabilitation as chemical restraint. It recalls that the same safeguards surrounding the use of PRN medication outlined in paragraph 174 apply equally in this context.

7. Safeguards

259. The legal framework surrounding *placement, review of placement and discharge* procedures from a social care home has undergone various reforms since 2012, when the CPT last visited social welfare establishments in Croatia.[196] Reforms include changes to the Family Code in 2015 with a view to ensuring better implementation of individuals' rights including as regards capacity and *guardianship* and the restoring of (partial) legal capacity, as well as reforms made to the new 2022 Social Welfare Act, which aim to reorganise the structure of the welfare system.

260. The CPT welcomes the decreasing number of persons under guardianship and completely stripped of full legal capacity in Croatia since 2020[197] and the process of restoring partial capacity. It also welcomes the effects of the new Social Welfare Act,[198] to simplify the procedures around the

194. See CPT/Inf(2020)41, Factsheet: 'Persons deprived of their liberty in social care establishments', paragraph 27 And CPT/Inf(2017)6, 'Means of restraint in psychiatric establishments for adults' (Revised CPT standards), introduction definition (b).
195. From an analysis of the restraints registers, incidents registers (for the period of 2020 to 2022), individual files and interviews with staff and residents involved.
196. CPT/Inf (2014)9.
197. According to the published Annual Statistical Report in the Republic of Croatia of 31 December 2019, the total number of adults under guardianship was 18 500, and in 2020, the total number was 17 861 (representing a slight decrease).
198. "Official Gazette", no. 18/22 and 46/22.

restoration of legal capacity. The CPT also takes note of the information shared with it by the Croatian authorities that the number of persons who have had their legal capacity completely restored was steadily increasing.[199]

261. In Stančić Centre for Rehabilitation, records indicated that 24 residents had full legal capacity, 188 were fully or partially stripped of their legal capacity and two were pending guardian appointment decisions or their cases were pending. The guardians appointed were mostly family members (124), social workers from the Social Care Centre (CZSS) (48), local social workers employed by Stančić (CZR) (four persons) or others (12 persons). The delegation had the opportunity to examine a number of review procedures of legal capacity for various residents. In most cases, the review occurred from 2021 onwards and partial legal capacity was restored to residents who had had their full legal capacity stripped for many years (since the 1980 and 1990s). The legal procedures and files were followed and kept correctly with expert witnesses, court hearings, and special guardians appointed for the duration of the procedures. That said, the CPT has serious misgivings about the entrusting of guardianship to staff of the very same establishment in which an incapacitated person is placed, as this may easily lead to a conflict of interest and compromise the independence and impartiality of the guardian. **In the case of Stančić, it recommends that in the above-mentioned (four) instances where guardians were employed by Stančić Centre, that alternative solutions should be found which better guarantee the independence and impartiality of guardians.**

262. At the Mirkovec Branch of the Zagreb Home for Adults, 10 residents had been fully deprived of their legal capacity, 23 had full legal capacity and 23 had been partially stripped of their legal capacity, with four pending the procedures to restore partial capacity. Guardians were mostly family members. The delegation had the opportunity to examine a number of review procedures of legal capacity for various residents. As was the case at Stančić above, in most cases, the review occurred from mid-2021 onwards and partial legal capacity was restored to residents who had had their full legal capacity stripped for many years (since the 1970s, 1980s and 1990s). The legal procedures and files were followed and kept correctly, with expert witnesses, court hearings and special guardians appointed.

263. Nevertheless, the CPT was concerned to find that the practical outcome for the resident was effectively the same as before the review procedure, and there was no real change in residents' rights in practice. Residents remain deprived of an important practical part of their legal capacity, notably the part involving decision-making about psychiatric and hospital treatment, placement in institutions, decisions on health, disposal of money and assets, legal agreements and personal status (marrying, divorcing, etc.).

While the CPT acknowledges the progress concerning the reforms abolishing the full stripping of legal capacity and the approach to restoring at least partial capacity, which have been laid in law, and sees the review procedures currently underway as a distinctly positive step, the findings of the delegation during this visit highlight that these changes were having no practical effect on residents.

264. The CPT recommends, at a minimum, that all residents who are involuntarily placed in a social care establishment, whether they have a legal guardian or not, must enjoy an effective right to bring proceedings to have the lawfulness of their placement and stay decided speedily and reviewed regularly by a court. In this context, they must be given the opportunity to be heard in person by a judge and to be represented by a lawyer.

The Committee also wishes to underline that, if it is considered that a given resident, who has been voluntarily admitted and expresses a wish to leave the establishment, still requires care to be provided in the establishment, then the involuntary placement procedure provided by the law should be fully applied. A clear and comprehensive legal framework should be put in place, which allows residents who have been admitted voluntarily to challenge the imposition of any subsequent restrictions amounting to deprivation of liberty before a court as set out above.

199. In 2019, 191 persons had their legal capacity completely restored; in 2020, 203 persons and in 2021, 281 persons.

265. As regards *information* about the establishment and the Centre's *rules and rights*, while complaints procedures existed in theory (mostly through oral complaints made to the director) and a Charter of Rights was available on the wall in some areas of Stančić, residents at both Stančić Centre for Rehabilitation and the Mirkovec Home appeared completely unaware of any information related to house rules, or the possibility or procedures of complaint. In practice, at both establishments, the complaints boxes and books were empty. Indeed, as outlined above in the case of Ms X (section 2 (Ill-treatment)) residents did not know or understand how to file an official complaint, even when they wished to.

In this respect, the CPT recommends that an introductory leaflet setting out the establishments' routine and residents' rights – including information about complaints bodies and procedures – should be drawn up and systematically provided to residents (and their guardian and/or families) on admission. Any residents unable to understand this leaflet should receive appropriate assistance.[200] The Committee would like to stress that although some residents have difficulties with comprehension and communication, whenever possible, they should be informed of their rights, using repeated, simplified, individualised, verbal formats, if necessary. The CPT recommends that the Croatian authorities ensure that these precepts are effectively implemented in practice.

266. The CPT wishes to stress the importance of effective complaints procedures and underlines that they are basic safeguards against ill-treatment of residents. **The CPT recommends that at both Stančić Centre for Rehabilitation and Mirkovec, the Croatian authorities should ensure that steps are taken to establish an effective internal complaints mechanism, and residents should also have the possibility to lodge complaints to an independent outside body, authorised to directly receive confidential complaints and make any necessary recommendations. Overall, accessible and comprehensible complaints systems should be in place. Complaints addressed to the establishment's administration should be recorded in a specific register.**

267. *Contact with the outside world, access to family visits* and *telephone calls/mobiles* were reasonable at both institutions and do not call for particular comment here.

268. As regards internal and external *monitoring* visits, in 2021 the Ministry of Social Welfare had paid an inspection visit to the Mirkovec Branch of the Zagreb Home for Adults, with a focus on sanitary and hygiene conditions, but had not found any major irregularities. The CPT was also informed that NGOs also came to the establishment from time to time.

As regards Stančić Centre for Rehabilitation, the management indicated that NGOs regularly visited the establishment. There were also regular public health inspections.

The NPM, Ombudsperson and Ombudsperson on Disabilities also have the right to inspect Social Welfare Homes, although they had had to suspend their monitoring work and inspections during the Covid-19 pandemic. **The CPT trusts that both the Stančić Centre for Rehabilitation and the Mirkovec Branch of the Zagreb Home for Adults will be visited on a more regular basis by one or more independent outside monitoring bodies after the pandemic has subsided.**

[200] See section on Complaints Mechanisms in the 27th General Report of the CPT (CPT/Inf(2018)4-part, paragraphs 68 to 91.

APPENDIX I

Establishments visited

The delegation visited the following places of detention:

Establishments under the authority of the Ministry of Interior

- Rijeka Police Station I
- Rijeka Police Station II
- Split Police Station I
- Split Police Station II (Bačvice)
- Headquarters of the Požeško-Slavonska County Police Administration
- Zagreb Detention and Escort Unit (Oranice)
- Zagreb Police Station III (Dubrava)
- Zagreb Police Station IV (Maksimir)
- Zagreb Police Station VI (Novi Zagreb)
- Velika Gorica Police Station

Establishments under the authority of the Ministry of Justice and Public Administration

- Lepoglava Penitentiary
- Požega Penitentiary (sections for female prisoners)
- Požega Prison (focussed visit on latest arrivals)
- Zagreb Prison
- Zagreb Prison Hospital

Establishments under the authority of the Ministry of Health

- Ugljan Psychiatric Hospital
- Psychiatric Clinic of the Clinical Hospital Centre (KBC) of Rijeka
- Psychiatric Clinic of the Clinical Hospital Centre (KBC) of Split

Establishments under the authority of the Ministry of Labour, Pension System, Family and Social Policy

- Mirkovec Branch of the Adult Home Zagreb
- Stančić Centre for Rehabilitation

APPENDIX II

National authorities and organisations with which the CPT delegation held consultations

A. National authorities

Ministry of the Interior

Davor BOŽINOVIĆ	Minister
Terezija GRAS	State Secretary
Dragan TOKIĆ	Head of Police Administration for Public Order and Security
Tomislav GULIN	Deputy Head of Police Administration for Public Order and Security
Branko BOLANČA	Head of the Police's Operations and Communication Centre
Zvonimir VRBLJANIN	Head of Sector for Irregular Migration

Ministry of Justice

Ivan MALENICA	Minister
Josip SALAPIĆ	State Secretary
Zvonimir PENIĆ	Acting Head of Administration for Prison System and Probation
Robert ORBANIĆ	Head of the Sector for Legal Affairs of the Prison System
Zvonimir JURČEC	Head of Security of the Prison System
Jasnica GARAŠIĆ	Vice-President of the State Commission for the Protection of Persons with Mental Disorders

Ministry of Health & public health institution representatives

Tomislav DULIBIĆ	State Secretary
Ksenija KRAJNOVIĆ	Department for International Cooperation and Protocol
Jasminka HLUPIĆ	Director, Directorate for Hospital Health Care Transplantation, Biomedicine and Quality of Health Care
Dunja SKOKO-POLJAK	Sector for Public Health and Public Health Care
Maria COUPE	Hospital Health Care Directorate

Mirjana TADIĆ	Independent Sector for Health Inspections
Božica ŠARIĆ	Directorate for Legal Affairs in Health Care
Ana IŠTVANOVIĆ	Croatian Institute of Public Health
Danijela ŠTIMAC-GRBIĆ	Croatian Institute of Public Health
Marina KOVAČ	MD spec. Forensic Psychiatry NPB "Dr. Ivan Barbot" Popovača
Tomislav BOČKOR	Assistant Director for Quality of Health Care and Supervision of NPB "Dr. Ivan Barbot" Popovača

Ministry of Labour, Pension System, Family and Social Policy

Marija PLETIKOSA	State Secretary
Zvijezdana BOGDANOVIĆ	Advisor to the Ministry
Mirijana MATOV	Head of Department

B. Croatian Ombudsperson's Office

Tena ŠIMONOVIĆ	Ombudswoman
Tatjana VLAŠIĆ	Deputy Ombudswoman
Anica TOMŠIĆ	Legal Affairs Advisor
Vanja BAKALOVIĆ	Legal Affairs Advisor

C. Non governmental Organisations

Croatian Union of Associations of Persons with Disabilities