

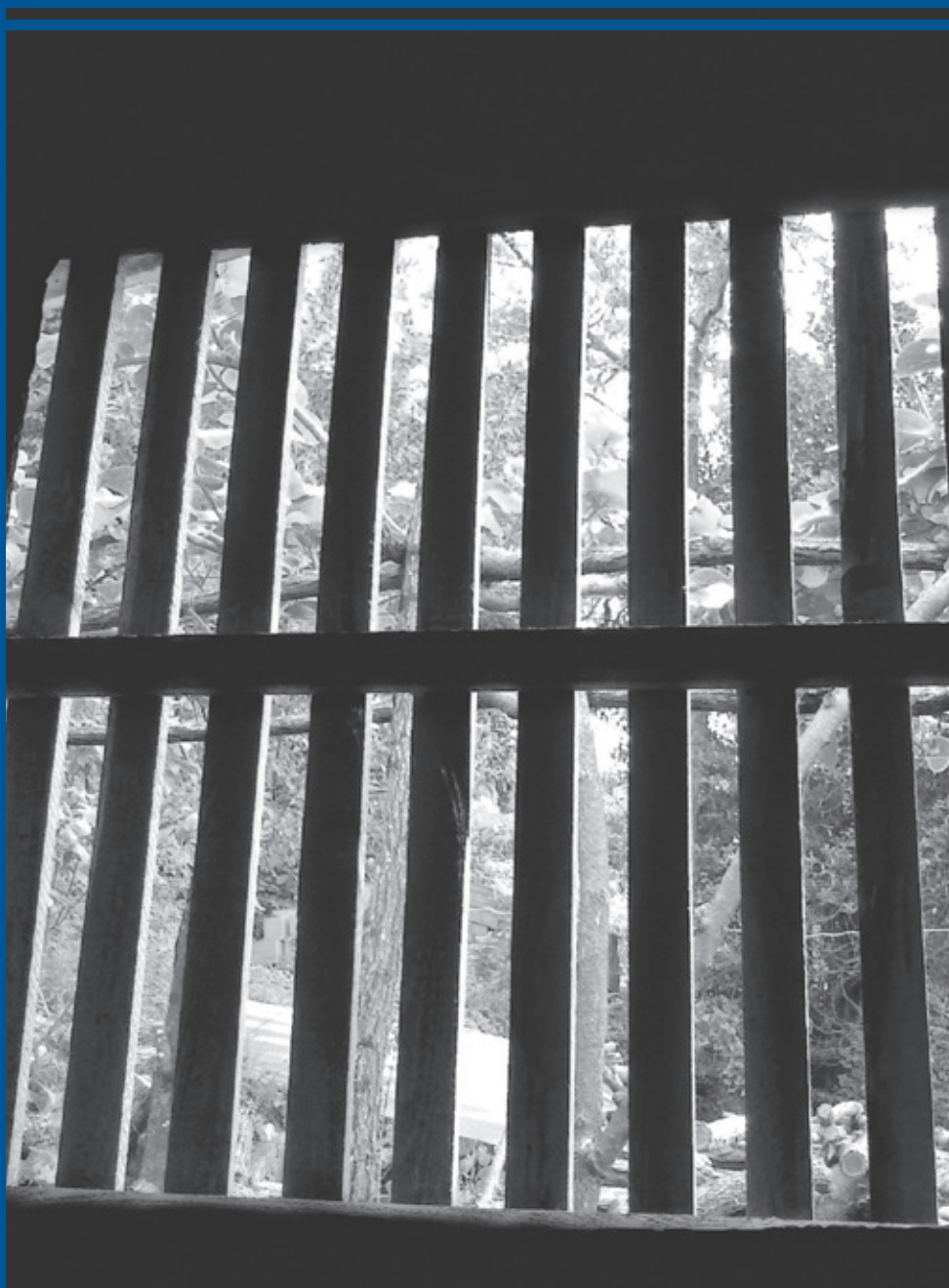
Državni preventivni mehanizem

po Opcijskem protokolu h Konvenciji OZN proti mučenju in drugim
krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

Poročilo 2011 Report

National Preventive Mechanism

under the Optional Protocol to the UN Convention against Torture
and Other Cruel, Inhuman or Degrading Treatment or Punishment





VARUH
ČLOVEKOVIH
PRAVIC

Državni preventivni mehanizem

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I. POROČILO VARUHA ČLOVEKOVIH PRAVIC
REPUBLIKE SLOVENIJE O IZVAJANJU NALOG
DRŽAVNEGA PREVENTIVNEGA MEHANIZMA
PO OPCIJSKEM PROTOKOLU

h konvenciji OZN proti mučenju in drugim krutim,
nečloveškim ali poniževalnim kaznim ali ravnanju
za leto 2011

Ljubljana, maj 2012

I. REPORT OF THE HUMAN RIGHTS OMBUDSMAN
OF THE REPUBLIC OF SLOVENIA
ON THE IMPLEMENTATION OF THE TASKS
OF THE NATIONAL PREVENTIVE MECHANISM
UNDER THE OPTIONAL PROTOCOL

to the UN Convention against Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment
for the year 2011

Ljubljana, May 2012

POROČILO VARUHA ČLOVEKOVIH PRAVIC REPUBLIKE SLOVENIJE O IZVAJANJU NALOG IN POOBLASTIL DRŽAVNEGA PREVENTIVNEGA MEHANIZMA ZA LETO 2011

Uvod

Po Zakonu o ratifikaciji Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (Uradni list RS, št. 114/06 – Mednarodne pogodbe, št. 20/06 – opcijski protokol) Varuh človekovih pravic RS (Varuh) izvaja tudi naloge in pooblastila državnega preventivnega mehanizma (DPM), v dogovoru z njim pa tudi izbrane nevladne organizacije, registrirane v Republiki Sloveniji, ter organizacije, ki so pridobile status humanitarne organizacije v Republiki Sloveniji in se ukvarjajo z varstvom človekovih pravic ali temeljnih svoboščin. Na podlagi javnega razpisa, objavljenega v Uradnem listu RS, št. 107/2008 z dne 14. 11. 2008, so bile za sodelovanje v letu 2009 in 2010 (z možnostjo podaljšanja sodelovanja še za eno leto) izbrane organizacije: Pravnoinformacijski center nevladnih organizacij – PIC, Rdeči križ Slovenije in Inštitut Primus. Na podlagi Aneksov k Pogodbi o sodelovanju pri izvajanju nalog in pooblastil državnega preventivnega mehanizma je bilo sodelovanje teh izbranih organizacij podaljšano še za eno leto, to je za leto 2011.

V letu 2011 smo opravili 46 obiskov in s tem v celoti uresničili vse načrtovane obiske iz vnaprej pripravljenega programa. Tako smo obiskali deset ustanov, kjer so nastanjene osebe, ki so na prestajanju kazni zapora oziroma priporniki, 19 policijskih postaj, Azilni dom v Ljubljani in Center za tujce v Postojni, dve psihiatrični ustanovi, tri posebne socialnovarstvene zavode, pet domov za starejše, en kombinirani zavod in štiri vzgojne zavode. Pri obiskih smo sodelovali s štirimi predstavnicami PIC, s tremi predstavniki Rdečega križa Slovenije in tremi predstavnicami Inštituta Primus.

Na podlagi posebnih pogodb o sodelovanju smo še naprej uporabljali tudi znanje in izkušnje (za zdaj) dveh zunanjih strokovnjakinj, ki poleg svojega strokovnega področja presojata razmere v zavodih tudi z vidika preprečevanja mučenja in drugih oblik okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja. Prva je strokovnjakinja za pedagoško in psihološko področje. Z nami sodeluje pri vseh obiskih vzgojnih zavodov, v katerih so nastanjeni mladostniki in po vsakem obisku v pisni obliki podaja svoje ugotovitve o ustreznosti izvajanja vzgojno-izobraževalne dejavnosti, ki jih opravljajo vzgojni zavodi, ter tudi o ustreznosti socialnega varstva z namestitvijo otrok in mladostnikov v teh ustanovah. Druga pa je strokovnjakinja s področja medicine, in sicer specialistka psihiatrije. Sodeluje pri načrtovanih obiskih prostorov odvzema prostosti (zlasti v večjih zavodih za prestajanje kazni zapora in v Azilnem domu ter Centru za tujce) ter v pisni obliki podaja svoje ugotovitve zlasti z vidika o ustreznosti zdravstvenega varstva in glede ravnanja z ljudmi, ki jim je odvzeta prostost.

Izbrane druge organizacije naloge in pooblastila opravljajo s svojimi osebami, ki so usposobljene za posamezna področja nadzora. Vedno so člani skupine, ki jo vsakokrat določi Varuh za opravljanje obiska na kraju odvzema prostosti ter preverjanja ravnanja z osebami, ki jim je bila odvzeta prostost. Kraj in čas obiska ter število članov skupine za opravljanje obiska na posameznem kraju nadzora določi Varuh. Pri tem upošteva program obiskov, ki je bil sprejet v sodelovanju z izbranimi organizacijami, po potrebi pa pri tem upošteva tudi druge okoliščine, ki bi terjale takojšen obisk.

O vsakem obisku smo pripravili izčrpno poročilo o svojih ugotovitvah. Poročilo vsebuje tudi predloge in priporočila za odpravo ugotovljenih nepravilnosti ter za izboljšanje stanja, vključno z ukrepi za zmanjšanje možnosti nepravilnega ravnanja v prihodnje. Pri pripravi

IMPLEMENTATION OF THE DUTIES AND POWERS OF THE NATIONAL PREVENTIVE MECHANISM IN 2011

Introduction

According to the Act ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (Official Gazette of the Republic of Slovenia, no. 114/06, International Treaties, no. 20/06, Optional Protocol), the Human Rights Ombudsman of the Republic of Slovenia (the Ombudsman) and, in agreement with the Ombudsman, selected non-governmental organisations registered in the Republic in Slovenia and organisations with the status of a humanitarian organisation in the Republic of Slovenia concerned with the protection of human rights or fundamental freedoms also perform duties and have powers under the National Preventive Mechanism (DPM). On the basis of a public tender published in the Official Gazette of the Republic of Slovenia, no. 107/2008 of 14 November 2008, the following organisations were selected for cooperation in 2009 and 2010 (with the option of renewal for another year): the Legal Information Centre of NGOs – PIC, Slovenian Red Cross and the Primus Institute. On the basis of annexes to the Contract on cooperation in performing the duties and powers of the National Preventive Mechanism, the cooperation of the selected organisations was renewed for another year, i.e. for 2011.

In 2011, 46 visits were performed, thereby fully realising all the visits planned in the programme. We visited ten institutions where persons serving a prison sentence or prisoners on remand are accommodated, 19 police stations, the Asylum Centre in Ljubljana and the Aliens Centre in Postojna, two psychiatric institutions, three special social care institutions, five nursing homes, one combined institution and four juvenile facilities. Four representatives of PIC, three representatives of the Slovenian Red Cross and three representatives of the Primus Institute participated in the visits.

On the basis of special cooperation contracts, we also made use of the expertise of (for the time being) two external experts who, in addition to their area of expertise, also assess conditions in the institutions from the perspective of torture and other forms of cruel, inhuman or degrading treatment or punishment. The first one is an expert in education and psychology. She participates in all visits to juvenile facilities; after each visit, she submits her findings on the adequacy of educational activities provided by these institutions and the adequacy of social care for children and adolescents in them. The other person is an expert on medicine, specialising in psychiatry. She participates in planned visits to places of incarceration (particularly larger prisons, the Asylum Centre and the Aliens Centre) and submits her findings, particularly on the adequacy of health care and treatment of persons deprived of liberty.

Other selected organisations perform their work with their own staff, who are trained for particular areas of supervision. They are always part of the group specified each time by the Ombudsman to visit a place of incarceration and to monitor the treatment of persons deprived of liberty. The time and place of the visit and the number of people involved in visiting a particular place of surveillance is specified by the Ombudsman. The programme of visits adopted in cooperation with the organisations in question, and, if necessary, other circumstances requiring a prompt visit, are taken into account.

An exhaustive report on our findings was prepared after each visit. The report also covers proposals and recommendations for the elimination of irregularities and for the improvement of the situation, including measures to reduce the potential for improper treatment in the future. All members of the visiting group participate in preparing the report and make a brief written

poročila o opravljenem obisku sodelujejo vsi člani skupine in pripravijo krajše besedilo z lastnimi ugotovitvami in predlogi, ki so del končnega poročila o opravljenem nadzoru. Za izdelavo končnega poročila praviloma skrbi predstavnik Varuha, lahko pa tudi nekdo iz izbrane nevladne organizacije.

Uresničevanje priporočil DPM je zaveza (obveznost) države pogodbenice Opcijskega protokola. Po določbi 22. člena Opcijskega protokola morajo namreč pristojni organi države pogodbenice obravnavati priporočila DPM in z njim vzpostaviti dialog o mogočih ukrepih za izvedbo priporočil. Pripominjamo tudi, da na nujnost uresničevanja priporočil DPM opozarjata tudi sodbi Evropskega sodišča za človekove pravice v zadevi Štrucl Jakob in drugi proti Sloveniji ter v zadevi Mandić in Jović proti Sloveniji.

Na podlagi dosedanjih izkušenj in nekaterih predlogov izbranih organizacij smo pripravili tudi spremembe in dopolnitve Pravilnika o povračilu stroškov in o nagradah osebam iz organizacij, ki opravljajo naloge oziroma izvajajo pooblastila po določbah Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (Uradni list RS, št. 20/2011). Pripravili smo tudi vprašalnik, ki nam bo v pomoč pri obiskih socialnovarstvenih zavodih (domov starejših) in s katerim želimo že pred našim obiskom zbrati nekatere osnovne podatke o delovanju zavoda. Vnaprej pripravljeni odgovori nam bodo omogočali, da bodo obiski potekali hitreje in učinkoviteje, predvsem pa se bomo lažje usmerili v vsebinska vprašanja.

contribution with their findings and proposals, which form part of the final inspection report. The Ombudsman's representative usually provides for the final report, or a participating person from a selected non-governmental organisation.

Implementing DPM recommendations is a commitment (obligation) of the State Party to the Optional Protocol. According to Article 22 of the Optional Protocol, the competent authorities of the State Party must address the recommendations of the DPM and establish a dialogue with it on potential measures to realise their recommendations. It should be noted that judgements by the European Court of Human Rights in the case of Štrucl Jakob and others v Slovenia and the case of Mandić and Jović v Slovenia also indicate that the implementation of DPM recommendations is necessary.

Based on experience and on certain proposals by the selected organisations, we have prepared amendments to the Rules on the reimbursement of costs and rewards to persons from organisations that perform tasks or exercise authorities under the provisions of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette of the Republic of Slovenia, no. 20/2011). We also prepared a questionnaire to help us in visits to social care institutions (nursing homes), which will be used before the visits to collect some basic information on the institution's operation. Answers prepared in advance will allow us to perform visits faster and more efficiently and focus on substantive issues.

Obiski v zavodih za prestajanje kazni zavora, mladoletniškega zavora in prevzgojnega doma

V letu 2011 smo v okviru izvajanja nalog in pooblastil DPM obiskali deset od skupno štirinajstih lokacij, na katerih delujejo dislocirane notranje organizacijske enote Uprave za izvrševanje kazenskih sankcij (v nadaljevanju: UIKS). To so zavodi za prestajanje kazni zavora (v nadaljevanju: ZPKZ) oziroma njihovi oddelki in prevzgojni dom: ZPKZ Koper, Odprti odderek Ig ZPKZ Ljubljana, Odderek Nova Gorica ZPKZ Koper, Prevzgojni dom Radeče, ZPKZ Ljubljana, Zavod za prestajanje mladoletniškega zavora in kazni zavora Celje (v nadaljevanju: ZPMZ in KZ Celje), ZPKZ Ig, Odderek Murska Sobota ZPKZ Maribor, Odprti odderek Rogoza ZPKZ Maribor in Polodprti odderek Slovenska vas ZPKZ Dob pri Mirni.

DPM je Polodprti odderek Slovenska vas ZPKZ Dob pri Mirni obiskal prvič, pet od omenjenih lokacij smo obiskali že leto prej (Odprti odderek Ig ZPKZ Ljubljana, ZPKZ Ljubljana, ZPMZ in KZ Celje, Odderek Murska Sobota ZPKZ Maribor in Odprti odderek Rogoza ZPKZ Maribor), v štirih pa smo bili nazadnje pred dvema letoma (ZPKZ Koper, Odderek Nova Gorica ZPKZ Koper, Prevzgojni dom Radeče, ZPKZ Ig).

Pri štirih od navedenih obiskov je sodeloval po en predstavnik pogodbenih nevladnih organizacij, pri preostalih šestih pa po dva. Pogodbena izvedenka za področje zdravstvenega varstva je sodelovala pri šestih obiskih, in sicer v ZPKZ Koper, Prevzgojnega doma Radeče, ZPKZ Ljubljana, ZPMZ in KZ Celje, ZPKZ Ig in Polodprtega oddelka Slovenska vas ZPKZ Dob pri Mirni.

V polovici primerov smo obisk prej napovedali. Vsi obiski navedenih lokacij so bili opravljeni v enem dnevu, z izjemo dvodnevne obiska ZPKZ Koper. Obsegali so uvodni pogovor z vodstvom zavoda, ogled prostorov in pogovore z zaprtimi osebami.

DPM je v letu 2011 obiskom te vrste krajev odvzema prostosti namenil skupno 11 dni. V seštevku je bilo tam takrat 713 zaprtih oseb, od tega 429 obsojencev oziroma obsojenk (prištetih so tudi mladoletniki oziroma mladoletnice z vzgojnim ukrepom oddaje v prevzgojni dom), 270 pripornikov oziroma pripornic in 14 oseb, zoper katere se je izvajal uklonilni zapor. Poročila o posameznih obiskih (v skrajšani obliki) in ugotovitve DPM v zvezi z njimi so dostopna na spletni strani Varuha www.varuh-rs.si, v nadaljevanju pa izpostavljamo nekatere najbolj pomembne ugotovitve.

Šest zavodov je bilo prezasedenih, ZPKZ Ig, ZPMZ in KZ Celje in Odderek Nova Gorica ZPKZ Koper v priporniškem delu, Odprti odderek Rogoza ZPKZ Maribor in ZPKZ Koper pri obsojencih, ZPKZ Ljubljana pa tako pri obsojencih kot tudi pri pripornikih. Pri zadnjih velja kot posebej kritično omeniti predvsem kar 160-odstotno prezasedenost glede na uradno zmogljivost za pripornike v tem zavodu.

Spodbudno je, da smo lahko razmere ali prakso v zavodih oziroma njihovih oddelkih posebej pohvalili v 46 primerih. Posebej želimo izpostaviti prakso v. d. direktorice v ZPKZ Koper, ki opravi obhod po zavodu vsaj dvakrat tedensko (enkrat tedensko ob obisku predsednika sodišča), saj ima dovolj pogost neposreden stik z zaprtimi osebami po naši presoji pozitiven učinek. V zavodu so zaposlili pravnik, ki daje pravno pomoč zaprtim osebami, vodi disciplinske postopke, sodeluje pri pogojnih odpustih, na strokovnih skupinah ipd., kar nedvomno vpliva na pravno varnost zaprtih oseb. Z namestitvijo telefonske govorilnice na sprehajališču v ZPMZ in KZ Celje je tam tudi pripornikom zagotovljeno praktično neomejeno telefoniranje med bivanjem na prostem.

Visit to prisons, a juvenile prison and a youth detention centre

In exercising the duties and powers of the DPM, ten out of fourteen locations where dislocated internal organisational units of the Prison Administration (hereinafter referred to as UIKS) were visited in 2011. These are prisons (hereinafter referred to as ZPKZ) or their sections and a youth detention centre: ZPKZ Koper, Ig Open Prison Section of ZPKZ Ljubljana, Nova Gorica Section of ZPKZ Koper, Radeče Youth Detention Centre, ZPKZ Ljubljana, Celje Prison and Juvenile Prison (hereinafter referred to as ZPMZ and KZ Celje), ZPKZ Ig, Murska Sobota Section of ZPKZ Maribor, Rogoza Open Prison Section of ZPKZ Maribor and Slovenska vas Semi-open Prison Section of ZPKZ Dob pri Mirni.

The DPM visited the Slovenska vas Semi-open Prison Section of ZPKZ Dob pri Mirni for the first time; five of the above locations had been visited a year before (Ig Open Prison Section of ZPKZ Ljubljana, ZPKZ Ljubljana, ZPMZ and KZ Celje, Murska Sobota Section of ZPKZ Maribor and Rogoza Open Prison Section of ZPKZ Maribor), and four two years ago (ZPKZ Koper, Nova Gorica Section of ZPKZ Koper, Radeče Youth Detention Centre, ZPKZ Ig).

One representative of each contractual non-governmental organisation participated in four of the above visits, and two in the remaining six. The contractual expert for the field of health care participated in six visits, namely to ZPKZ Koper, Radeče Youth Detention Centre, ZPKZ Ljubljana, ZPMZ and KZ Celje, ZPKZ Ig and Slovenska vas Semi-open Prison Section of ZPKZ Dob pri Mirni.

In half of the cases, the visits were announced beforehand. All visits to the above locations lasted one day, except for the visit to ZPKZ Koper, which lasted two days. The visits comprised an introductory interview with the prison management, an inspection of rooms and interviews with prisoners.

In 2011, the DPM spent 11 days on visits to these places of incarceration. In total, these places accommodated 713 imprisoned persons, of whom 429 were convicted (including adolescents in youth detention centre), 270 detained and 14 in compliance detention. Reports on each visit (in abbreviated form) and the related findings of the DPM are available on the Ombudsman's web site www.varuh-rs.si; the most important findings are emphasised below.

Six institutions were overcrowded: ZPKZ Ig, ZPMZ and KZ Celje, and the Nova Gorica Section of ZPKZ Koper in the part for detention, the Rogoza Open Prison Section of ZPKZ Maribor and ZPKZ Koper in the area where convicted persons were, and ZPKZ Ljubljana in the areas for convicted and detained persons. It should be particularly mentioned that the latter prison was overcrowded by 160 per cent with regard to the official capacity for detained persons.

It is encouraging that the situation or practice in the institutions or their sections could be especially commended in 45 cases. We would like to point out the practice of the Acting Director of ZPKZ Koper, who makes a round at least twice per week (one per week when the president of court visits), since we believe sufficiently frequent direct contact with imprisoned persons has a positive effect. The institution employed a lawyer who provides legal aid to the imprisoned persons, leads disciplinary proceedings, participates in release on parole, and in expert groups etc., which definitely influences the legal security of the imprisoned persons. The installation of a telephone booth in the recreational yard in ZPMZ and KZ Celje has enabled detained persons to have practically unlimited telephone contact during their period outdoors.

Na več krajih smo tudi od zaprtih oseb slišali pohvale na račun osebja, predvsem na Polodprtem oddelku Slovenska vas ZPKZ Dob pri Mirni, ZPMZ in KZ Celje in Odrtem oddelku Rogoza ZPKZ Maribor. To nas je utrdilo v prepričanju, da je tudi v ZPKZ mogoče opravljati delo v spoštljivem odnosu do zaprtih oseb. Le v PD Radeče in ZPKZ Koper smo prejeli nekaj pritožb nad odnosom pravosodnih policistov do zaprtih oseb, pri čemer je šlo za nepravilnosti, kot so tikanje in podobno, tako da resnih kršitev človekovega dostojanstva nismo ugotovili nikjer.

Prav tako smo večkrat z zadovoljstvom ugotovili, da je bilo realiziranih več prejšnjih priporočil DPM, na primer: na Oddelku Murska Sobota ZPKZ Maribor so popravili slabo tesnjenje oken in vdrnine v steni zaradi zamenjave instalacije; na Odrtem oddelku Ig ZPKZ Ljubljana so prepleskali prostor za prhanje in iz bivalnih prostorov so odstranili odvečno embalažo; v Odrtem oddelku Rogoza ZPKZ Maribor so prepleskali bivalne prostore v novem objektu in prostore jedilnice, sobe za obiske in knjižnice, prostori so bili v času obiska tokrat dobro ogrevani. V PD Radeče so bile v prostorih za izločitev odstranjene lesene palice; v ZPKZ Ig so bili oštevilčeni vsi bivalni prostori; za prestajanje uklonilnega zapore so zagotovili ločene prostore; prebeljene so bile sobe vseh oddelkov, podobno tudi drugje. Vse to kaže na to, da se vendarle začenejo upoštevati predlogi DPM za izboljšanje bivanjskih razmer na obiskanih krajih prostosti, kar je seveda spodbudno in hkrati potrjuje namen našega delovanja.

Po drugi strani pa smo večkrat ugotavljali, da so materialne razmere za zaprte osebe pretežno slabe (predvsem v Oddelku Nova Gorica ZPKZ Koper in ZPKZ Ljubljana). Zavodi bi lahko več pomanjkljivosti odpravili že z nekaj večjo samoiniciativnostjo. Tako smo v nekaj primerih predlagali, naj se pleskanje izvaja po potrebi, tj. tudi zunaj rednega načrta (Oddelek Nova Gorica ZPKZ Koper, ZPKZ Koper, Oddelek Murska Sobota ZPKZ Maribor ...); naj se bolj sproti skrbi za popraviljanje poškodovanega inventarja (npr. ZPKZ Koper, ZPKZ Ljubljana, PD Radeče, Odrti oddelk Rogoza ZPKZ Maribor, Odrti oddelk Ig ZPKZ Ljubljana, Polodprti oddelk Slovenska vas ZPKZ Dob pri Mirni ...). V dveh primerih (Oddelek Murska Sobota ZPKZ Maribor in Oddelek Nova Gorica ZPKZ Koper) pa bi bilo mogoče razmere izboljšati že z odstranitvijo odvečnega pohištva, s čimer bi pridobili več uporabnega prostora v posameznih sobah in zmanjšali občutek utesnenosti.

Kot že tolikokrat doslej, smo tudi v tem letu večkrat ugotovili neustrezno opremljenost prostorov za izločitev (Oddelek Nova Gorica ZPKZ Koper, ZPKZ Ljubljana, PD Radeče, Oddelek Murska Sobota ZPKZ Maribor, ZPKZ Ig). V tej zvezi smo žal predvsem prejeli pojasnila GUURSIKS, da tega niso uredili zaradi pomanjkanja denarja. Menimo, da se s takimi izboljšavami ne bi smelo odlašati.

Tudi glede bivanja na prostem in siceršnjih možnosti za telesne dejavnosti zaprtih oseb smo ugotovili nekatere pomanjkljivosti. V Oddelku Murska Sobota ZPKZ Maribor smo tako ugotovili, da še vedno nimajo prostora, v katerem bi jim bila omogočena rekreacija ne glede na vremenske razmere, zato smo predlagali, naj se poskuša urediti vsaj manjši fitnes. V ZPKZ Ljubljana še vedno niso zgradili nadstreška na notranjem sprehajališču, kar bi omogočilo zadrževanje pripornikov na svežem zraku ob slabem vremenu. V zvezi s tem smo morali zavodom še predlagati, naj se prouči možnost za nabavo dodatne opreme za fitnes, ki ga uporabljajo priporniki, saj je bil tudi ta v slabem stanju, oprema pa pomanjkljiva. Oddelek Nova Gorica ZPKZ Koper pa smo lahko pohvalili za prizadevanje, da se pripornikom omogoči več bivanja zunaj bivalnih prostorov.

In several locations, we heard praise for the personnel, particularly in the Slovenska vas Semi-open Prison Section of ZPKZ Dob pri Mirni, ZPMZ and KZ Celje and the Rogoza Open Prison Section of ZPKZ Maribor. This assured us that a respectful attitude to imprisoned persons is possible also when working in ZPKZ. Complaints were received only from PD Radeče and ZPKZ Koper concerning the attitude of judiciary police officers towards imprisoned persons, which included irregularities such as informal address and similar, but serious violations of human dignity were not found anywhere.

We were pleased to learn that several DPM recommendations had been implemented, such as: in the Murska Sobota Section of ZPKZ Maribor, badly sealed windows and dents in the walls caused by installation replacement had been repaired; in the Ig Open Prison Section of ZPKZ Ljubljana, the showers had been repainted and excess packaging removed from accommodation rooms; in the Rogoza Open Prison Section of ZPKZ Maribor, accommodation rooms in the new facility and the dining room, the rooms for visits and the library had been repainted, and the rooms were well-heated at the time of the visit. In PD Radeče, wooden sticks had been removed from the isolation rooms; in ZPKZ Ig, all accommodation rooms have been numbered, separate rooms provided for compliance detention and the rooms of all units repainted; a similar situation was found elsewhere. All of the above indicates that the proposals of the DPM to improve living conditions at the places of detention visited are being considered, which is encouraging and at the same time justifies the purpose of our operation.

On the other hand, it was established several times that the material conditions for imprisoned persons were mostly poor (primarily in the Nova Gorica Section of ZPKZ Koper and in ZPKZ Ljubljana). The institutions could eliminate more irregularities only by showing more self-initiative. In several cases, we proposed that painting be done whenever necessary, i.e. outside the regular plan (Nova Gorica Section of ZPKZ Koper, ZPKZ Koper, Murska Sobota Section of ZPKZ Maribor ...), and damaged inventory be repaired more promptly (e.g. ZPKZ Koper, ZPKZ Ljubljana, PD Radeče, Rogoza Open Prison Section of ZPKZ Maribor, Ig Open Prison Section of ZPKZ Ljubljana, Slovenska vas Semi-open Prison Section of ZPKZ Dob pri Mirni ...). In two cases (Murska Sobota Section of ZPKZ Maribor and Nova Gorica Section of ZPKZ Koper), conditions could be improved simply by removing excess furniture, creating more useful space in each room and reducing the feeling of confinement.

As happened many times before, this year we also frequently established that isolation rooms were inadequately fitted (Nova Gorica Section of ZPKZ Koper, ZPKZ Ljubljana, PD Radeče, Murska Sobota Section of ZPKZ Maribor, ZPKZ Ig). Unfortunately, in this regard, we have mostly received explanations from GUURSIKS saying that a lack of funds prevented them from correcting the problem. We believe that such improvements should not be postponed.

Some deficiencies were also established concerning stays outdoor and the possibilities imprisoned person to engage in physical activities. The Murska Sobota Section of ZPKZ Maribor still has no place for recreation that does not depend on weather conditions; therefore, we suggested they organise at least a smaller fitness facility. ZPKZ Ljubljana has still not constructed a projecting roof above the internal promenade, which would allow detained persons to be outside when the weather is bad. In this regard, we suggested the institutions consider the purchase of additional fitness equipment used by the detained persons, as the fitness centre was in a poor condition and the equipment was deficient. We commended the Nova Gorica Section of ZPKZ Koper for their efforts to offer detained persons a prolonged stay outside the accommodation rooms.

V zvezi z zagotavljanjem pravice do dela zaprtim osebam je treba tokrat kot svetla primera izpostaviti predvsem Odprti oddelek Rogoza ZPKZ Maribor, ki je tudi tokrat zagotavljal delo vsem zaprtim osebam, ki so to želele, in Polodprti oddelek Slovenska vas ZPKZ Dob pri Mirni, ki je zagotavljal delo večini obsojencev. Precej spodbudno je na tem področju kazalo tudi v ZPKZ Ljubljana, ki je delo zagotavljal večini obsojencev, žal pa ne vsem, ki bi to želeli. V ZPKZ Ig se je stanje od prejšnjega našega obiska precej izboljšalo, sprejemljivo pa je bilo tudi v Oddelku Nova Gorica ZPKZ Koper. V Oddelku Murska Sobota ZPKZ Maribor in ZPKZ Ljubljana smo morali sicer predlagati, da se še več dejavnosti za zaposlitve zaprtih oseb usmeri v priporneke.

Glede omogočanja izobraževanja zaprtim osebam smo lahko pohvalili predvsem prizadevanje Oddelka Nova Gorica ZPKZ Koper, čeprav smo morali v matičnem zavodu (ZPKZ Koper) predlagati, da v izobraževanje poskušajo pritegniti več zaprtih oseb. Podobno smo na Odprtem oddelku Rogoza ZPKZ Maribor in Oddelku Murska Sobota ZPKZ Maribor predlagali, naj poskušajo organizirati še več vsaj krajših oblik izobraževanja za zaprte osebe.

Glede knjižničnih storitev za zaprte osebe smo posebej pohvalili ZPKZ Koper, v katerem ima obsojenec, ki skrbi za knjižnico, nalogo, da izdela povzetke vsebine knjig, ki bodo prav prišle predvsem zaprtim osebam, ki iz takega ali drugačnega razloga same ne morejo v knjižnico. Takšen pristop bi bil dobrodošel tudi v drugih zavodih, delo v knjižnici pa bi bilo tudi vsebinsko bogatejše.

Kot vselej smo tudi v letu 2011 občasno naleteli na pritožbe zaprtih oseb glede (pre)hrane (na primer ZPKZ Ig, Oddelek Nova Gorica ZPKZ Koper), vendar nismo ugotovili nobenih nedopustnosti. V ZPKZ Ljubljana so se pritoževali nad visokimi cenami v zavodski kantini. Na podlagi našega opozorila je zavod nato potrdil, da je med na novo uvedenim tedenskim pregledom cen ugotovil, da so cene nekaterih izdelkov višje, kot so bile navedene v ponudbenem predračunu.

Zaznali smo tudi več težav v zvezi z zdravstveno oskrbo, izpostavljamo le nekaj najbolj izstopajočih. V ZPKZ Ig smo ugotovili, da se pojavljajo težave glede zdravstvenega zavarovanja otrok, ki se rodijo tujkam in nimajo očeta. V drugem primeru je izvedenka ugotovila, da v ZPKZ Dob pri Mirni sočasno predpisujejo substitucijsko terapijo in benzodiazepine, česar po doktrini ne bi smeli, razen v določenih izjemnih primerih. Zaradi pritoževanja zaprtih oseb v Oddelku Murska Sobota ZPKZ Maribor o dolgotrajnosti dostopa do zdravnika pa smo preverili tudi navzočnost zdravstvenega osebja in poudarili, da mora osebje takoj posredovati potrebo po zdravniški pomoči.

Kadrovska zasedba v zavodih po naši presoji vselej ni bila zadovoljiva. Tako smo za Oddelek Murska Sobota ZPKZ Maribor, Oddelek Nova Gorica ZPKZ Koper in PD Radeče predlagali zaposlitev pedagoga, za Odprti oddelek Rogoza ZPKZ Maribor in ZPKZ Koper pa psihologa.

Ugotavljali smo tudi, da v vseh zavodih oziroma na oddelkih še vedno ne izpeljujejo disciplinskih postopkov, čeprav pri zaprtih osebah še vedno prihaja do disciplinskih kršitev (na primer ZPKZ Ljubljana, Oddelek Murska Sobota ZPKZ Maribor). Kakor smo že poudarili v preteklosti, je prav, da se izpelje ustrezen disciplinski postopek, v katerem se ugotavlja očitana kršitev. Tako bo manj možnosti za arbitrarno odločanje in zagotovljenih več možnosti za objektivni nadzor sprejetih odločitev.

As an exception related to providing rights to work for imprisoned persons, the Rogoza Open Prison Section of ZPKZ Maribor should be emphasised, which has once again provided work for all imprisoned persons who wanted to work, and the Slovenska vas Semi-open Prison Section of ZPKZ Dob pri Mirni, which provided work for the majority of convicts. In this area, the situation was rather encouraging also in ZPKZ Ljubljana, which provided work for the majority of convicts, but not for all who wanted it. The situation in ZPKZ Ig has improved considerably since our last visit, and the situation in the Nova Gorica Section of ZPKZ Koper was also acceptable. We had to suggest to the Murska Sobota Section of ZPKZ Maribor and to ZPKZ Ljubljana that they offer more working activities to detained persons.

In respect of providing education to imprisoned persons, we could commend the efforts of the Nova Gorica Section of ZPKZ Koper, although we had to suggest to the main institution (ZPKZ Koper) that it attract more imprisoned persons to education. We made a similar proposal to the Rogoza Open Section of ZPKZ Maribor and Murska Sobota Section of ZPKZ Maribor, suggesting they organise more, at least short forms of education for imprisoned persons.

With respect to library services for imprisoned persons, we particularly commended ZPKZ Koper, in which the convict taking care of the library must prepare summaries of the books which would be useful for imprisoned persons who, for some reason or other, cannot come to the library. Such an approach would also be welcome in other institutions, thereby enriching the work in the library.

As always, in 2011 we occasionally encountered complaints regarding food (e.g. ZPKZ Ig, the Nova Gorica Section of ZPKZ Koper); however, we did not find any unacceptable conditions. In ZPKZ Ljubljana, complaints were made regarding high prices in the institution's canteen. Based on our warning, the institution confirmed that the newly introduced weekly inspection showed that the prices of some products were higher than listed in the estimate in the offer.

We also detected several problems related to health care; some of the more outstanding are indicated below. In ZPKZ Ig, we found that there were problems related to the health care of children who are born to foreigners and have no known father. In another case, the expert found that in ZPKZ Dob pri Mirni, substitution therapy and benzodiazepines were prescribed simultaneously, which is contrary to medical practice and should not be done except in exceptional cases. Because of complaints from imprisoned persons in the Murska Sobota Section of ZPKZ Maribor concerning long waits to see the doctor, we also inspected the presence of medical staff and emphasised that they should immediately communicate the need for medical attention.

In our view, staffing in the institutions is not always satisfactory. In the Murska Sobota Section of ZPKZ Maribor, Nova Gorica Section of ZPKZ Koper and in PD Radeče, we proposed they employ a teacher, and in the Rogoza Open Prison Section of ZPKZ Maribor and in ZPKZ, they should employ a psychologist.

We also established that not all institutions or sections performed disciplinary proceedings, despite the fact that imprisoned persons still committed disciplinary breaches (for example, in ZPKZ Ljubljana and Murska Sobota Section of ZPKZ Maribor). As emphasised in the past, proper disciplinary proceedings to establish alleged breaches should be conducted. This will reduce arbitrary decision-making and provide more possibilities for an objective oversight of adopted decisions.

Obiski policijskih postaj

V letu 2011 smo obiskali 19 policijskih postaj po Sloveniji (PPIU Kranj, PP Bled, PP Idrija, PP Tolmin, PP Jesenice, PP Kranj, PP Izola, PP Koper, PP Ptuj, PPIU Murska Sobota, PP Lenart, PP Šentilj, PP Cerknica, PP Ilirska Bistrica, PP Škofja Loka, PP Grosuplje, PP Ribnica, PP Gornja Radgona ter PP Ruše). Ob obiskih smo zopet opazili, da so bili policisti dobro seznanjeni z našim nalogami in pooblastili, tako da je naše delo potekalo nemoteno. Vsi obiski so bili nenapovedani. Po vsakem obisku je skupina pripravila poročilo o ugotovitvah s priporočili, ki je bilo poslano Ministrstvu za notranje zadeve (MNZ) in zadevni Policijski postaji (PP), kjer je bil opravljen nadzor.

Poročila so nastala na podlagi pregleda prostorov za pridržanje, pogovora z vodstvom PP, pogovora s pridržanimi osebami ter na podlagi pregleda dokumentacije, povezane s pridržanjem oseb. MNZ se je redno odzivalo na naša poročila in se v večini primerov strinjalo z našimi ugotovitvami ter nam zagotovilo, da so nekatere pomanjkljivosti že odpravili oziroma da so predvidene izboljšave.

Obiski PP so še naprej potekali po ustaljenem zaporedju: najprej je skupina, ki so jo sestavljali predstavniki Varuha in predstavniki ene, dveh ali treh pogodbenih nevladnih organizacij, opravila ogled vseh prostorov za pridržanje, vključno s pomožnimi prostori (prostori za sprejem, za tujce in odvetnika, skladišče, prostor za sprehod).

Pri splošnem pregledu PP smo pogledati tudi parkirne prostore za stranke, označenost parkirnih prostorov in ustrezen dostop za invalidne osebe, garderobne prostore za policiste ter morebitno ločenost za moške in ženske.

Nato je sledil ogled intervencijskih vozil, če so bila med našim obiskom na PP, potem je bil na vrsti pogovor z vodstvom PP (največkrat s komandirjem, pomočnikom komandirja ali z dežurnim policistom), ko smo pregledali tudi dokumentacijo pridržanj naključno izbranih primerov (spisov). Ob vsakem obisku smo pridobili tudi statistične podatke o številu pridržanih in zadržanih oseb po Zakonu o nadzoru državne meje na obiskanih PP v letu 2011 (od leta 1. 1. do dneva obiska).

Osnovni podatki o prostorih za pridržanje

Število prostorov za pridržanje se razlikuje po PP, ki imajo od enega do šest prostorov za pridržanje, za krajša in za daljša pridržanja. Na nekaterih PP imajo prostore za pridržanje, vendar jih zaradi različnih razlogov ne uporabljajo (PP Jesenice, PP Bled in PP Koper). V takih primerih uporabljajo prostore za pridržanje na drugih PP.

Dostop do prostorov za pridržanje je v nekaterih primerih mogoč neposredno čez dvorišče (z intervencijskim vozilom). Le na eni PP (PP Koper), kjer so prostori za pridržanje v pritličju, je dostop skozi glavna vrata mimo dežurnega policista.

Ob ogledu prostorov za pridržanje smo se osredotočili na ustrezno opremljenost, označenost in velikost prostorov, ustrezno osvetlitev (dnevna in umetna svetloba), primerno temperaturo in prezračevanje prostorov ter čistočo, sanitarije, dostop do pitne vode, oskrbe s hrano, videonadzor prostorov in klicno možnost, opremljenost prostorov z informacijami in brošurami o pravicah pridržanih oseb, možnost za gibanje na prostem ter možnost kajenja (in bivanja v sobah brez kajenja), urejenost pritožbenih poti in (ne)primerno pokritost sanitarnih prostorov z videonadzornim sistemom.

Visits to police stations

Nineteen police stations in Slovenia were visited in 2011 (PPIU Kranj, PP Bled, PP Idrija, PP Tolmin, PP Jesenice, PP Kranj, PP Izola, PP Koper, PP Ptuj, PPIU Murska Sobota, PP Lenart, PP Šentilj, PP Cerknica, PP Ilirska Bistrica, PP Škofja Loka, PP Grosuplje, PP Ribnica, PP Gornja Radgona and PP Ruše). During the visits, we observed again that police officers were well-informed of our duties and powers, which enabled smooth operations. All visits were unannounced. After each visit, the group prepared a report on the findings, with recommendations sent to the Ministry of the Interior (MNZ) and visited police station (PP) for information.

The reports were prepared on the basis of examinations of detention rooms, an interview with the PP management, an interview with detained persons, and on the basis of reviewing documents related to the detention of persons. MNZ regularly responded to our reports and, in the majority of cases, agreed with our findings and assured that some deficiencies had already been eliminated or that improvements were planned.

Visits to PPs were conducted according to the established order: first, the representatives of the Ombudsman and of one, two or three contractual organisations performed an examination of all detention rooms, including auxiliary rooms (reception area, room for foreigners, for the lawyer, warehouse, recreation yard).

In the general examination of the PP, we also checked parking space for clients, the signage of parking and appropriate access for the disabled, changing rooms for police officers and potential separation of men and women.

An inspection of intervention vehicles, if they were present during our visit to the PP, was carried out first, followed by the review of documentation (files) of randomly selected cases of detention and interview with the PP management (mostly with the commander, assistant commander or duty officer). On each visit, we also obtained statistical data on the number of detained and persons held under the State Border Control Act at the visited PP in 2011 (from 1 January to the date of the visit).

Basic information on detention rooms

Among PPs, the number of detention rooms varies from one to six, for shorter and longer periods of detention. Some PPs have detention rooms, but for different reasons, these are not used (PP Jesenice, PP Bled and PP Koper). Detention rooms at other PPs are used for such cases.

In some cases, access to detention rooms is possible directly across a courtyard (in an intervention vehicle). In one PP (PP Koper), where the detention rooms are located on the ground floor, access is through the main door and past the duty officer.

In examining the detention rooms, our focus was primarily on proper equipment, the labelling and size of rooms, proper lighting of rooms (daylight and artificial light), proper temperature, ventilation and cleanliness of rooms, toilets, access to drinking water, food supply, video-surveillance of rooms and the option to make telephone calls, equipment of rooms with information and brochures on the rights of detained persons, the possibility for outdoor exercise and smoking (and staying in non-smoking rooms), regulation of complaints channels and (im)proper video-surveillance of toilets.

Opremljenost prostorov

Prostori za pridržanje so večinoma ustrezno opremljeni (WC). Ležišča so praviloma lesena in opremljena s PVC-žimnicami in posteljnino, ki jo oseba dobi ob prihodu (odeje ali posteljnina za enkratno uporabo). Posteljnina je običajno shranjena v posebnem prostoru oziroma skladišču.

Kot primer dobre prakse je DPM izpostavil:

- Namestitve varnejše vodovodne pipe, ki je povsem ravna s steno in deluje na pritisk (PP Kranj). Dober način shranjevanja zaseženih primerov na PP Kranj, kjer imajo za vsak prostor za pridržanje tudi pripravljeno večjo plastično posodo, v kateri se hranijo zaseženi predmeti pridržane osebe. V omari na označeni polici pa imajo večjo vrečo s pripravljeno posteljnino, odejo in vzglavnikom. Primer dobre prakse hranjenja zaseženih predmetov je tudi na PP Ptuj, kjer imajo šest manjših omar, označenih s števkami od ena do šest (na PP imajo šest prostorov za pridržanje).
- Treba je pohvaliti, da je bilo na PP Ilirska Bistrica upoštevano priporočilo DPM od zadnjega obiska, saj sta bili v prostor za krajše pridržanje nameščeni žimnici.

DPM je ob obiskih opozoril tudi na nekatere pomanjkljivosti:

- Umazane stene v prostorih za pridržanje (PP Ptuj) in v prostorih za pogovore oziroma za zaslišanje (PP Jesenice, PP Ribnica). Velja pa pohvaliti, da so bili prostori za pridržanje na PP Cerknica v nasprotju z zadnjim obiskom čisti.
- Pritisk vode v umivalniku je prevelik, saj je ob pritisku na gumb voda pritekla tako močno, da je škropila zunaj umivalnika, tudi po leseni postelji, ki je v neposredni bližini (PP Kranj).
- Kot pomanjkljivost štejemo tudi, da nekateri prostori za pridržanje nimajo dostopa do tekoče vode (PP Idrija, PP Ptuj in PP Škofja Loka), zato jo policisti dostavljajo v plastičnih kozarcih. Predlagali smo, naj se to v čim krajšem času spremeni in pridržanim osebam omogoči stalen dostop do pitne vode v prostoru za pridržanje.
- Tri PP (Idrija, Tolmin in Lenart) kot ene redkih nimajo rjuh in vzglavnikov. Na PP Koper so jih imeli, vendar jih pridržanim osebam niso izročili, če so bile pridržane za krajši čas. DPM je predlagal, da se na PP rjuhe in vzglavniki dostavijo čim prej ter da se pridržanim osebam izroči vzglavnik, predvsem če so pridržane čez noč.

Osvetljenost prostorov za pridržanje

Pri pregledu vseh 19 PP smo samo na PP Kranj ugotovili, da v prostorih za pridržanje ni ustrezne dnevne svetlobe. Prostori za pridržanje imajo zgolj manjšo režo (širine približno 15 centimetrov in dolžine 1,5 metra) za dostop dnevne svetlobe.

Na petih PP (PP Koper, PP Ptuj, PP Škofja Loka, PP Lenart ter PP Ruše) je bilo ugotovljeno, da umetne svetlobe ni mogoče uravnavati (zmanjšati oziroma zvišati jakost svetlobe). Ker je prižgana umetna luč lahko moteča pri pridržanjih v nočnem času, je DPM predlagal, da se prouči možnost namestitve stikal za uravnavanje jakosti svetlobe. MNZ se je v odzivnih poročilih zavezal, da bo proučil možnost namestitve takšnih stikal.

Equipment in rooms

The detention rooms are generally adequately equipped (toilets). Beds are typically wooden and equipped with PVC mattresses and bedding which the person receives upon arrival (blankets or disposable bedding). The bedding is usually stored in a special room or warehouse.

As a good practice example, the DPM pointed out:

- Installation of a safer tap which is flush with the wall and operated by pressure (PP Kranj). A good method of keeping items confiscated from the detained person is used in PP Kranj, where each detention room has a large plastic container holding these items. There is a larger bag containing bedding, a blanket and a pillow prepared on the labelled shelf in the cabinet. PP Ptuj also has a good practice example for keeping confiscated items in six smaller cabinets numbered from one to six (the PP has six detention rooms).
- It is commendable that PP Ilirska Bistrica implemented the DPM recommendation from the previous visit and installed mattresses in the room for shorter detention.

During its visits, the DPM also warned of several deficiencies:

- Dirty walls in detention rooms (PP Ptuj) and in rooms for discussions or interrogation (PP Jesenice, PP Ribnica). It is commendable that, unlike on the previous visit, the detention rooms in PP Cerknica were clean.
- Water pressure in the sink is too high, as the current upon pressing the button was so strong that the water splashed outside the sink, even onto the wooden bed located in the vicinity (PP Kranj).
- It is also considered a deficiency that some detention rooms have no access to running water (PP Idrija, PP Ptuj in PP Škofja Loka), so police officers provide it in plastic glasses. We proposed they change this as soon as possible and provide detained persons in detention rooms with constant access to drinking water.
- Three PPs (Idrija, Tolmin and Lenart) were among the rare ones not having sheets and pillows. PP Koper had them, but detained persons did not receive them if they were detained for a shorter period only. The DPM proposed that sheets and pillows be delivered to PPs as soon as possible, and that detained persons should receive a pillow, in particular when detained overnight.

Lighting in detention rooms

In examining all 19 of the PPs, only PP Kranj was established to have no proper daylight in detention rooms. The detention rooms have only a smaller slot (approximately 15 centimetres wide and 1.5 metre long) which admits daylight.

In five PPs (PP Koper, PP Ptuj, PP Škofja Loka, PP Lenart and PP Ruše), we established that artificial light cannot be adjusted (the intensity of light cannot be reduced or enhanced). Because artificial light might be disturbing for night detentions, the DPM suggested considering the option of installing switches for light intensity regulation. In its response reports, MNZ committed to considering the option of installing such switches.

Čistost prostorov

Policijske postaje imajo zaposleno čistilko oziroma sklenjeno pogodbo s čistilnim servisom. Razen umazanih sten v prostorih za pridržanje (PP Ptuj) in v prostorih za pogovore oziroma za zaslišanje (PP Jesenice, PP Ribnica) so prostori bili čisti. Pohvaliti je treba, da so bili prostori za pridržanje na PP Cerknica v nasprotju z zadnjim obiskom čisti in da so na PP Ribnica prostor za pridržanje številka 1 prepleskali.

Sanitarije

Sanitarije so bile ustrezno urejene: WC-školjka v prostorih za daljše pridržanje in WC-počepnik z izplakovanjem v prostorih, ki so namenjeni krajšemu pridržanju.

Video- in zvočni nadzor

Pravilnik o policijskih pooblastilih določa, da mora policist, ki izvaja pridržanje, poskrbeti za varnost pridržane osebe, od njene namestitve v prostor za pridržanje do izpustitve. Za nadzorovanje pridržanih oseb lahko policist po tem Pravilniku uporablja naprave za prenos zvočnih in slikovnih znakov. Uporaba teh naprav mora biti v prostoru vidno označena. Pravilnik pri tem jasno določa, da nadzor s tehničnimi sredstvi ne izključuje neposrednega fizičnega nadzora.

Zgolj na eni PP (PP Koper) je bilo ugotovljeno, da zorni kot videonadzornega sistema v prostorih za pridržanje obsega tudi toaletni del prostora za pridržanje, kar je v nasprotju z Normativi o gradnji, adaptaciji in opreми prostorov za pridržanje. Na to smo opozorili in predlagali, da se zaradi pravice do zasebnosti napake odpravijo. V odzivnem poročilu je MNZ zagotovilo, da so na kameri takoj pokrili del, ki nadzira predel s sanitarijami, z ustreznim posegom pa bodo navedeno uredili tako, kot je določeno v Normativih za gradnjo, adaptacijo in opreme prostorov za pridržanje.

Na eni PP (PP Idrija) je bil med obiskom DPM pokvarjen videonadzorni sistem v prostorih za pridržanje. Sogovornik je pojasnil, da je odprava napake že naročena. DPM je že med obiskom predlagal, da zato dežurni policist ob pridržanjih opravi pogostejši nadzor pridržane osebe in da pričakuje, da bodo napake na videonadzornem sistemu odpravili čim prej.

Večina PP ima v svojih prostorih za pridržanje videonadzor in klicni zvonec, vendar opozorilo (nalepka) o govorni napravi ponekod ni bilo označeno (PP Ptuj, PP Šentilj in PP Jesenice). Naš predlog, da naj PP zagotovijo opozorilo (nalepko) tudi v prostorih za pridržanje, je MNZ sprejelo in zagotovilo, da bo to uredilo oziroma je že uredilo.

Pohvaliti velja PP Škofjo Loko, ki je upoštevala priporočilo DPM od zadnjega obiska, da je treba v prostor za krajša pridržanja namestiti ustrezno obvestilo za govorno napravo.

Prehrana in voda

Večina PP zagotavlja pridržanim osebam hrano v obliki t. i. »lunch paketov«, ki jih je več vrst, med njimi tudi posebni za vegetarijance, katerih rok uporabnosti je ustrezen. Večina PP (ki izvaja daljša pridržanja) ima sklenjene pogodbe o dostavi hrane iz bližnjih gostiln (zlasti v primeru pridržanja do 48 ur).

DPM pozdravlja, da je PP Ribnica upoštevala predlog in priskrbelo plastenke za vodo. Predlagali smo, naj se tudi to čim prej spremeni in pridržanim osebam omogoči stalen dostop do pitne vode v prostoru za pridržanje.

Cleanliness of rooms

Police stations employ a cleaner or have contracts with a cleaning service. Except for the dirty walls in detention rooms (PP Ptuj) and in rooms for discussions or interrogation (PP Jesenice, PP Ribnica), the rooms were clean. It is commendable that the detention rooms in PP Cerknica were clean, unlike on the previous visit, and that detention room no. 1 in PP Ribnica had been repainted.

Toilets

The toilets were adequately arranged: the toilet bowl in the rooms for longer detention, and squat toilet with flushing in the rooms for shorter detention.

Video- and audio-surveillance

The Rules on police powers specify that police officers conducting detention must provide for the security of the detained person from the time they are placed in the detention room until they are released. According to these Rules, the police officer may use devices for audio and video signal transmission to supervise detained persons. Use of these devices must be clearly indicated in the room. The Rules clearly specify that surveillance using technical means does not exclude direct physical surveillance.

Only in one PP (PP Koper) was it established that the viewing angle of the video surveillance system in detention rooms also includes the toilet, which is in violation of the Standards on the Construction, Adaptation and Equipment of Detention Rooms. We pointed this out and proposed the deficiencies be eliminated to allow the right to privacy. In its response report, MNZ assured us they had immediately covered the part of the camera surveilling the toilet area, and would take further measures to arrange the situation as specified in the Standards on the Construction, Adaptation and Equipment of Detention Rooms.

In one PP (PP Idrija), the video surveillance system in detention rooms was out of order at the time of the DPM visit. Our discussion partner explained that they had already ordered the repair. The DPM suggested during the visit that the duty officer perform more frequent supervision of the detained person during detention and expected that the deficiency of the video-surveillance system would be eliminated as soon as possible.

The detention rooms of the majority of PPs are equipped with video-surveillance and a bell, but in some places there was no warning (notice) about the audio device (PP Ptuj, PP Šentilj and PP Jesenice). Our proposal for the PP to provide a warning (a notice) also in detention rooms was accepted by MNZ, who also assured us they would or had already done so.

PP Škofja Loka, which implemented the DPM recommendation from the previous visit and fitted the room for shorter detentions with a relevant notice of the audio device, should be commended.

Food and water

The majority of PPs provide detained persons with food in the form of different types of lunch packages, including those for vegetarians; the expiry date was acceptable. The majority of PPs (conducting longer detentions) have contracts for food supply with nearby restaurants (particularly for detentions up to 48 hours).

The DPM welcomes the fact that PP Ribnica considered the proposal and provided water bottles. We proposed they also change this as soon as possible and provide detained persons in detention rooms with constant access to drinking water.

Zdravstvena oskrba pridržanih oseb

PP zdravniško pomoč zagotavljajo tako, da pridržano osebo odpeljejo v bližnji zdravstveni dom, ki ima zagotovljeno 24-urno dežurstvo, oziroma da pride zdravnik na PP.

Intervencijska vozila

Pri pregledu dveh PP (Kranj in Izola) smo ugotovili, da je prostor za prevoz pridržanih oseb umazan. Drugače so bili prostori čisti. DPM je predlagal, da je treba prostor očistiti in v prihodnje bolj redno skrbeti za čistočo. Vsa vozila so imela za sedalnim delom rezo, ki omogoča, da se lahko pridržana oseba med prevozom prime tudi, ko ima roke spete z lisicami.

Pri ogledu intervencijskega vozila na PP Izola smo opazili na lesenem sedalnem delu vozila rjav madež (pri čiščenju tega z mokrim papirjem je bilo ugotovljeno, da gre za kri). Policisti so še pred časom opravili intervencijo, v kateri je bilo odrejeno pridržanje osebe, ki je bila poškodovana po rokah. To kaže na to, da so bili ostanki krvi očitno v intervencijskem vozilu kar nekaj časa. DPM je opozoril, da mora biti prostor, kjer se prevažajo pridržane osebe, čist in da se mora v prihodnje redno preverjati čistost prostora, še posebej ko se v prostorih za prevoz oseb prevaža oseba, ki je poškodovana (ki krvavi).

Sprehajališča

Ta so namenjena sprehajanju pridržanih oseb in kajenju. Večina PP nima posebnega sprehajališča, kar ni ustrezno predvsem na PP, kjer imajo tudi prostore za daljše pridržanje. Zato uporabljajo dvorišča PP in zagotovijo tudi spremstvo oziroma osebni nadzor.

Sprehajališča so večinoma primerno velika, razlikujejo pa se v pokritosti (večinoma so nepokrita) in ograjenosti (ograjena z ograjo, neograjena). DPM pozdravlja sprehajališče na PP Ilirska Bistrica, kjer je sprehajališče tudi delno pokrito, kar zagotavlja pridržanim osebam sprehajanje tudi ob slabem vremenu.

Opremljena so z videonadzorom in v večini primerov so čista.

Prostor za odvetnike

Policijske postaje imajo ali poseben prostor za odvetnike ali pa za to uporabljajo druge prostore (prostor za sprejem pridržane osebe, za zaslišanje, delovne sobe za policiste). V nekaterih PP je oprema v teh prostorih pomanjkljiva (ni mize, stola), zato smo predlagali namestitve potrebne opreme za pogovor med odvetnikom in stranko.

Poleg seznama odvetnikov, ki je objavljen na spletni strani policije, imajo vse PP, razen PP Grosuplje, seznam odvetnikov tudi v tiskani obliki. Na PP (Lenart in Bled), kjer je bil seznam odvetnikov starejšega datuma, je DPM predlagal, da se natisne nove in da se ta redno obnavlja. Na PP Gornja Radgona, kjer seznam odvetnikov ni bil datumsko označen, pa je DPM predlagal, da se namesti nov seznam z datumom in da se tudi ta v prihodnje redno obnavlja.

Pohvalno je upoštevanje priporočila DPM z zadnjega obiska o namestitvi natisnjenega seznama odvetnikov, ki se po pojasnilu sogovornika redno obnavlja (PP Škofja Loka). Na drugi strani pa nekatere PP niso upoštevale priporočila DPM z zadnjega obiska. Tako ni bilo na primer upoštevano priporočilo, da se seznam odvetnikov namesti tudi v prostor za sprejem in pogovor s pridržano osebo (PP Ribnica). DPM v tovrstnih primerih znova predlaga, da se priporočilo upošteva (da se v prostor za sprejem in pogovor s pridržano osebo namesti seznam odvetnikov).

Health care of detained persons

Medical attention is provided by taking the detained person to the nearby 24-hour health care centre, or a doctor comes to the PP.

Vehicles for transporting detainees

While examining two PPs (Kranj and Izola), we observed that the place where detained persons were transported was dirty. Otherwise, rooms were clean. The DPM proposed that the place be cleaned and kept clean in the future. Behind the cab, all vehicles were equipped with a slot allowing the detained person to hold on even in handcuffs.

When examining the intervention vehicle in PP Izola, we observed a brown stain on the wooden seating part (after cleaning it with wet paper, it was established to be blood). Some time ago, police officers had intervened in a case when the detention of a person with hand injuries was ordered. This indicates that blood stains had remained in the intervention vehicle for quite some time. The DPM pointed out that the space where detained persons are transported must be clean and that it should be regularly inspected in future, particularly when an injured (bleeding) person is being transported.

Recreation areas

These are intended for the walks of detained persons and smoking. The majority of PPs do not have a special walking area, which is particularly inadequate for PPs with rooms for longer detention. For this purpose, they use the PP courtyard and provide an escort or personal surveillance.

The walking areas are mostly of suitable size, but they vary in terms of coverage with roofing (mostly uncovered) and enclosure (enclosed with a fence, unenclosed). The DPM welcomes the walking area in PP Ilirska Bistrica, which is also partially covered, allowing detained persons to walk around even in bad weather.

The recreation areas are equipped with video-surveillance and mostly clean.

Room for lawyers

Police stations have either a special room for lawyers, or other rooms are used for this purpose (reception room for detained persons, interrogation room, studies for police officers). In some PPs, equipment in these rooms is insufficient (no table, no chair); therefore, we suggested the installation of adequate equipment intended for discussions between lawyers and clients.

In addition to the list of lawyers published on the police website, all PPs except PP Grosuplje have the list of lawyers in printed form. In PPs (Lenart and Bled) where the list of lawyers was out of date, the DPM proposed they print a new one and keep it updated. In PP Gornja Radgona, where the date was missing on the list of lawyers, the DPM suggested they place a new list of lawyers marked with a date and update it regularly.

The implementation of the DPM recommendation from the previous visit to place a printed list of lawyers, which according to the discussion partners is regularly updated, is commendable (PP Škofja Loka). On the other hand, some PPs failed to observe the DPM recommendation from the previous visit. For example, the recommendation to place the list of lawyers in the reception and interrogation rooms was not observed (PP Ribnica). In such cases, the DPM again suggests that the recommendation be observed (that the list of lawyers be placed in the reception and interrogation rooms).

Prostor za tujce

Večinoma so bili prostori primerno čisti in opremljeni, vključno s plakatom o pravicah pridržanih oseb v več jezikih, z brošuro o pravicah oseb, ki jim je bila odvzeta prostost, v več jezikih in raznimi zloženkami (UNHCR, PIC). Postajam, na katerih tega nismo zasledili (PP Koper), smo predlagali, da zagotovijo plakate in brošure.

Seznanjenost pridržanih oseb z njihovimi pravicami

Policija je pred leti izdala brošuro z obvestilom o pravicah osebe, ki ji je bila odvzeta prostost, v več jezikih in jih imajo v vseh PP. Na nekaterih PP pa žal niso na mestu, kjer bi bila najbolj potrebna (prostori in predprostori za pridržanje, prostori za tujce), in zato je minilo nekaj časa, da so policisti brošuro sploh našli. Tako smo jo na PP Koper pogrešali v prostoru za tujce in tudi predlagali, da jo zagotovijo čim prej. Podobno je bilo na PP Grosuplje.

Seznanjenost s pravicami se zagotavlja tudi s plakati z obvestilom o prijetju zaradi odvzema prostosti, kar je pohvalno, vendar bi jih bilo treba v večini primerov zamenjati z novejšo različico, ker zdajšnja ne vsebuje pravice do zdravnika po lastni izbiri. Kot primer dobre prakse je PP Škofja Loka, ki je zadevo rešila z dodatnim pripisom pravice do proste izbire zdravnika na plakat. DPM je tako rešitev informiranja pridržanih oseb z odobravanjem sprejel in hkrati predlagal, da se to prenese tudi na druge PP.

Prav tako bi bili lahko plakati nameščeni v prostorih, kjer se pridržane osebe zadržujejo največ časa. Če so samo na hodnikih, dvomimo, da se pridržanim omogoča, da se seznanijo z vsebino.

Varuh človekovih pravic RS je kot izvajalec DPM v letu 2011 razposlal na vse PP tudi brošure in plakate o DPM. Na večini PP brošur nismo zasledili, izpostavljamo pa PP Gornjo Radgono, ki je imela brošure DPM v prostoru za pogovor s strankami in PP Grosuplje, ki je imela v sobi za pogovore nalepljen plakat o DPM.

Dokumentacija

Pregled dokumentacije je pokazal, da je ta večinoma skrbno urejena, smo pa klub temu opazili nekatere nedoslednosti, netočnosti in nepravilnosti pri izpolnjevanju podatkov v dokumentaciji:

- Na potrdilu o zaseženih predmetih ni podatka o uri zasega predmetov (PP Tolmin).
- Na potrdilu o zaseženih predmetih je bilo ugotovljenih več nepravilnosti: potrdilo je oseba podpisala, kot opombo pa je policist napisal, da je pridržana oseba podpis odklonila brez razloga; na potrdilu ni bila zapisana ura vrnitve predmetov; v delu potrdila »zaključeno pod zaporedno številko« je številka 9, čeprav je bilo zaseženih 10 predmetov (kje?).
- Pri izpolnjevanju uradnega zaznamka o pridržanju je bilo ugotovljeno, da so bili podatki na obrazcu uradnega zaznamka o pridržanju popravljeni s »korektorjem«. Ker gre za uradni dokument, je DPM menil, da je taka praksa neprimerna. DPM je predlagal, da se v takšnih primerih morebitni popravki zapišejo tako, da bo viden prejšnji podatek. Podatek pa naj s podpisom potrdi policist, ki je podatek popravljal (PP Idrija). Podobno je bilo na PP Koper, kjer so bili na potrdilu o zaseženih predmetih opravljeni popravki brez podpisa policista, ki jih je popravil. Tudi tu je DPM predlagal, da se morebitni popravki označijo tako, da bo viden prejšnji podatek.

Room for foreigners

The rooms were mostly appropriately clean and equipped, including a poster and brochure in several languages on the rights of persons deprived of liberty, and various leaflets (UNHCR, PIC). We proposed that stations (PP Koper) where such things were not observed provide posters and brochures.

Information for detained persons on their rights

Some years ago, the Police issued a Letter of Rights of a Person Deprived of Liberty in several languages, which was found in every PP. Unfortunately, in some PPs, it is not in the place (detention rooms and lobbies, rooms for foreigners) where it is most useful, and it sometimes took some time for police officers to find the brochure. In PP Koper, we thought it was missing in the room for foreigners and proposed to provide it as soon as possible. A similar situation was found in PP Grosuplje.

Information on rights is also provided by means of posters informing about arrest, which is commendable, but these should, in most cases, be replaced by a more recent version, since the old one does not include the right to a doctor of one's own choice. PP Škofja Loka is a good practice example, as they resolved the issue by adding the notice on the right to a free choice of doctor to the poster. The DPM approved of such a method of informing detained persons and suggested that other PPs do likewise.

Additionally, the posters could be placed in rooms where detained persons spend most time. If they are placed only in the corridors, we doubt that detained persons learn about the content.

In the capacity of the DPM, the Human Rights Ombudsman of the Republic of Slovenia sent brochures and posters on the DPM to all PPs in 2011. In the majority of PPs, they were not to be found, but we should highlight PP Gornja Radgona, which had DPM brochures in the room for interviews with clients, and PP Grosuplje, which had a poster on the DPM in the room for interviews.

Documentation

The inspection of documentation showed it to be carefully arranged; however, some inconsistencies, inaccuracies and irregularities were observed in the completion of data in the documentation:

- The receipt of confiscated items does not include the time of confiscation (PP Tolmin).
- Several irregularities were found on the receipt of confiscated items: the person signed the receipt, but the police officer recorded as a comment that the detained person refused to sign it without reason; the receipt did not include the time when the items were returned; in the part of the receipt under 'completed under serial no.', the number 9 was entered, although there were 10 confiscated items (where?).
- It was established that when completing the official note on detention, the information in the official note form on detention had been corrected with correcting fluid. According to the DPM, this practice is inappropriate, since this is an official document. The DPM suggested that any corrections in such cases be recorded in such a way that the previous entry can be seen. The information should be confirmed by the signature of the police officer who made the correction (PP Idrija). A similar situation was observed in PP Koper, where the receipt on confiscated items included corrections, but lacked the signature of the police officer who had made them. The DPM also suggested that any corrections be recorded in such a way that the previous entry can be seen.

- Neusklajenost ure končanja pridržanja z uro izročitve osebe v postopek preiskovalnemu sodniku (PP Idrija).
- Netočno evidentiranje začetka in konca pridržanja (PP IU Kranj).
- Netočni časovni okvirji postopka s pridržano osebo (PP Bled).
- S pregledom dokumentacije je bilo na več PP ugotovljeno, da so policisti izpolnili tudi rubriko o obveščanju diplomatskega predstavništva, čeprav ni šlo za tujca oziroma tujko (PP Škofja Loka, PP Gornja Radgona, PP Ruše). V teh primerih je DPM predlagal, da naj policiste opozorijo, da na obrazcih o pridržanju v prihodnje izpolnijo le rubrike, ki jih je treba izpolniti.
- Pri obveščanju svojcev je bilo iz uradnega zaznamka o pridržanju in sklepa o pridržanju razvidno le, da je bil o tem obveščen svojec, ni pa bilo razvidno, na katero tel. številko se je klicalo (PP Ruše). DPM je v tovrstnih primerih predlagal, da se ob telefonskem obveščanju svojcev zapisuje tudi podatek, na katero telefonsko številko so bili obveščeni.
- Pomanjkljivo evidentiranje okoliščin pridržanj. Na PP Piran je bilo v rubriki »nadzor pridržane osebe« evidentirano samo »videonadzor«, kar je po mnenju DPM pomanjkljivo. DPM je predlagal, da se v uradni zaznamek o pridržanju zapišejo tudi druge okoliščine pridržanja, kot so osebni pregled, izročitev copat, odeje, vode, prehrane in podobno (PP Izola in PP Koper).
- Pokrivanje ure vročitve sklepa o pridržanju z uro začetka pridržanja, kar je po mnenju DPM nerealno (PP Izola).
- Netočno naveden datum izdaje odločbe o pridržanju. Pridržanje je bilo od 8. 3. do 10. 3. 2011, na odločbi o pridržanju pa je bil naveden datum izdaje odločbe 31. 12. 2010 (PP Izola).

Pri pregledu dokumentacije mladoletne osebe na PPIU Kranj je iz nje izhajalo, da je bila pridržana oseba seznanjena s pravicami v albanskem jeziku. Ker iz uradnega zaznamka ni bilo mogoče ugotoviti, kdo in kako je to osebo s pravicami seznanil v albanskem jeziku (po besedah sogovornika je to razvidno iz preostale dokumentacije, kjer se hrani stroškovnik, ki se izda prevajalcu), je DPM predlagal, da se morebitna navzočnost prevajalca z imenom in priimkom ter časovnim okvirjem (prihodom in odhodom) zapiše tudi v uradnih zaznamkih o zadržanju (pridržanju) pod rubriko »druge ugotovitve in opombe«.

Ker je šlo v tem istem primeru za mladoletno osebo, je bilo potrebno tudi obveščanje pristojnega centra za socialno delo. DPM je ugotovil, da tudi navedeni podatek, da je bil center za socialno delo obveščen o zadržanju, iz arhivske dokumentacije ni bil razviden. DPM je tudi v takšnih primerih, predlagal, da se obveščanje centra za socialno delo dodatno zapiše tudi v uradne zaznamke o zadržanju (pridržanju) pod rubriko »druge ugotovitve in opombe«.

Nadalje smo ob pregledu dokumentacije ugotovili več nepravilnosti, ko je bila pridržani osebi ponujena zdravstvena pomoč. Tako je bilo na PP Jesenice v rubriki »zdravstveno stanje pridržane osebe« zapisano samo, da so policisti pridržani osebi oskrbeli rano na nosu. Nadalje je bilo iz dokumentacije na PP Ruše ugotovljeno, da je bila oseba med policijskim postopkom odpeljana na pregled k zdravniku, vendar pa iz uradnega zaznamka ni razvidno h kateremu. DPM je predlagal, da se v prihodnje v primerih, ko je potrebna zdravstvena oskrba pridržane osebe, to zapiše v uradni zaznamek oziroma da se dosledno izpolnijo vse rubrike uradnega zaznamka.

- The time when the detention concluded was not consistent with the time when the person was taken before the investigating judge (PP Idrija).
- Inaccurate recording of the start and end of detention (PP IU Kranj).
- Inaccurate timeframes of procedure involving the detained person (PP Bled).
- Inspection of documentation showed that in several PPs, police officers also completed the section on the notification of diplomatic representation, although no foreigner was involved (PP Škofja Loka, PP Gornja Radgona, PP Ruše). In such cases, the DPM suggested that police officers be taught to complete only the sections that need be completed.
- As far as information for relatives is concerned, the official note on detention and detention warrant indicated only that a relative had been informed, but did not state the telephone number called (PP Ruše). In such cases, the DPM proposed that the telephone number of the notified relative also be recorded.
- Insufficient information in the records of detention circumstances. In PP Piran, the section 'Surveillance of the detained person' included only 'video-surveillance', which, in the DPM's view, is insufficient. The DPM proposed the inclusion of other circumstances in the official note on detention, such as personal inspection, provision of slippers, blanket, water, food and similar (PP Izola and PP Koper).
- The overlap of the time when the detention warrant was served with the time when the detention started, which is unrealistic, in the opinion of the DPM (PP Izola).
- Inaccurately stated date of issue of the detention warrant. Detention lasted from 8 March to 10 March 2011, but the date of issue stated in the detention warrant was 31 December 2010 (PP Izola).

An inspection of the documentation of a minor held in PPIU Kranj showed that the detained person was informed of their rights in Albanian. Since the official note failed to include information on who informed the person of their rights in Albanian, and how (according to the discussion partner, this is indicated in the remaining documentation where the record of expenses issued to the translator is kept), the DPM proposed that the potential presence of a translator be recorded in official notes on detention (apprehension) under the section 'Other findings and notes'.

As the person in this case was a minor, the competent social work centre should have been notified. The DPM established that the fact that the social work centre had been informed of the detention was not seen in the archives. In such cases, the DPM also suggested that the notification of the social work centre be recorded in the official notes on detention (apprehension) under the section 'Other findings and notes'.

Furthermore, the inspection of documentation revealed several irregularities concerning medical attention offered to the detained person. In PP Jesenice, the section 'Health condition of the detained person' stated only that police officers had taken care of the detained person's nose injury. Documentation in PP Ruše further showed that the person had been taken to a doctor during the police procedure, but the official note did not indicate to which doctor. The DPM proposed that when a detained person requires medical attention in future, this is entered in the official note, or that all sections of the official note are consistently completed.

Nadalje smo na PP Izola pri pregledu uradnega zaznamka ugotovili, da je imela oseba pri odreditvi pridržanja poškodbe oziroma odrgnine na desni pesti in odrgnine desnega kolena. Navedeno je bilo tudi, da ima depresijo. DPM je pogošal podatek, da policisti, ki so odredili pridržanje, niso zapisali, ali je bila osebi, ki je bila očitno poškodovana, ponujena zdravniška pomoč. DPM je menil, da je v primerih, ko gre za vidno poškodbo, vedno treba obvestiti zdravnika oziroma peljati pridržano osebo na pregled in oskrbo poškodb k zdravniku.

DPM je o vseh nedoslednostih, nepravilnostih in netočnostih obvestil Ministrstvo za notranje zadeve in dal priporočilo, da se v prihodnje točneje in dosledneje evidentirajo vsi podatki v dokumentaciji in da na to dodatno opozori vse policiste.

Na nekaterih PP smo opazili primere dobre prakse, in sicer:

- Dosledno izpolnjevanje rubrik uradnega zaznamka o pridržanju na PP Škofja Loka, v delu »nadzor pridržane osebe in ugotovitve« ter »druge ugotovitve in pripombe«, saj je iz njih mogoče razbrati vse dejavnosti policistov glede pridržane osebe (ponujena hrana, voda, nadzor ...).
- Za privedene osebe na PP Tolmin vodijo posebno ročno evidenco privedenih in vabljenih oseb na PP. Za vsako privedbo se izdelata posebna mapa, v kateri je shranjena vsa dokumentacija, ki se nanaša na konkreten primer.

Pritožbene poti

Policijske postaje imajo različno urejene pritožbene poti. Skoraj vse PP imajo knjigo pohval in pritožb (razen PP Kranj), ki je pri dežurnem policistu. Večina PP (razen PP Idrija, Jesenice, Kranj, Izola, Tolmin, Koper, Lenart) pa ima tudi nabiralnike, kar daje možnost pridržanim osebam anonimno podajo pritožbe/pohvale, prav tako lahko to izkoristijo tujci, ki sicer niso seznanjeni s slovenskimi predpisi o možnosti pritožb zoper delo uradnih oseb (ob predpostavki, da je nabiralnik tudi ustrezno označen v tujem jeziku). PP Škofja Loka prav tako nima nabiralnika, vendar so po pojasnilu sogovornika v postopku pridobitve nabiralnika. PP Ilirska Bistrica sicer nabiralnik ima, vendar na njem ni bil označen namen. DPM je predlagal, da se na nabiralnik namesti ustrezen napis.

Dostop do PP invalidom in parkirni prostori za stranke, tudi invalidne osebe

Razen na treh (Idrija, Grosuplje in Ruše) imajo vse druge PP ustrezen in urejen dostop za invalide. Na teh treh PP je dostop do dežurnega policista mogoč le po več stopnicah. Pred stopnicami ni niti zvonca, s katerim bi invalidni obiskovalec lahko poklical dežurnega policista. Dostop invalidne stranke je tako odvisen od tega, ali jo dežurni policist opazi na kameri ali če v PP po naključju pride še kakšna druga stranka in dežurnega policista obvesti o prihodu invalidne osebe. V vseh primerih mora dežurni policist zapustiti svoje delovno mesto, da se lahko pogovori z njo. DPM kot pozitivno ocenjuje urejen dostop za invalide in rezervirani dve parkirni mesti za invalide (PP Ptuj).

Delovne razmere za zaposlene

DPM je ugotovil, da policisti opravljajo delo v slabih delovnih razmerah na dveh PP (Izola in Jesenice), kjer jim niso zagotovljeni ustrezni garderobni prostori, na PP Jesenice pa policisti in policistke tudi nimajo ločenih garderobnih prostorov ter možnosti prhanja. Na PP Jesenice so garderobni prostori v garaži, ki je bila sicer za ta namen pregrajena, na PP Izola pa so majhne garderobne omare kar v sobi za policiste. V isti sobi se opravijo tudi pogovori s strankami, kajti PP nima posebne sobe za sprejem strank. DPM je ugotovil, da sta PP Izola in PP Jesenice med redkimi, ki nimata ustreznih delovnih razmer za policiste, in zato predlagal, da se na navedenih PP proučijo možnosti za čimprejšnje izboljšanje delovnih razmer.

Furthermore, inspection of an official note in PP Izola showed that the person had injuries or abrasions on the right fist and abrasions on the right knee at the time the detention had been ordered. It was also stated that the person suffered from depression. The DPM could not locate the information that should have been recorded by police officers as to whether the person, who was obviously injured, had been offered medical assistance. The DPM stated that, in cases of obvious injury, a doctor must be notified, or the detained person taken to a doctor for examination and treatment of injuries.

The DPM notified the Ministry of the Interior of all inconsistencies, irregularities and inaccuracies, and recommended that all information in the documentation be recorded more accurately and consistently in future and that police officers be additionally cautioned thereof.

Good practice examples were observed in some PPs:

- Consistently completing all sections of the official note on detention in PP Škofja Loka, in the sections 'Surveillance of detained person and findings' and 'Other findings and notes', as they indicate all the activities of police officers concerning the detained person (food and water offered, surveillance etc.)
- At PP Tolmin, they keep hard-copy records of persons apprehended and persons invited to the PP. A file is prepared for each apprehension containing all documentation related to the case.

Complaints procedures

The complaints procedures of police stations (PPs) vary. Almost all PPs keep a comments and complaints book (except PP Kranj) stored with the duty officer. Most PPs (except PP Idrija, Jesenice, Kranj, Izola, Tolmin, Koper, Lenart) also have boxes in which detained persons can file a comment/complaint anonymously; they may also be used by foreigners who do not know the Slovenian regulations on making complaints about the behaviour of public officials (assuming the collection box is appropriately labelled in other languages). PP Škofja Loka does not have a complaints box, but according to the discussion partner's explanation, they are in the process of obtaining one. PP Ilirska Bistrica has a box, but there was no label indicating its purpose. The DPM proposed that an appropriate label be put on the box.

Access to PPs for the disabled, and parking for clients, including the disabled

Except in three PPs (Idrija, Grosuplje and Ruše), all PPs have suitable and arranged access for the disabled. At these three PPs, there are several steps to cross to access the duty officer. There is no bell in front of the steps for disabled visitors to call the duty officer. Access for disabled clients thus depends on whether the duty officer sees the person on the CCTV camera, or if another client incidentally comes to the PP and notifies the duty officer that a disabled person is at the PP. In each case, the duty officer must leave his or her workplace to deal with the disabled person. Arranged access for the disabled and two parking spaces reserved for the disabled (PP Ptuj) is considered positive by the DPM.

Working conditions for employees

The DPM established that police officers work in poor working conditions in two PPs (Izola and Jesenice), where police officers do not have suitable changing room, and in PP Jesenice, where female and male police officers do not have separate changing rooms and showers. In PP Jesenice, the changing room is situated in the garage, which is divided by a wall for this purpose; in PP Izola, there are small lockers in the room for police officers. The same room is used for interviews with clients, since there is no separate room for this purpose in the PP. The DPM established that PP Izola and PP Jesenice are among the rare PPs which do not provide suitable working conditions for police officers, and therefore suggested that possibilities for prompt improvements to working conditions in them be considered.

Obiski psihiatričnih bolnišnic

Splošno

V letu 2011 smo obiskali dve psihiatrični bolnišnici, in sicer 27. 1. 2011 Psihiatrično bolnišnico Begunje (PB Begunje) in 18. 4. 2011 Psihiatrično bolnišnico Ormož (PB Ormož). Glavni namen teh obiskov je bil preveriti razmere na oddelkih pod posebnim nadzorom in ravnanje z osebami, nastanjenimi na teh oddelkih, da bi odpravili morebitne pomanjkljivosti, ugotovljene ob samem obisku.

Na poslani poročili smo prejeli odziva obeh bolnišnic, ki pa sta se odzvali le na manjši del pripomb in priporočil. Zato lahko upamo, da sta druga priporočila upoštevali. To bomo preverili pri naslednjem obisku. S končnim poročilom o obisku smo seznanili tudi Ministrstvo za zdravje in Razširjeni strokovni kolegij za psihiatrijo pri Ministrstvu za zdravje.

Prostorske razmere

PB Begunje ima dva oddelka pod posebnim nadzorom, in sicer moški (C1) in ženski oddelek (D). V sklopu zadnjega je oblikovan polodprti ženski oddelek (D1). Na vsakega od oddelkov pod posebnim nadzorom je mogoče namestiti po dve ležišči, namenjenih začasni namestitvi pacientov.

Ob obisku oddelkov pod posebnim nadzorom v PB Begunje smo ugotovili, da postelje, namenjene začasni namestitvi pacientov na teh oddelkih, sicer niso povsem enakovredne drugim posteljam na oddelku, vendar ustrezajo začasni namestitvi. Bolj nas je (predvsem na moškem oddelku pod posebnim nadzorom), presenetilo, da sta postelji nameščeni tako rekoč na hodniku. Tako ne omogočata nobene zasebnosti, čeprav le začasno nameščenima pacientoma. Kljub vidni prostorski stiski smo predlagali, da PB Begunje poskuša najti primernejšo rešitev za začasno namestitev pacientov. Prekoračitev zmogljivosti oddelka ne pomeni zgolj slabše kakovosti bivanja za druge paciente, ampak je še posebej neprijetna za ravnokar sprejetega pacienta, ki je tako še bolj izpostavljen. Odziva PB Begunje na te ugotovitve nismo prejeli.

Prostori na oddelkih pod posebnim nadzorom PB Begunje so bili čisti, obnovljeni, oprema je v dobrem stanju. Vendar so sobe na moškem oddelku pod posebnim nadzorom delovale pusto, skoraj sterilno, saj ni bilo opaziti nobenih slik ali osebnih predmetov. Osebe je takšno stanje opravičevalo z bojznijo, da bi bile slike (npr. fotografije, izdelki delovne terapije) lahko nevarne, če so na oddelku psihotični pacienti.

Res je, da so pacienti na oddelku pod posebnim nadzorom nameščeni praviloma krajši čas. Zato je razumljivo, da pacienti sobe, v kateri prebivajo, ne okrasijo z lastnimi osebnimi predmeti. Vendar pa smo poudarili, da bi lahko bolnišnica poskrbela, da bi se skupni prostori in praviloma tudi sobe polepšale z izdelki npr. delovne terapije. Tako okrasitev smo že videli v nekaterih drugih obiskanih bolnišnicah, pa tudi v PB Begunje na ženskem oddelku pod posebnim nadzorom. Do zdaj tudi še nismo bili seznanjeni z morebitnimi težavami, ki bi jih takšna okrasitev povzročala glede na zdravstveno stanje nekaterih pacientov. Tako smo predlagali, da bolnišnica sobe in skupne prostore opremi z izdelki delovne terapije, hkrati pa paciente tudi spodbudi, da prostor ob svoji postelji – če to seveda želijo, opremijo s svojimi osebnimi predmeti (fotografije in podobno). Tudi v tem delu se na ugotovitve oziroma predloge DPM bolnišnica ni odzvala.

Visits to psychiatric hospitals

General

In 2011, we visited two psychiatric hospitals, Begunje Psychiatric Hospital (PB Begunje) on 27 January 2011 and Ormož Psychiatric Hospital (PB Ormož) on 18 April 2011. The main purpose of these visits was to monitor the situation in secure wards and how persons accommodated in these wards were treated, with the aim of eliminating any potential irregularities established during the visit.

Both hospitals responded to the reports we sent to them, but only to a small number of comments and recommendations. We can only hope that they have implemented the other recommendations, which will be monitored during our next visit. The final report on the visit was also submitted to the Ministry of Health and to the Expanded Professional Board of Psychiatry at the Ministry of Health.

Spatial conditions

PB Begunje has two secure wards, a male ward (C1) and a female ward (D). A semi-open female ward (D1) is organised within the latter. Two beds intended for the temporary accommodation of patients can be placed in each secure ward.

During the visit to the secure wards in PB Begunje, we observed that beds intended for the temporary accommodation of patients to these wards are not the same as the other beds in the ward, but that they are suitable for temporary accommodation. We were more surprised by the fact that (particularly in the male secure ward) the beds were placed almost in the hallway. They do not provide any privacy for the patients, regardless of whether they are just temporarily accommodated. Despite the obvious overcrowding, we suggested that PB Begunje try to find a more appropriate solution for the temporary accommodation of patients. Exceeding the capacity of the ward not only leads to poorer living quality for other patients, but is particularly unpleasant for a patient who has just been admitted, and makes the patient even more exposed. PB Begunje has not responded to these findings.

Rooms in the secure wards in PB Begunje were clean and renovated, and the equipment is in good order. Nevertheless, the rooms in the male ward have a bleak, almost sterile atmosphere, as there were no pictures or personal items. The personnel made excuses for the situation, saying that pictures (e.g. photos, items made during occupational therapy) could be dangerous when psychotic patients are present in the ward.

It is true that the time the patients spend in the secure ward is usually short, so it is understandable that they do not use their own personal items to decorate the room in which they are accommodated. However, we pointed out that the hospital could provide for the decoration of common rooms and accommodation rooms with items made, for example, during occupational therapy. We have seen such decoration in some other hospitals, even in the female secure ward of PB Begunje. We have never been informed of any problems associated with the health condition of certain patients caused by such decoration. We therefore proposed that the hospital decorate accommodation rooms and common rooms with items made during occupational therapy, and encourage patients, if they wish, to place some personal items (photos and similar) next to their beds. Again, the hospital did not respond to these findings or the proposals of the DPM.

Oblačila pacientov v dnevnem času

V PB Begunje smo ugotovili, da so pacienti in pacientke na oddelkih pod posebnim nadzorom tudi podnevi v nočnih oblačilih (pižamah). Čeprav tovrstna oblačila zapoveduje tudi hišni red, pa je vodstvo bolnišnice poudarilo, da pacientom vseeno omogočajo vsaj delno uporabo dnevnega oblačila (ogrinjalo in podobno). Vodstvo bolnišnice meni, da je to vprašanje sporno in da je bilo o njem (še) premalo razprave. Poudarili so, da tudi stališče Razširjenega strokovnega kolegija za psihiatrijo pri Ministrstvu za zdravje (RSK za psihiatrijo) ni bilo enotno. Bolnišnica meni, da tu ne gre le za bolnike na oddelkih pod posebnim nadzorom. Tudi na drugih oddelkih so nekateri pacienti v pižamah, drugi v oblekah. So pa tudi oddelki, kjer so vsi v svojih oblekah. Vodstvo bolnišnice meni, da bi nekateri pacienti, če bi imeli svojo obleko, lahko hodili iz bolnišnice po alkohol. Sprašujejo se, ali je bolj »človeško« posameznika omejiti znotraj oddelka pod posebnim nadzorom ali pa mu omogočiti večji krog gibanja, a ga vseeno »omejiti« z uporabo pižame.

Ker veliko pacientov pride higiensko zanemarjenih, PB Begunje poskrbi za njihova oblačila v pralnici, ki jim to omogoča. Če je treba, jim tudi priskrbi čisto obleko. Vodstvo bolnišnice tako misli, da so pižame boljše za primere, ko se pacient ponečedi, torej tudi s higienskega vidika, še posebej pri akutnih primerih. Ker sta oddelka majhna, si prizadevajo, da bi bili pacienti na njih čim krajši čas. Zato tudi v pižamah praviloma niso dolgo. Velika želja po svoji obleki je praviloma le pri bolnikih, ki še niso sprejeli svojega bolezenskega stanja in zdravljenja. Z nasprotovanjem nošnji pižame poskušajo dokazovati, da so zdravi in da ne potrebujejo zdravljenja. Ko so premeščeni na odprti oddelok, nošnji pižame praviloma ne nasprotujejo več. Bolnišnica je tudi pripomnila, da v splošnih bolnišnicah ni izbire, saj morajo tam bolniki nositi pižamo. Opozarja, da bi tisti, ki bi ne mogli dobiti dnevne obleke oziroma jim iz nekega razloga nošnje dnevnega oblačila ne bi dovolili, to jemali kot krivico, da jo drugi imajo.

Razlogi PB Begunje, zakaj na oddelku pod posebnim nadzorom vztrajajo pri obvezni uporabi nočnega oblačila (pižame) tudi v dnevnem času, so lahko tehtni v posameznem primeru. Vendar pa smo tudi tokrat poudarili, da splošna ureditev, ko je nošnja nočnega oblačila na sprejemnem oddelku obvezna tudi podnevi, po našem prepričanju ni primerna. Znova smo opozorili na strokovno mnenje RSK za psihiatrijo, da je oblačilo, ki ga nosijo hospitalizirani na varovanih oddelkih psihiatričnih bolnišnic, izredno pomembno tudi za njihovo samopodobo in osebno dostojanstvo. Zato RSK tudi na teh oddelkih spodbuja nošnjo osebnih oblačil in jo utemeljuje s strokovnimi in humanističnimi dejavniki, razen v zelo izjemnih primerih, ko to otežujejo ali celo onemogočajo posebnosti telesnega zdravstvenega stanja bolnika oziroma potrebe po medicinskih posegih. RSK je še pojasnil, da spodbuja nošnjo osebnih oblačil tudi pri osebju na psihiatričnih oddelkih. S tem (strokovnim) stališčem se v celoti strinjamo. Zato smo predlagali, da o njegovem upoštevanju razmisli tudi PB Begunje. Hkrati smo predlagali, da bolnišnica spremeni hišni red tako, da na oddelkih pod posebnim nadzorom ne bo več splošne zapovedi nošnje bolnišničnih oblačil. To bo PB Begunje omogočilo, da pacientom, pri katerih bi bila nošnja dnevnih oblačil mogoča in smiselna, omogoči nošnjo tovrstnih oblačil (morebiti najprej delno, kot se glede na navedbe ob obisku že dogaja) in jih k temu tudi spodbuja. Bolnišnica se na naše pomisleke oziroma predloge ni odzvala.

V nasprotju s PB Begunje v PB Ormož bolniki, ki bivajo v odprtih oddelkih, lahko nosijo svoja oblačila, tisti v ženskem in moškem oddelku pod posebnim nadzorom pa nosijo bolniško trenirko in majico. V pižamah so le tisti, pri katerih je to medicinsko zapovedano. Po besedah direktorice sicer niso zapazili, da bi bilo zaradi civilne obleke kaj več pobegov iz bolnišnice, kot jih je sprva tudi skrbelo. Kot je DPM že večkrat poudaril, dnevna oblačila po našem prepričanju pripomorejo h krepitvi človekovega dostojanstva in samospoštovanja, zato pozdravljamo omogočanje oziroma spodbujanje pacientov k nošnji dnevnih oblačil (razen takrat, ko je potrebna stalna nega).

Patients' clothing during daytime

In PB Begunje, we observed that the patients in secure wards spent the day wearing night clothes (pyjamas). Although such clothing is prescribed by the house rules, the hospital management pointed out that the patients were allowed to wear, at least partially, daytime clothes (dressing gowns). The hospital management believe that this issue is disputable and has not been sufficiently discussed. They stressed that even the Expanded Professional Board for Psychiatry at the Ministry of Health (RSK for Psychiatry) are not unanimous on this issue. According to the hospital, the issue does not concern only patients in secure wards. In other wards, some patients wear pyjamas and some wear clothes. And there are wards where all patients wear their own clothes. The hospital management believe that if some patients wear their own clothes, they would go out of the hospital to buy alcohol. They wonder whether it is more 'humane' to limit an individual within a secure ward, or allow them a wider freedom of movement, but 'limit' them by using pyjamas.

Since many patients on admission are hygienically neglected, PB Begunje takes care of their clothing in the laundry. If necessary, clean clothes can be provided as well. According to the hospital management, pyjamas are more appropriate when a patient defecates, i.e. in terms of hygiene, especially in acute cases. Because the wards are small, the hospital makes an effort to reduce the time spent there to a minimum. So patients usually do not spend much time wearing pyjamas. Only patients who have not accepted their medical condition and therapy have a strong desire to wear their own clothes. By refusing to wear pyjamas, they try to prove they are healthy and do not need treatment. When they are transferred to the open ward, they usually stop refusing to wear pyjamas. The hospital also noted that general hospitals do not offer a choice; pyjamas are mandatory. They point out that patients who could not get daytime clothing or would not be permitted to wear them for any reason, while others could, would consider it unjust.

The reasons for PB Begunje making night clothes (pyjamas) mandatory wear during the day might be well-founded in particular cases. However, we emphasised that, in our opinion, the general regulation prescribing the mandatory wearing of night clothes in the reception ward also during the day is not appropriate. Again, we pointed out the opinion of the RSK for Psychiatry stating that clothes worn by hospitalised patients in secure wards of psychiatric hospitals are extremely important for their self-image and personal dignity. The RSK thus encourage the wearing of personal clothes in these wards and support this with professional and humanistic factors, except in rare cases when the particulars of a patient's physical health or need for medical treatment make it more difficult or even prevent it. The RSK also added that they encourage the personnel working at psychiatric wards to wear personal clothing. We fully agree with this (professional) point of view. We therefore proposed that PB Begunje consider implementing it. At the same time, we suggested the hospital amend the house rules to eliminate the general prescription to wear hospital clothes in the secure wards. PB Begunje will thus be able to allow patients for whom the wearing of daytime clothing is possible and reasonable to wear such clothes (perhaps partially at first, as already occurs, according to the indications during the visit) and encourage them to do so. The hospital has not responded to our considerations or proposals.

Unlike PB Begunje, patients in PB Ormož accommodated in open wards are allowed to wear their own clothes, and those in female and male secure wards wear hospital track suits and T-shirts. Pyjamas are worn only due to medical considerations. According to the manager, they have not noted an increased number of runaways due to ordinary clothing, as they had expected. As the DPM has stressed several times, we believe that daily clothes contribute to strengthening human dignity and self-respect; therefore, we are satisfied that patients are offered or encouraged to wear daytime clothing (except when constant care is required).

Vročanje priporočenih pošilk

Ko poštar prinese sklep sodišča, ga pacientu vroči osebje PB Begunje. Direktor hkrati dobi obvestilo, da je sklep prispel sodišča. Težava je le takrat, ko prejemnik noče podpisati, da je prejel pošiljko. Vendar ga k podpisu ne silijo. Če pacient pošiljke ni sposoben sprejeti, npr. zaradi demence, mu takšno pisanje sicer dajo, vendar on tega dejansko ne more sprejeti. Osebje bolnišnice se sprašuje, čemu sploh dajati takšnemu pacientu v podpis vročilnico. S pomisleki se strinjamo. Ne gre le za to, da pacient zaradi zdravstvenega stanja ni sposoben razumeti pomena vročitve in vsebine dokumenta, ampak z dnem »vročitve« lahko začnejo teči tudi roki, ki imajo zanj ali njegovo premoženje lahko daljnosežne posledice. Zato bi bilo smiselno, da bi se takšnemu pacientu v sodelovanju s pristojnim centrom za socialno delo (CSD) postavil skrbnik (kolikor ga še nima), ki bi ga bolnišnica o vročitvi nemudoma obvestila. Zato smo predlagali, da PB Begunje s pacientom, ki ni sposoben razumeti vsebine in pomena vročene pošiljke, nemudoma seznani pristojni CSD, ki mu bo postavil skrbnika. Nato lahko s prispelo priporočeno pošiljko seznani skrbnika, ki mora skrbeti za pravice in interese oskrbovanca.

Obveščanje v primeru pridržanja

Obvestilo sodišču PB Begunje pošlje po pošti (z navadno pošto). Sodišče je potrdilo, da je to zanje sprejemljivo, in od takrat tako ravnajo. Rok za obvestilo, kot ga določa ZDZdr, bolnišnica šteje od trenutka pridržanja pacienta. V štirih urah mora zdravnik obvestilo o pridržanju oddati v pisarno bolnišnice, kjer poskrbijo za odpošiljanje obvestila sodišču. Vendar običajno traja več ur ali konec tedna celo več dni, da pošiljko res prevzame pošta. Med delavniki je to zjutraj, ob koncu tedna pa obvestilo čaka na prvi delovni dan. Bolnišnica direktorja o pridržanju obvesti v štirih urah, vendar mu v tem roku zgolj pusti sporočilo o pridržanju na njegovi mizi v pisarni. Tudi v tem primeru lahko traja več ur ali celo dni, ko direktor obvestilo dejansko prejme. Če je bil nekdo pridržan v petek popoldne, prejme direktor obvestilo po navadi šele v ponedeljek zjutraj. PB Begunje je pojasnila, da bodo tudi zastopnike obveščali po pošti, vendar njihovih naslovov še nimajo, le telefonske številke.

PB Begunje je pojasnila, da je način obveščanja, kot ga določa ZDZdr, neustrezen in dejansko neizvedljiv. Zato so se pred časom obrnili na Ministrstvo za zdravje in predlagali, da direktor za obveščanje sodišča pooblasti posamezne zdravnike. Ministrstvo na predlog Bolnišnice ni imelo pripomb. Tudi PB Ormož je opozorila, da so predvsem glede obveščanja v ZDZdr predpisani roki neživljenjsko kratki. Ob sprejemih proti volji poskušajo vsakemu pacientu razložiti celoten postopek že v sprejemni ambulanti, pozneje pa še na oddelku, ko se pacient sam prepriča, kam je prispel. Tako naj bi ti pacienti pogosto potem prav na oddelku podpisali privolitev.

Prekoračitev rokov, določenih v ZDZdr, je nedopustna. Člen 58 ZDZdr določa, da mora ob sprejemu na zdravljenje v nujnih primerih sprejemni zdravnik v štirih urah obvestiti direktorja psihiatrične bolnišnice. To seveda pomeni, da mora biti direktor v tem roku o sprejemu tudi dejansko obveščen (puščanje obvestila na mizi po naši presoji nikakor ne zadošča, da bi lahko šteli, da je bil direktor obveščen), saj s trenutkom prejema obvestila nastane njegova obveznost, da o sprejemu takoj obvesti pristojno sodišče. V PB Begunje je za obveščanje sodišča direktor pooblastil posamezne zdravnike. Če bi zaradi hitrosti (obveščanja) lahko sprejeli takšno ravnanje, pa to dejansko pomeni, da mora pooblaščen zdravnik sodišče obvestiti TAKOJ po sprejemu pacienta na zdravljenje brez privolitve. Zato rok štirih ur za obveščanje po prepričanju DPM v tem primeru ne pride v poštev. Še več, zgolj puščanje obvestila v pisarni PB Begunje, kjer čaka, da bo oddano, ko pač bo, je povsem nesprejemljivo in v nasprotju z zakonom. Zato smo predlagali, da se PB Begunje s pristojnim sodiščem dogovori o načinu takojšnjega obveščanja, potem pa se naknadno lahko obvestilo pošlje

Delivery of registered items

When the postman delivers a court decision, the personnel of PB Begunje deliver it to the patient. At the same time, the manager receives a notification that a court order has arrived. A problem may arise if the recipient refuses to sign the receipt for the post. However, the patient is not pressed to sign. If the patient is not able to accept the post, e.g. due to dementia, the letter is given to them, but in fact they are unable to receive it. The hospital personnel wonder why such patients are requested to sign the return receipt. We agree with the considerations. This is not only a matter of the patient's medical condition preventing him or her from understanding the meaning of the delivery and contents of the document; some time limits that may have long-term consequences for the patient and his or her property may begin on the date of delivery. It would thus be reasonable to provide such a patient, in cooperation with the competent social work centre (SWC), with a custodian (if he or she does not have one) to be notified immediately by the hospital of a delivery. We proposed that PB Begunje promptly inform the competent SWC of any patient who is not able to understand the contents and meaning of the delivered post, which should assign a custodian to the patient. The custodian, who has to provide for the rights and interests of the person entrusted to him or her, can later be informed of the arrival of registered post.

Notification in case of detention

The court notifies PB Begunje by regular mail. The court found this acceptable and the hospital has done accordingly since. The hospital counts the notification time limit as specified by ZDZdr from the time of the patient's detention. Within four hours, the doctor must submit the notification on detention to the hospital's office, where delivery to the court is taken care of. However, it usually takes several hours, or even days during weekends, for the item to be posted. During working days, the notification is posted in the morning, and at weekends, it waits for the first working day. The hospital notifies the manager on the detention within four hours, but only a notification on detention is put on the table in his office in this period. Also in this case, it may be several hours or even days before the manager actually receives the notification. If someone has been detained on Friday afternoon, the manager does not usually receive the notification before Monday morning. PB Begunje explained that the representatives would be notified by mail, but the hospital still does not have their addresses, only telephone numbers.

PB Begunje explained that the method of notification as prescribed in ZDZdr is inappropriate and not really practicable. For this reason, they turned to the Ministry of Health some time ago and suggested that the director authorise certain doctors for the notification of the court. The Ministry had no objections to the hospital's proposal. PB Ormož also stressed that the time limits as prescribed in ZDZdr concerning notification are unrealistically short. Upon admissions without consent, they try to explain to each patient the entire procedure in the reception dispensary, and later in the ward when the patient is assured of his or her whereabouts. Such patients then often sign the consent in the ward.

Exceeding the time limits as specified in ZDZdr is inadmissible. Article 58 of ZDZdr sets out that the admitting doctor must inform the manager of the psychiatric hospital within four hours of the admission to urgent treatment. This means that the manager must actually be informed within this period (we believe that leaving a notification on the table does not constitute sufficient notification of the manager), as at the time of receipt of the notification his obligation arises to inform the competent court of the admission immediately. In PB Begunje, the manager authorised certain doctors to notify the court. If such conduct is to be accepted for reasons of speed (notification), it means that the authorised doctor must notify the court of the admission without consent IMMEDIATELY after admission. According to the DPM, in this case, the four-hour time limit for notification should not apply. Furthermore, merely leaving the notification in the office of PB Begunje to wait to be delivered whenever that so happens is completely unacceptable and illegal. We therefore suggested that PB Begunje agree with the competent court on the method of prompt notification; afterwards, the notification may be sent (also) by mail.

(še) po pošti.

Ob tem bi PB Begunje morala upoštevati tudi zahtevo ZDZdr o obveščanju najbližje osebe, zakonitega zastopnika in zastopnika v štirih urah od sprejema pacienta. Zato smo predlagali, da bolnišnica nemudoma pridobi naslove zastopnikov, določenih po ZDZdr, in jih začne o sprejemih tudi takoj obveščati.

PB Begunje je v odgovoru na predhodno poročilo navedla, da ima naslove zastopnikov. Vendar meni, da bi bilo obveščanje zastopnika (brez predhodne odločitve pacienta za enega izmed njih) neprimerno in celo v nasprotju z zakonom. Če si pacient(ka) zastopnika izbere, pa ga obvesti o vseh relevantnih postopkih.

Pomisleki bolnišnice so sicer lahko utemeljeni. Vendar ob tem opozarjamo na določilo 7. člena ZDZdr, da lahko pacientu, ki si ne izbere sam zastopnika, tega določi najbližja oseba. Poleg tega menimo, da pri pacientih, ki si zastopnika kljub ponujeni možnosti (ob sprejemu v bolnišnico, lahko pa tudi pozneje) ne izberejo, lahko bolnišnica vseeno o pridržanju obvesti enega izmed zastopnikov. Namen zastopnikov je namreč predvsem skrb za pacienta in njegove pravice. Pacientu da informacije o njegovih pravicah, omejitvah teh pravic in posameznih postopkih. Če se pacient z obveščenim zastopnikom ne bo strinjal, mu ne bo podpisal pisnega pooblastila in se bo lahko za nadaljnjo pomoč obrnil na drugega (izbranega) zastopnika ali pa se pravici do njega celo odpovedal.

O pacientkah, ki jih sprejmejo ali premestijo na polodprti oddelek (D1), PB Begunje ne obvešča sodišča. Vendar po zagotovilih bolnišnice na oddelek ni mogoče sprejeti nikogar, če še nima odločbe sodišča oziroma če v sprejem ne privoli. Pacientke ob tem obvestijo o polodprti naravi oddelka, poleg tega pa se morajo strinjati z namestitvijo. Čeprav je polodprti oddelek zaklenjen le ponoči, je s tem pacientkam vsaj v tem času omejena svoboda gibanja. Zato ta oddelek ohranja (vsaj delno) naravo oddelka pod posebnim nadzorom. Predlagali smo, da PB Begunje zagotovi, da so na ta oddelek nastanjene le pacientke, ki s takšno nastanitvijo pisno soglašajo oziroma o njihovi nastanitvi na oddelek pod posebnim nadzorom odloči sodišče. Bolnišnica na ta predlog DPM ni odgovorila.

V PB Ormož oddelek za psihogeriatrijo šteje za odprtega, ker se vhodno-izhodna vrata ne zaklepajo. Vendar pa so nam hkrati pojasnili, da tamkajšnje paciente ustavijo in napoti nazaj vanj, ko ga želijo zapustiti. Zgodilo se je sicer že, da je kakšen pacient neopaženo »odtaval« z oddelka in so ga morali iskati. Zato razmišljajo tudi o uvedbi 'varnostnih zapestnic' in 'preprog' pred posteljami (ki zaznajo premikanje pacientov). Tako želijo vzpostaviti celovit varnostni sistem (kot so ga videli v podobnih ustanovah v tujini), pri katerem bi, ko bi pacient prestopil določeno mejo, zasvetila lučka. Osebe bi bilo tako vselej opozorjeno in bi poskrbelo, da pacientu ne bi uspelo oditi.

DPM vztraja pri že večkrat izraženem razumevanju varovanega oddelka oziroma oddelka pod posebnim nadzorom. Kadar pacient oddelka ne more zapuščati po lastni volji, po našem mnenju ni mogoče več trditi, da mu dejansko ni omejena svoboda gibanja. V konkretnem primeru bi to veljalo tudi ob morebitni uvedbi elektronskih zapestnic. Bistvena okoliščina v omejitvi gibanja je dejanska posledica za stanovalca oziroma pacienta, ne metoda, s katero se ta doseže. Posledično to pomeni, da je treba takšen režim bivanja v bolnišnici urediti v skladu z Zakonom o duševnem zdravju (ZDZdr). Bolnišnica na to stališče DPM ni odgovorila.

Posebni varovalni ukrepi (PVU)

PVU lahko po ZDZdr traja največ štiri ure. Po štirih urah se ukrep ne more nadaljevati, temveč je treba pacienta odfiksirati in ga nato, če je treba, znova fiksirati. Takšna ureditev je po mnenju PB Begunje slaba. Odfiksirati je treba namreč tudi bolnika, za katerega je očitno, da je še vedno nemiren. S tem se izpostavlja nevarnosti poškodbe pacient in tudi osebe. Imeli so pacienta, ki je bil fiksiran trikrat po štiri ure.

PB Begunje should also observe the requirement of ZDZdr concerning the notification of the person's next of kin, legal representative and representative within four hours of admission. We proposed that the hospital immediately obtain the addresses of the representatives specified according to ZDZdr and begin to notify them promptly on the admission.

In its response to the preliminary report, PB Begunje stated that they had the representatives' addresses. However, they believe that notification of the representative (without the patient first selecting one of the representatives) would be inappropriate and even illegal. If the patient has chosen his or her representative, the latter is notified on all relevant procedures.

The considerations of the hospital might be justified. However, we point out the provision of Article 7 of ZDZdr which states that a patient who does not choose his or her representative may be assigned one by his or her next of kin. Moreover, we believe that for patients who, despite having the opportunity to choose a representative (upon admission to the hospital or later), do not choose one, the hospital may still inform one of the representatives of the detention. The aim of the representatives is to take care of the patient and his or her rights. They provide patients with information on their rights, the limitations of these rights and on particular procedures. If the patient rejects the representative who has been notified, he or she will not sign the written authorisation and will turn to another (chosen) representative or even waive this right.

PB Begunje does not notify the court of female patients admitted or transferred to the semi-open ward (D1). However, according to the hospital's assurances, no one may be admitted to the ward without consent or without a court decision. The female patients are informed of the semi-open nature of the ward, and they must agree to be accommodated there. Although the semi-open ward is locked only at night, the patients' freedom of movement is partially restricted. Therefore, this ward maintains (at least partially) the nature of a secure ward. We suggested that PB Begunje ensure that only patients who agree with such accommodation in writing, or when the court decides on their accommodation to the secure ward, be accommodated there. The hospital has not responded to this proposal of the DPM.

In PB Ormož, the psychogeriatric ward is considered open, as the entrance is not locked. Nevertheless, they explained that female patients from this ward are stopped and returned when they want to leave. Patients have 'wandered off' the ward without being seen, and a search had to be made for them. For this reason, the use of 'safety wristbands' and 'carpets' in front of the beds (which detect the movement of patients) are being considered. This would enable an integral security system (such as seen in similar institutions abroad) to be created, which would indicate by a flashing light when a patient crossed a certain limit. The personnel would always be notified and would prevent the patient from leaving.

The DPM insists on the previously expressed understanding of a secure ward. When patients cannot leave whenever they wish, it is not possible to say that their freedom of movement is not restricted. In this particular case, this would hold true if electronic wristbands were introduced. The key circumstance in the restriction of movement is the actual consequence for the resident or patient, not the method of achieving restriction. In consequence, this means that this accommodation regime in the hospital should be regulated according to the Mental Health Act (ZDZdr). The hospital has not responded to this view of the DPM.

Special protection measures (PVU)

According to ZDZdr, PVU may last up to four hours. After four hours, the measure cannot be prolonged and the patient must be released and, if necessary, later restrained again. According to PB Begunje, this arrangement is bad. Even a patient who is obviously still restless must be released. Both patient and personnel risk injuries. They had a patient who was restrained three times for four hours.

Z opozorili bolnišnice se strinjamo. Ustrezen redni pregled fiksiranega (telesno oviranega) pacienta, ki ga izvaja zdravnik vsake štiri ure (ali tudi pogostejše), je nedvomno nujen. Ravno tako je prav, da ta po pregledu pacienta odredi, ali se fiksacija nadaljuje ali prekine. Določbo 29. člena ZDZdr je res mogoče razumeti (zgolj) tako, da je fiksacijo vsake štiri ure treba prekiniti in jo po potrebi ponovno uvesti. Ob tem se postavlja vprašanje, ali je (obvezna) sprostitev telesnega oviranja res vedno najboljša možnost, saj bi lahko pomenila tudi nevarnost za osebje ali za samega pacienta. Pomisleki stroke po prepričanju DPM zahtevajo ponovno presojo zdajšnje zakonske ureditve in morebitno spremembo.

Poudarjamo pozitivno prakso PB Begunje, ki svoje znanje in ravnanje pri fiksaciji pacienta poskuša prenesti tudi na druge bolnišnice. Opažajo, da pridejo pacienti iz drugih (splošnih) bolnišnic k njim z odrgninami, kar je očitno posledica privezovanja z rjuhami. Izobraževanja organizirajo za zaposlene v splošnih bolnišnicah in v domovih za starejše, da bi tudi tam znali pravilno uporabljati fiksacijske metode. Ob tem znova izpostavljamo potrebo, da se uporaba posebnih varovalnih ukrepov zakonsko uredi tudi v primerih, ki jih ne določa ZDZdr, torej zunaj psihiatričnih in socialnih zavodov.

Ob pregledu dokumentacije konkretnega primera fiksacije smo ugotovili, da je ta skupaj trajala 17 ur in pol. Obveščena sta bila direktor PB Begunje in najbližja oseba (obrazec Obvestilo o posebnem varovalnem ukrepu). Ni pa bil obveščen zastopnik po ZDZdr, po pojasnilih bolnišnice zato, ker se pacient ni bil sposoben izreči, katerega zastopnika želi. V drugem primeru so bili o izvedenem PVU obveščeni direktor, najbližja oseba in zastopnik. Predstavniki PB Begunje so pojasnili, da o fiksaciji, ki s prekinitvami na štiri ure traja dalj časa, obveščajo osebe po ZDZdr vsakih 12 ur. Že ob samem obisku smo opozorili, da bi bilo obveščanje treba izvajati na štiri ure, saj se dejansko ukrep vsake štiri ure izvede na novo. To opozorilo (kljub pomislekom o smiselosti ponovne uvedbe vsake štiri ure, ki smo jih navedli zgoraj), smo ponovili tudi v poročilu DPM. Odziva bolnišnice nismo prejeli.

V PB Ormož se med posebnimi varovalnimi ukrepi po ZDZdr uporablja telesno oviranje s pasovi segufix. Po zagotovilih direktorice se največkrat uporabi samo trebušni pas, okončine naj bi fiksirali le izjemoma.

V ženskem oddelku pod posebnim nadzorom PB Ormož fiksirano pacientko namestijo v enoposteljno sobo, če je takih pacientk več hkrati, pa se za njihovo namestitev uporabi sedemposteljna soba. Pri tem nadzor nad fiksacijo izvajajo medicinske sestre, ki med gibanjem po oddelku (po)gledajo tudi skozi takrat stalno odprta vrata. Na moškem sprejemnem oddelku se fiksacija izvaja na postelji pacienta, nadzor pa izvaja sobna sestra.

Poudarjamo, da nadzor fiksiranega pacienta ob stalno odprtih vratih ni najboljša rešitev, predvsem zato, ker fiksiranega pacienta lahko gledajo tudi drugi pacienti, kar gotovo vpliva na njegovo dostojanstvo. Boljša rešitev bi bila uvedba video- in avdionadzora, najboljša pa ureditev sobe za fiksacijo poleg sestrške sobe, kjer bi bil mogoč stalen nadzor pacienta skozi stekleno pregrado. Odziva bolnišnice na te navedbe nismo prejeli.

Po pojasnilih PB Ormož se PVU izvajajo le krajši čas in tako svojcev o tem večinoma niti ne obveščajo. To naj bi storili le, če je fiksacija daljša od 12 ur. V zvezi s tem smo poudarili, da ZDZdr take prakse ne dopušča. PVU-telesnega oviranja s pasovi ne sme trajati več kot štiri ure (po poteku tega časa zdravnik preveri utemeljenost ponovne uvedbe PVU), najpozneje v 12 urah pa mora zdravnik, ki je ukrep odredil, pisno obvestiti direktorja psihiatrične bolnišnice, najbližjo osebo, odvetnika in zastopnika. Rok 12 ur je za obveščanje določen kot (skrajni) rok, v katerem mora biti obveščanje izvedeno. Obveščanje v zakonu navedenih oseb mora biti torej izvedeno vedno, ko se uprabi PVU prišlo, in ne samo takrat, ko ukrep traja 12 ur ali več.

We agree with the hospital's warnings. Adequate regular monitoring of a physically restrained patient performed by a doctor every four hours (or more often) is undoubtedly necessary. It is also correct that, after checking the patient, the doctor orders the restraint to be continued or discontinued. The provision of Article 29 of ZDZdr may be understood (only) as the obligatory discontinuation of restraint every four hours and repeated implementation of it if necessary. This raises the question of whether the (obligatory) discontinuation of physical restraint is the best option, as it can present a danger to the personnel or the patient. According to the DPM, professional considerations require a reassessment of the current regulation and potential amendment.

We emphasise the positive practice in PB Begunje, which tries to transfer its knowledge and conduct in restraining patients to other hospitals. They notice that patients from other (general) hospitals come to them with abrasions, which is obviously a consequence of being tied with sheets. They organise training for employees from general hospitals and nursing homes to teach them how to use restraint methods correctly. Once again, we stress the need to regulate the use of special protection measures in cases not specified in ZDZdr, i.e. outside psychiatric and social institutions.

In reviewing the documentation of a particular case of restraint, we found it had lasted a total of seventeen and a half hours. The manager of PB Begunje and the next of kin were notified (the Notification on a Special Protection Measure form). However, the representative under ZDZdr was not notified; according to the hospital's explanation, the patient was unable to choose a representative. In another case, the manager, the next of kin and the representative were notified. The representatives of PB Begunje explained that persons under ZDZdr are notified every 12 hours of long-lasting restraint, with interruptions every four hours. During the visit, we pointed out that notification should have been performed every four hours, as the measure is implemented anew every four hours. This warning (despite the consideration of the rationality of the repeated implementation every four hours stated above) was repeated again in the DPM report. The hospital has not responded.

In PB Ormož, physical restraint with segufix belts is used among the special protection measures under ZDZdr. According to the manager, the abdominal belt alone is used most commonly, and the extremities are restrained only in extreme cases.

In the female secure ward of PB Ormož, the restrained patient is accommodated in a single-bed room; if there are more patients, a seven-bed room is used to accommodate them. Restraint is monitored by nurses who look through the open door of the room while walking around the ward. In the male reception ward, restraint is carried out on the patient's bed and monitored by a nurse.

We emphasise that monitoring of a restrained patient while the door is constantly open is not the best solution, particularly since the patient is visible to others, which certainly affects their dignity. It would be better to introduce video- and audio-surveillance, or, optimally, to arrange a restraint room next to the nurses' room, which would allow constant monitoring of the patient through a glass dividing wall. The hospital has not responded to these statements.

According to the explanations of PB Ormož, PVUs last only for shorter periods, so relatives are usually not even notified. They would be notified only if the restraint lasted more than 12 hours. In this respect, we underlined that this practice is not permitted under ZDZdr. A PVU of physical restraint with belts may not be imposed for more than four hours (after this period, a doctor verifies the justification for a renewal of a PVU), and the ordering doctor must notify the manager of the psychiatric hospital, the next of kin, a lawyer and a representative in writing. The period of 12 hours is specified as the (extreme) deadline for notification. Notification of persons according to the law must always be carried out when a PVU has been implemented and not only when the measure continues for 12 hours or more.

Pritožbene poti

Na oddelkih v PB Begunje so nameščeni nabiralniki za pritožbe. Za praznjenje skrbi diplomirana medicinska sestra. Opozorili pa smo, da bi bilo prav, da bi bilo na nabiralnikih bolj jasno označeno, čemu so namenjeni. Glede na podobo nabiralnika bi posameznik lahko menil, da je ta namenjen oddaji pošte.

Glede spolnega nasilja v PB Begunje do zdaj niso imeli veliko pritožb. Občasno je prišlo do verbalnega nadlegovanja, telesnega stika ni bilo. Pred kratkim pa je pacient dal pritožbo, da ga je posilila pacientka. Pacient je poklical policijo, v bolnišnici se je zglasil kriminalist in se z njim pogovoril. Pritožba ni bila realna, šlo je za psihotičnega pacienta. Kljub takšnemu izidu dogodka pa menimo, da bi bilo dobro, da bi za podobne primere imeli izdelano klinično pot, na kar smo bolnišnico opozorili že ob našem obisku. Ker odziva bolnišnice nismo prejeli, ne vemo, ali je upoštevala dana priporočila. To bomo vsekakor preverili ob naslednjem obisku. V PB Ormož smo z zadovoljstvom ugotovili, da so bili na oddelkih nameščeni nabiralniki z napisom »Pritožbe, pohvale in ideje«, ki pacientom omogočajo anonimno podajo pritožb v zvezi z bivanjem v bolnišnici.

Drugo

V PB Begunje so nam glede verske oskrbe pacientov pojasnili, da do zdaj pri pripadnikih drugih veroizpovedi ni bilo želje po verski oskrbi. Če pa bi kdo takšno željo izrazil, ne bi ovirali prihoda predstavnika njegove veroizpovedi. Ob tem smo pozdravili, da je v lični zloženki o PB Begunje, ki jo pacienti prejmejo ob sprejemu, navedena oseba (oddelčna sestra), na katero se lahko obrne pacient glede duhovne oskrbe. Z zadovoljstvom smo tudi ugotovili, da je PB Ormož upoštevala naša priporočila, ki smo jih dali ob obisku leta 2008. Tako je poskrbljeno, da pokojnik ne leži več v bolniški sobi, ampak je premeščen v za to posebej namenjen prostor, dokler ga ne odpeljejo v mrtvašnico. Prav tako so upoštevali tudi priporočilo, naj odpustnic z zdravljenja ne pošiljajo več v ovojnicah s štampljko bolnišnice.

Complaints procedures

Collection boxes for complaints are installed in the wards at PB Begunje. A registered nurse empties them. We pointed out that the purpose of collection boxes should be more clearly marked. The collection box could easily be confused with a mail box.

There were few complaints in PB Begunje regarding sexual violence. Sometimes, there was verbal harassment, but no physical contact. Recently, a male patient complained of having been raped by a female patient. He called the police, and a criminal investigator came to the hospital and talked to him. The complaint was not genuine; the patient was psychotic. Despite this outcome, we believe that a clinical pathway should be prepared for similar cases, which we emphasised already during the visit. As the hospital did not respond, we do not know whether our recommendations have been implemented. This will be certainly monitored on our next visit. In PB Ormož, we observed with satisfaction that collection boxes marked with 'Complaints, commendations and ideas' were installed in the wards, which enables patients to file anonymous complaints about the hospital.

Other

Concerning religious care in PB Begunje, we were told that none of the patients of other religions expressed a wish for religious care. If anyone were to express such a wish, a representative of their religion would not be prevented from coming. We welcomed the fact that a person (ward nurse) is indicated as the contact person regarding religious care in a nice brochure on PB Begunje which patients receive upon admission. We were also satisfied to learn that PB Ormož has implemented our recommendations from the visit in 2008. A deceased patient no longer lies in the hospital room, but is instead transferred to a room intended for this purpose until taken to the morgue. They also observed the recommendation that treatment discharges are no longer sent in envelopes with the hospital stamp.

Obiski posebnih socialnovarstvenih zavodov

V letu 2011 smo obiskali tri posebne socialnovarstvene zavode (zavod): Dom Lukavci (4. 5. 2011), Socialnovarstveni zavod Hrastovec (SVZ Hrastovec) (28. 7. 2011 in pozneje še 19.10.2011), Dom Prizma Ponikve (27. 10. 2011) in kombinirani zavod Doma upokojencev Podbrdo, Enoto Petrovo Brdo (Enota) (24. 11. 2011).

Vsi obiski zavodov so bili nenapovedani, razen prvega obiska SVZ Hrastovec. Pri vseh so sodelovali predstavniki izbranih nevladnih organizacij. Obiski so vključevali pogovor z vodstvom, ogled varovanih in drugih oddelkov ter drugih prostorov Zavoda ter pogovore z naključno izbranimi stanovalci.

O vsakem obisku smo pripravili predhodno poročilo, ki smo ga posredovali obiskanemu zavodu s predlogom, da ga obravnava ter nas obvesti o svojih stališčih do ugotovitev in predlogov DPM. S končnim poročilom, ki je vključevalo tudi odziv Zavoda, pa smo seznanili Ministrstvo za delo, družino in socialne zadeve.

Vse navedene zavode je Varuh obiskal že v letih od 2007 do 2009. Za obisk Zavoda Hrastovec in Lukavci v vlogi DPM smo se odločili, ker smo bili seznanjeni, da stanovalci bivajo tudi na varovanih oddelkih, za druga dva pa smo se odločili za obisk, zato da bi ugotovili, ali so od našega zadnjega obiska morda vzpostavili varovani oddelki oziroma ali se osebam na drug način omejuje svoboda gibanja. V Domu Prizma Ponikve nismo ugotovili, da bi imeli prostore ali izvajali dejavnosti, s katerimi bi bila posameznim stanovalcem omejena svoboda gibanja, zato nadzora v vlogi DPM nismo nadaljevali. V Enoti Petrovo Brdo pa smo ugotovili, da Zavod sicer nima klasičnega varovanega oddelka, vendar po navedbah vodstva nekateri stanovalci Enote ne morejo samostojno zapustiti. Predlagali smo, da bi bilo te stanovalce zato treba ali premestiti na varovani oddelki druge enote Zavoda ali pa o njihovem omejevanju svobode gibanja obvestiti sodišče, skladno z določbami Zakona o duševnem zdravju (ZDZdr). Zavod je v odzivnem poročilu zapisal, da so se o našem predlogu pogovorili z lečečo psihiatrinjo in skupaj z njo ugotovili, da trenutno nihče od stanovalcev ne potrebuje pridržanja na varovanem oddelku. Ob morebitnem poslabšanju duševnih stanj pa nameravajo stanovalcem pojasniti razloge za omejitve gibanja, in če bodo sposobni pojasniti razumeti, pridobiti njihovo soglasje. V nasprotnem primeru pa bodo obveščali sodišče, kakor smo predlagali.

Problematika, ki smo jo zaznali ob obiskih navedenih zavodov

V enem izmed obiskanih zavodov je vodstvo izpostavilo pereče vprašanje nameščanja stanovalcev na varovani oddelki brez privolitve na podlagi sklepa sodišča, čeprav zavod nima prostih zmogljivosti. Varuh je v zvezi s tem že podal mnenje, da je takšna ureditev sprejemov na varovani oddelki pomanjkljiva. Na neprimerno zakonsko ureditev je opozoril tudi Ministrstvo za zdravje in Ministrstvo za delo, družino in socialne zadeve. Zadnje nas je maja 2011 seznanilo, da naj bi bila v pripravi rešitev omenjene problematike z vzpostavitvijo mreže varovanih oddelkov v posebnih socialnovarstvenih zavodih, ki bo enakomerno pokrila celotno območje države in zagotovila zadostno število zmogljivosti za tovrstne namestitve.

Zavodi so nas ob obiskih nadalje seznanili s tem, da se v zadnjih letih povečujejo potrebe po nastanitvi vse starejših ljudi s številnimi zdravstvenimi težavami, na drugi strani pa je čedalje več mlajših stanovalcev s težavami z zasvojenostjo. Nastanitev starejših zahteva več zdravstvenonegovalnega kadra, pri mlajših pa pogosteje nastajajo konfliktne situacije zaradi agresivnega vedenja in verbalnega nasilja do zaposlenih. Kjer so slabše še bivalne razmere, je zaradi generacijskih razlik problematika še bolj pereča. Zavodi poskušajo navedene težave reševati tako, da o tem dodatno izobražujejo zaposlene, zanje organizirajo supervizijo in intervizijo.

Visits to special social care institutions

Three special social care institutions were visited in 2011: Dom Lukavci institution (4 May 2011), Hrastovec Social Care Institution (SVZ Hrastovec) (28 July 2011 and again on 19 October 2011), Dom Prizma Ponikve institution (27 October 10. 2011) and the combined institution of Podbrdo Nursing Home, the Petrovo Brdo Unit (the Unit) (24 November 2011).

All visits to the institutions were unannounced, except the first one to SVZ Hrastovec. Representatives of the selected non-governmental organisations participated in all visits. The visits included an interview with the management, the inspection of secure and other wards and other rooms of the institution, and interviews with randomly chosen residents.

A preliminary report was prepared after each visit and submitted to the visited institution; we suggested they consider it and notify us on their views of the findings and proposals of the DPM. The final report, including the institution's report, was then submitted to the Ministry of Labour, Family and Social Affairs.

The Ombudsman had already visited all of the above institutions in the period from 2007 to 2009. We decided to visit Hrastovec and Lukavci in the capacity of the DPM because we were informed that the residents were also accommodated in secure wards; and we decided to visit the latter two to learn whether they had established a secure ward since our last visit, or whether there was another method of restricting freedom of movement. In Prizma Ponikve Home, we did not observe rooms or activities aimed at restricting the residents' freedom of movement and therefore did not continue monitoring in the capacity of the DPM. In the Petrovo Brdo Unit, we found that the institution does not have a secure ward in the usual sense, but the management, state that some residents may not leave the Unit unaccompanied. We suggested either moving these residents to a secure ward of another unit of the institution or notifying the court of their restricted freedom of movement, in accordance with the provisions of the Mental Health Act (ZDZdr). In its response report, the institution stated that they had discussed our proposal with the treating psychiatrist, and it had been agreed that none of the residents needed detention in a secure ward. If the mental conditions of a resident deteriorate, they intend to explain to them the reasons for their restricted freedom of movement and, if they are able to understand, obtain their consent. Otherwise, they would notify the court as proposed.

Problems found during visits to the institutions

The management of one of the institutions raised the grave issue of accommodating residents in the secure ward without consent based on a court order, despite the lack of vacancies. The Ombudsman has already given an opinion on this matter, stating that such regulation of admissions to the secure ward is deficient. The Ministry of Health and the Ministry of Labour, Family and Social Affairs have also been notified of the inadequate regulation. In May 2011, the latter informed us that a solution to this problem was being prepared in order to establish a network of secure wards in special social care institutions which would uniformly cover the country and provide sufficient capacity for such accommodation.

During our visits, the institutions informed us of the growing need for the accommodation of increasingly older people with numerous health problems and, on the other hand, of the growing number of younger residents with addiction problems. The accommodation of elderly people requires more health care personnel, while conflict situations arise in regard to younger people due to aggressive behaviour and verbal violence towards personnel. Where the accommodation situation is poor, generational differences exacerbate the problems. The institutions try to resolve these issues by providing additional training for employees, and organise supervision and intervention for them.

V obeh zavodih, ki imata varovane oddelke, smo ugotovili, da še vedno nastajajo zamude pri obveščanju sodišč o namestitvah na teh oddelkih, v enem izmed njiju pa je prišlo ob podaljšanju namestitve do zamude s sodišča. Zavoda smo na pomanjkljivosti opozorili in enemu predlagali, naj sodišče v prihodnje opozori na zamudo in s tem seznaniti tudi Varuha. V enem izmed zavodov smo ob obisku ugotovili, da sredi leta 2011 nima nobenih informacij o zastopnikih pravic oseb na področju duševnega zdravja za njihovo področje, čeprav naj bi ti delovali že od 1. 12. 2010. Pozneje nas je zavod obvestil, da so se z več kot polletno zamudo pri njih oglasili predstavnica MDDSZ in dva zastopnika. Seznanili so jih z delom omenjenih zastopnikov in prinesli informativno gradivo (plakate, zloženke) za stanovalce.

Tako v zavodih, ki imata varovane oddelke, kot v drugih dveh, smo zasledili več nabiralnikov za pritožbe in pohvale. Na varovanih oddelkih so praviloma izobešeni tudi sezname pravic stanovalcev varovanih oddelkov, zloženke o teh pravicah pa smo zasledili le v enem zavodu.

Ob pogovorih z vodstvom enega izmed zavodov so nas ponovno opozorili na težave oziroma negotovost glede uporabe varovalnih ali varnostnih ukrepov, ki so namenjeni predvsem zagotavljanju varnosti stanovalcev (ograjice na posteljah, pasovi, ki preprečujejo zdrs stanovalca z invalidskega vozička ipd.). DPM ob tem tako kot že večkrat znova poudarja, da je omenjeno problematiko treba zakonsko urediti.

DPM je ob obiskih zavodov ugotovil tudi nekatere druge manjše nepravilnosti. Enega od zavodov smo npr. opozorili na neoznačen videonadzor in nedelujoč avdionadzor v sobi za umirjanje, kar je zavod pozneje uredil, kot so nas obvestili v odzivnem poročilu. V drugem zavodu pa smo že drugič opozorili na neprimerno lokacijo kadalnice. Zavod se je glede tega sicer že ob našem obisku v letu 2009 z nami strinjal, tokrat pa je v odzivnem poročilu zatrdil, da bo kadalnico uredil v tem ali prihodnjem letu, odvisno od finančnih zmožnosti.

Zavodi sicer navajajo, da s svojci praviloma dobro sodelujejo, čeprav poudarjajo, da bi si želeli več obiskov. Zavodi pogosto pripravljajo različna strokovna predavanja, na katere povabijo tudi svojce.

V vseh zavodih smo ugotovili, da je dobro poskrbljeno za duhovno oskrbo stanovalcev in da so dejavnosti verske narave med stanovalci zaželeno in dobro obiskane.

Prav tako smo ugotovili, da oba zavoda, ki lahko uporabljata posebne varovalne ukrepe (PVU) po ZDZdr, teh ne uporabljata pogosto. V primerih, ko pa so bili PVU uporabljeni, pri pregledu dokumentacije nismo ugotovili nepravilnosti.

Glede na to, da smo vse zavode obiskali že pred leti, smo pri vseh lahko zaznali prizadevanje za izboljšanje bivalne ravni. Pri tem lahko posebej pohvalimo tehnično opremljenost in urejenost Varovanega oddelka v SVZ Hrastovec, ki deluje od sredine leta 2011. Zavodi ob prenovah starih objektov in z odpiranjem dislociranih bivalnih enot v večjih krajih težijo k odpiranju zavodov v skupnost in s tem k sprejemanju v širši družbi.

In both institutions with secure wards, we found that there were still delays in notifying the courts concerning admission to these wards, and in one of the institutions, there was a delay from the court when the accommodation had to be extended. We pointed out the deficiencies and suggested to one institution that it warn the court of the delay in the future and inform the Ombudsman thereof. In one of the institutions, we learned during the visit that, in the middle of 2011, they had no information concerning representatives of the persons' rights in the field of mental health for their area, although they were supposed to be active since 1 December 2010. Later, the institution informed us that a representative of the Ministry of Labour, Family and Social Affairs and two representatives of persons' rights came after more than a six-month delay. They informed the institution of the work of these representatives and brought informative materials (posters, leaflets) for the residents.

Both in the institutions with secure wards and in the other two, we noticed several collection boxes for complaints and comments. In the secure wards, posters stating the rights of the residents of the secure ward are usually exhibited, but leaflets on these rights were observed in only one institution.

In discussion with the management of one of the institutions, they warned us again of the problems, or the insecurity concerning the safety or protection measures intended for providing safety to residents (rails on beds, belts preventing people from slipping off a wheelchair, etc.). As on several earlier occasions, the DPM again stresses that the above issue should be legally regulated.

During the visits, the DPM also observed several minor irregularities. We warned one of the institutions of unmarked video-surveillance and the non-functioning audio-surveillance in the room for calming down, which the institution later arranged and repaired, as we were notified in the response report. In another institution, we pointed out for the second time that the smoking room is inappropriately located. The institution had agreed during our visit in 2009, and assured in its response report to provide a smoking room this or next year, depending on financial resources.

The institutions state that their cooperation with relatives is good, but they would like relatives to visit more often. The institutions often prepare different expert lectures to which relatives are also invited.

Religious care for the residents is provided in all institutions, and religious activities are welcomed and well-attended by the residents.

We also learned that both institutions which are allowed to use special protection measures (PVU) under ZDZdr do not use them frequently. There were no irregularities found in examining the documentation of cases where a PVU was used.

Considering the fact that all the institutions were visited some years ago, we could see they have made an effort to improve the living conditions. The technical equipment and arrangement of SVZ Hrastovec secure ward, which has been functioning since the middle of 2011, can be particularly commended. By renovating older buildings and opening dislocated accommodation units in larger towns, the institutions try to open their facilities to the community in order to be more widely accepted.

Obiski domov za starejše

Leta 2011 smo obiskali Dom upokojencev Nova Gorica (17. 2. 2011), Dom starejših Laško (16. 3. 2011), Zavod sv. Martina v Srednji vasi v Bohinju (9. 6. 2011), Dom starejših Lambrechtov dom v Slovenskih Konjicah (8. 9. 2011) in Dom pod Gorco Maribor (13. 12. 2011).

Vsi obiski domov za starejše so bili nenapovedani in pri vseh so sodelovali predstavniki izbranih nevladnih organizacij. Obiski so vključevali pogovor z vodstvom, ogled varovanih oddelkov in drugih prostorov zavoda ter pogovore z naključno izbranimi stanovalci, ne glede na to, da je zaradi težav pri izražanju in okrnjenem spominu, ki je značilen za demenco, komunikacija s stanovalci mnogokrat otežena.

O vsakem obisku smo pripravili predhodno poročilo, ki smo ga poslali obiskanemu zavodu s predlogom, da ga obravnava in nas obvesti o svojih stališčih do ugotovitev in predlogov DPM. S končnim poročilom, ki je vključevalo tudi odziv zavoda, smo seznanili Ministrstvo za delo, družino in socialne zadeve. Ugotavljamo, da zavodi skrbno in sproti obravnavajo predhodna poročila DPM in se na ugotovitve in predloge DPM v glavnem ustrezno odzivajo.

Dva od obiskanih domov sta javna zavoda, trije so zasebni zavodi s koncesijo za opravljanje storitve institucionalnega varstva starejših od 65 let.

Obiskani domovi so novejšega datuma gradnje ali pa so bili vsaj delno obnovljeni, tako da so na varovanih oddelkih praviloma dobre bivalne razmere, čeprav smo opazili tudi posebnosti, ki jih omenjamo v nadaljevanju. V enem izmed novejših zavodov smo tako morali kritizirati neprimerne arhitekturne in tehnične rešitve, zaradi katerih je na oddelku v poletnih mesecih nesprejemljivo visoka temperatura prostorov. DPM je zavod podprl pri iskanju rešitev oziroma zavzemanju za odpravo ugotovljenih napak in pri čimprejšnji ureditvi ustreznega hlajenja prostorov. V drugem zavodu, kjer je varovani oddelk organiziran v prostorih, ki so bili prvotno načrtovani in grajeni za potrebe oskrbovanih stanovanj, pa smo ugotovili, da ni neposrednega dostopa na zunanje površine. Še posebej nas je zmotilo, da sta bila ob tem hodnik in večnamenski prostor, kjer se čez dan zadržujejo stanovalci, manjše kvadrature in sta delovala utesnjujoče. Po mnenju DPM pa sta tudi neustrezna za nemirne stanovalce, še posebej, ker je večino dneva gibanje stanovalcev omejeno na oddelk. Ta zavod sicer načrtuje svojo širitev oziroma dograditev prizidka, v pritličje katerega naj bi selil tudi varovani oddelk.

Vsi varovani oddelki so bili med našim ogledom čisti in brez neprijetnih vonjav.

Zmogljivost varovanih oddelkov v obiskanih zavodih je bila od najmanjšega oddelka z 12 posteljami do največjega s 33 posteljami. Sobe so praviloma eno- ali dvoposteljne, v dveh domovih pa še imajo tudi štiriposteljne sobe.

V domovih smo preverjali delovanje klicnih zvončkov in odzivni čas osebja. Odzivnost je bila dobra. DPM sicer spodbuja zavode, da vzpostavijo tak klicni sistem oziroma računalniško podprtost klicnega sistema, da bi bilo mogoče preverjati, kako hiter je odziv zaposlenih na klic. Glede odzivnosti osebja so nam v enem zavodu pojasnili, da so kot najdaljši reakcijski čas dovolili odziv osebja v 15 minutah. DPM je presodil, da je ta čas predolg, glede na to, da naj bi se zvončki uporabljali tudi kot klic na pomoč. V odzivnem poročilu je zavod pojasnil, da je upošteval predlog DPM in da je že vzpostavil računalniški sistem, ki omogoča nadzor nad odzivnim časom pri klicih z varovanega oddelka.

Visits to nursing homes

In 2011, we visited Nova Gorica Nursing Home (17 February 2011), Laško Nursing Home (16 March 2011), St. Martin Institution in Srednja vas v Bohinju (9 June 2011), Lambrechtov dom Nursing Home in Slovenske Konjice (8 September 2011) and Dom pod Gorco Maribor Nursing Home (13 December 2011).

All visits to nursing homes were unannounced, and representatives of the selected non-governmental organisations participated in all of them. The visits included an interview with the management, the inspection of secure wards and other rooms of the institution, and interviews with randomly chosen residents, notwithstanding that communication with the residents was often difficult because of their problems with expression and unreliable memory.

A preliminary report was prepared after each visit and sent to the visited institution; we suggested they consider it and notify us of their views on the findings and proposals of the DPM. The final report, including the institution's report, was then submitted to the Ministry of Labour, Family and Social Affairs. We observe that the institutions consider the preliminary reports of the DPM promptly and with due care, and usually respond adequately to the findings and proposals of the DPM.

Two of the homes are public institutions and three are private institutions with a concession to perform the services of institutionalised care of people aged over 65.

The homes were recently constructed or partially renovated, so the secure wards offer good living conditions, although some particularities were noticed, which are mentioned below. In one of the newer institutions, we had to criticise unsuitable architectural and technical solutions, which make the ward unacceptably hot in summer months. The DPM supported the institution in finding a solution or making a commitment to eliminate the established defects and to promptly regulate cooling of the rooms. In another institution, where the secure ward is organised in rooms originally designed and constructed for the needs of sheltered housing, we found that there is no direct access to outdoor areas. We were particularly disturbed by the fact that the hall and multi-purpose room where the residents stay during the day were rather small and rather confining. In the opinion of the DPM, they are not appropriate for restless residents, particularly because the movement of residents is restricted to the ward for most of the day. This institution plans to construct an extension and the secure ward is to be transferred to its ground floor.

All secure wards were clean and without unpleasant odours during our visit.

The capacities of the secure wards in the visited institutions ranged from the smallest, with 12 beds, to the largest, with 33 beds. The rooms have usually one or two beds, and two homes have four-bed rooms.

We checked the functioning of call bells and the response time of personnel. The responsiveness was good. The DPM encourages the institutions to establish such a call system or computer-aided call system to enable verification of the responsiveness of the employees. With respect to the responsiveness of personnel, one of the institutions explained that the maximum reaction time was set to 15 minutes. The DPM considered this too long, as these bells are also intended for calls for help. In its response report, the institution explained that they had implemented the DPM proposal and established a computer system allowing surveillance of reaction times for calls from the secure ward.

V drugem izmed zavodov, kjer so na varovanem oddelku klicni zvonci ob vratih sobe, ne pa vedno tudi ob posteljah, pa smo kritizirali, da ni izdelanega protokola glede nameščanja klicnih zvoncev k postelji. DPM namreč meni, da mora biti vsaka odstranitev oziroma nenamestitev klicnega zvonca, predvsem pri nepomičnih stanovalcih (ki ne morejo doseči klicne tipke na steni), ustrezno protokolirana, tako da je omogočen nadzor, na čigavo pobudo in na podlagi čigave presoje je bil klicni zvonec odstranjen ali ni bil nameščen.

V dveh zavodih varovana oddelka nimata neposrednega izhoda na zelene površine urejene okolice, ker sta v nadstropju. Je pa v enem od njiju v sklopu oddelka večji odprt balkon (terasa), kamor pospremijo stanovalce, da so na svežem zraku. Dve stanovalki sta v tej zvezi v pogovoru s predstavniki DPM povedali, da so sprehodi zunaj tega oddelka redkejši, kakor bi si želele. DPM meni, da je zadrževanje stanovalcev na svežem zraku izjemno pomembno za njihovo dobro počutje in splošno zdravstveno stanje. Zato je DPM v tem primeru zavodu predlagal, da nameni posebno pozornost izhodom stanovalcev na svež zrak in zapisuje tovrstne izhode, da se ne bi kakšen stanovalec pri takšnih izhodih (ne) namerno izpustil. Drugi zavod pa že načrtuje svojo širitev oziroma dograditev prizidka, v pritličje katerega naj bi selil tudi varovani oddelek.

Ko stanovalcem ni omogočen neposreden dostop do zunanjih površin in so pri zadrževanju na svežem zraku v celoti odvisni od osebja ali svojcev, DPM sicer preverja tudi, kako se omogočajo stanovalcem izhodi na svež zrak in ali jih zapisujejo. V enem izmed obiskanih varovanih oddelkov, kjer stanovalci nimajo neposrednega dostopa na svež zrak, smo tako ugotovili, da vsakemu stanovalcu omogočijo, da v spremstvu zaposlenih vsaj enkrat na dan odide v okolico doma. O sprehodih pa se vodi tudi evidenca.

Najpogostejše ugotovljena nepravilnost pri obiskih domov za starejše se nanaša na postopek sprejema stanovalca na varovani oddelek. Ugotovili smo, da zavodi ne ravnavajo po določbah ZDZdr. Glede na pojasnila, ki smo jih dobili od pristojnih, in iz dokumentacije, ki smo jo pregledali, lahko podamo splošno ugotovitev, da večina sprejemov na varovane oddelke še vedno temelji na soglasju svojcev ali skrbnikov za poseben primer, čeprav ZDZdr določa, da se sprejem lahko opravi le na podlagi privolitve stanovalca (če je stanovalcu odvzeta poslovna sposobnost, pa s soglasjem zakonitega zastopnika) ali na podlagi sklepa sodišča.

V enem izmed obiskanih zavodov, kjer so bili vsi sprejemi opravljeni zgolj na podlagi soglasja skrbnikov (za poseben primer), smo zavodu predlagali, da o osebah, nameščenih na varovani oddelek, nemudoma obvesti sodišče, kar je zavod nato tudi storil.

V drugem zavodu so nekateri sprejemi sicer temeljili tudi na privolitvah stanovalcev, vendar se nam je v pogovorih s stanovalci vzbudil dvom, ali so bili ti stanovalci sposobni razumeti svoj položaj in pomen privolitve. Na to smo opozorili zavod, ki je pojasnil, da so nekatere osebe že več let (tudi šest) nastanjene na varovanem oddelku in da se je njihovo zdravstveno stanje šele v zadnjem času toliko poslabšalo, da ne razumejo več svojega položaja in nam zato niso bili sposobni izraziti privolitve. Ker so bile v tem zavodu nekatere osebe sprejete tudi na podlagi soglasja skrbnikov za poseben primer, smo zavodu predlagali, da preveri vse postopke namestitve stanovalcev na varovani oddelek in o namestitvah, ki niso v skladu z ZDZdr, obvesti sodišče. Zavod je nato sporočil, da je predlog DPM upošteval in sodišče obvestil o dveh namestitvah: pri prvi namestitvi je šlo za primer, ko je soglasje za sprejem podpisala le skrbnica za poseben primer, pri drugi pa za stanovalko, ki je z varovanim oddelkom sicer zadovoljna, vendar ga občasno želi zapustiti.

In another institution, where call bells in the secure ward were located next to the door of the room, but not always next to beds, we criticised the absence of a protocol specifying the installation of bells next to beds. In the opinion of the DPM, each removal or non-installation of a call bell, particularly in immobile residents (who cannot reach the bell on the wall), must be specified in a protocol to monitor upon whose initiative and based upon whose assessment the bell was removed or not installed.

Because they are located on the higher floor, the secure wards in two institutions lack a direct exit to the green surfaces of the surrounding arranged area. In one of them, there is a larger balcony (terrace) within the ward where residents are escorted to enjoy the fresh air. In this respect, two residents told the DPM representatives that walks outside the ward are less frequent than they would like. In the opinion of the DPM, being in the fresh air is extremely important for the well-being and general health of the residents. In this case, the DPM suggested to the institution that they dedicate more attention to residents being in the fresh air and keep a record of such periods so that none of the residents is (un)intentionally left out. The second institution plans to construct an extension and the secure ward is to be transferred to its ground floor.

When residents do not have direct access to outdoor areas and are dependent entirely on personnel or relatives in order to go outside, the DPM also verifies how these exits are organised and whether records are kept. In one of the visited secure wards without direct access to outside, we learned that each resident is escorted at least once per day to walk around the institution. Records are kept of the walks.

The most commonly established irregularity observed in nursing homes concerns the procedure for admitting a resident to the secure ward. We found that the institutions do not observe the provisions of ZDZdr. Considering the explanations received by the competent staff and the reviewed documentation, we may make the general observation that the majority of admissions to the secure ward is still based on the consent of relatives, or custodians in special cases, although ZDZdr requires that admission may be carried out only with the resident's consent (or that of their legal representative if their contractual capacity has been discontinued) or based on a court decision.

In one of the institutions we visited, where all admissions were carried out only with the consent of custodians (in special cases), we proposed that they notify the court of the persons accommodated to the secure ward, which the institution later did.

In another institution, some admissions were based on the residents' consent; however, when we talked to the residents, we doubted that they had been able to understand their situation and the meaning of consent. We warned the institution thereof, and they explained that some persons had been accommodated in the secure ward for several (up to six) years and that their health had deteriorated recently so as to prevent them from understanding their situation, and they were thus not able to give consent. Because some persons were admitted to this institution based on the consent of custodians for special cases, we proposed that the institution check all procedures for accommodating residents to the special ward and notify the court of any accommodation not in accordance with ZDZdr. The institution later informed us that it had observed the DPM proposal and notified the court of two accommodations: the first was a case where consent was given only by a custodian for special cases, and the other was a resident who is otherwise satisfied with the secure ward, but who occasionally wants to leave.

V enem izmed zavodov smo nadalje kritizirali predvsem ugotovljene zamude pri pošiljanju predlogov sodišču za podaljšanje zadržanja oseb, ki so nastanjene na varovanem oddelku. Ta zavod pred sprejemom v varovani oddelok navadno pridobi soglasje pooblaščenca/skrbnika za poseben primer in »formalno« tudi privolitev stanovalca, ki pa sicer (kot je zavod sam pojasnil) ni zmožen sodelovati v postopku sprejema. Zato o sprejemu zavod nato obvesti sodišče, ki tudi odloči o dopustnosti zadržanja. Čeprav ima tudi DPM nekatere pomisleke glede sedanje zakonske ureditve sprejemov na varovani oddelok, pa smo morali zavod opozoriti, da s takšnim ravnanjem krši trenutno veljavni predpis.

Na varovanih oddelkih smo, razen v enem, pogrešali na vidnem mestu izobešen seznam pravic, ki jih imajo osebe na takem oddelku po ZDZdr. Prav tako nobeden od varovanih oddelkov ni imel izobešenega seznama zastopnikov pravic oseb na področju duševnega zdravlja. V enem izmed zavodov so pojasnili, da je bil seznam pravic na oglasni deski, a ga je očitno nekdo odstranil. DPM je zato zavodom predlagal, da poskrbijo za namestitve seznama pravic in zastopnikov.

V kar treh od obiskanih zavodov na varovanih oddelkih ponoči ni zagotovljene stalne navzočnosti osebja. Dogajanje na hodniku varovanega oddelka zaposleni (navadno dva na zavod) spremljajo (zgoj) po videonadzoru v dežurni sobi, ki je zunaj oddelka, po varovanem oddelku pa opravljajo le občasne nočne obhode (na približno dve uri) oziroma se odzivajo na klice. Dva zavoda imata dežurno sobo na varovanem oddelku, kar zagotavlja na tem oddelku večjo navzočnost osebja v nočnem času. V enem izmed obiskanih zavodov, kjer so ponoči trije zaposleni, pa je zagotovljena celo stalna navzočnost vsaj enega zaposlenega na varovanem oddelku. Glede na to, da stanovalci varovanega oddelka praviloma ne znajo uporabljati klicnih zvončkov, je po mnenju DPM stalna navzočnost zaposlenega bistvena za hitro odzivnost zaposlenih in za zagotavljanje varnosti stanovalcev na oddelku.

V vseh obiskanih zavodih so nam zagotovili, da posebnih varovalnih ukrepov (PVU) ne uporabljajo. Smo pa v enem primeru opazili, da ima zavod nastavljeno evidenco »List evidentiranja fiksacije s pasovi Segufix«, kar bi lahko kazalo, da se takšni pasovi vendarle uporabljajo. O izvedenih fiksiranjih na posteljo smo našli tudi zapise, ki so bili sicer zelo pomanjkljivo izpolnjeni. Iz evidence ni bilo razvidno, da bi fiksacije odobril zdravnik, koliko časa so dejansko trajale, praviloma ni bilo zapisanih dodatnih opozoril in opažanj ipd. Zavodu smo zato predlagali, naj dosledno upošteva zahteve ZDZdr, tako glede načina odobritve uporabe PVU, obveščanja, časovnih omejitev in vodenja evidenc. Ker so v nekem zavodu fiksacije stanovalcev izvajali kar z rjuho, je DPM zavod opozoril, naj fiksacij ne izvaja z improviziranimi pripomočki, saj je tako izvedena fiksacija lahko neprimerna, neudobna in celo nevarna.

Na vseh varovanih oddelkih so za stanovalce oddelka organizirane dejavnosti, ki se jih stanovalci udeležujejo glede na zmožnosti in interese. Pogosta je tudi praksa, da se stanovalci varovanega oddelka vključujejo v dejavnosti zunaj oddelka (npr. v delovno terapijo, ki poteka v prostorih delovne terapije; spremljajo jih na prireditve, ki jih organizira zavod ipd.). Takšno ravnanje ocenjujejo kot dobro, saj prispeva h kakovostnejšemu preživljanju časa za stanovalce, ki so sicer omejeni na varovani oddelok in s tem preprečuje tudi njihovo socialno osamo.

Glede pritožbenih poti ugotavljamo podobne pomanjkljivosti kot pri lanskim obiskih. Tako smo opomnili osebje varovanih oddelkov, kjer ni nameščenih nabiralnikov, ki bi omogočali anonimno oddajo pritožb, saj stanovalci nimajo prostega dostopa do nabiralnikov zunaj oddelka. Poleg tega so pritožbene poti nejasne, če zavodi nimajo pravilnika/navodil glede postopka notranjega reševanja pritožb. DPM namreč meni, da je pomembno, da so stanovalci seznanjeni, kako bo njihova pritožba obravnavana in kdo je odgovoren za njeno obravnavo.

Furthermore, in one of the institutions, we criticised the established delays in submitting proposals to the court to renew the detention of persons accommodated in the secure ward. Before admission to the secure ward, this institution normally obtains consent from the representative/custodian for special cases and 'formally' also the resident's consent, who is (according to the institution) unable to participate in the admission procedure. The institution also notifies the court of the admission, which decides on the permissibility of the detention. Although the DPM also has several considerations concerning the valid legal regulation of admissions to the secure ward, we had to warn the institution that such conduct violated the applicable rules.

In all secure wards except one, we noted that there was no list of rights of persons exhibited in a visible place in such wards under ZDZdr. Nor was a list of representatives of the rights of persons in the field of mental health found in any of the secure wards. It was explained in one of the institutions that the list of rights had been posted on the bulletin board, but that someone must have removed it. The DPM suggested that the institutions provide lists of rights and of representatives.

In three of the visited institutions, the personnel are not constantly present in the secure ward at night. The employees (usually two per institution) monitor the halls of the secure ward (only) through video-surveillance in the duty room, which is outside the ward, and perform periodic night rounds (every two hours) in the secure ward or respond to calls. The duty room in two institutions is located in the secure ward, which ensures the greater presence of personnel on this ward at night. In one of the visited institutions, where three employees stay overnight, the constant presence of at least one person in the secure ward is provided. Considering that the residents of the secure ward usually do not know how to use call bells, the constant presence of an employee is, in the opinion of the DPM, essential for a quick response from personnel and for the safety of ward residents.

We were assured at all the visited institutions that special protection measures (PVU) were not used. However, we noticed that one institution had prepared records entitled 'Records of restraint using Segufix belts', which could indicate that such belts were in fact being used. We also found records on bed restraint, which were insufficiently completed. The records did not show whether the restraint had been approved by a doctor, its duration, and usually did not include additional warnings or observations. We proposed that the institution strictly observe the recommendations specified in ZDZdr, both in terms of approving PVU, time limits and record-keeping. Because one institution performed restraint of residents by means of a sheet, the DPM warned them not to use improvised means, as such restraint may be inappropriate, uncomfortable and even dangerous.

Activities are organised in all secure wards which are attended by the residents according to their abilities and interests. It is common practice for the residents of the secure ward to participate in activities outside the ward (e.g. occupational therapy on the premises for occupational therapy; residents are escorted to events organised by the institution, etc.). We consider such conduct good, as it contributes to improving the quality time of residents, who are otherwise restricted to their ward, and prevents their social isolation.

As far as complaints procedures are concerned, we observed similar irregularities as in previous visits. We had to reprimand the personnel of the secure wards, where there are no collection boxes to file complaints anonymously, since the residents do not have free access to collection boxes outside the ward. Moreover, the complaints procedures are not clear if the institutions do not have rules/instructions concerning the internal resolution of complaints of the DPM, it is important for residents to know how their complaints will be treated and who is responsible for that.

Obisk Azilnega doma in Centra za tujce

V letu 2011 smo obiskali tudi Azilni dom (12. 10. 2011) in Center za tujce (18. 11. 2011). Oba sta objekta Ministrstva za notranje zadeve, pri čemer je prvi namenjen predvsem nastanitvi prosilcev za mednarodno zaščito, drugi pa tujcev, ki so nezakonito v Republiki Sloveniji. Podrobnosti v zvezi z vsakim od njiju so zapisane v poročilih o obisku, objavljenih na uradni spletni strani Varuha, v nadaljevanju pa za potrebe tega poročila opisujemo le najpomembnejše ugotovitve.

Oba objekta imata bistveno večje uradne zmogljivosti, kot pa je (že več let) v njiju nastanjenih oseb. To je seveda spodbudno. Tudi bivalne razmere v obeh so bile še sprejemljive, in osebe, s katerimi smo se pogovorili, bivalnih razmer niso problematizirale. Nekaj inventarja oziroma opreme bivalnih prostorov sicer kaže na to, da bo prej ali slej potrebna zamenjava.

Ker so v obeh zavodih nastanjeni posamezniki, ki večinoma prihajajo iz zelo različnih, nemalokrat tudi zelo (geografsko, pa tudi sicer) oddaljenih držav oziroma kultur, ne preseneča, da so bile pritožbe čez (pre)hrano zelo pogoste. DPM meni, da če ob izpolnjenih sanitarnih standardih kalorična vrednost obrokov dosega predpisano vrednost in hkrati zadošča tudi morebitnim posebnim zdravstvenim ali verskim potrebam prosilcev, take prehrane ni mogoče označiti drugače kot za ustrezno. Vseeno smo tudi na tem področju lahko izpostavili nekaj smiselnih pripomb. V Azilnem domu smo na primer posebej poudarili mnenje naše izvedenke, da gre pri ponavljajočem se nezadovoljstvu s hrano »za simptom, in ne za bolezen«. Za te osebe ima hrana poseben, simboličen pomen – to je v njihovem trenutnem položaju lahko edino področje, ki ga (ali bi ga lahko) obvladujejo, saj je vse drugo precej negotovo. Poleg tega je njihova domača hrana nekaj, kar jih povezuje z domovino. Na drugi strani pa je to »varno področje«, kjer lahko izražajo nezadovoljstvo z državo gostiteljico. Tako prav ukvarjanje s hrano na dokaj varen način omogoča zadovoljevanje osnovnih psiholoških potreb (uveljavljanje, moč, pripadnost, svoboda), ki so v njihovem trenutnem položaju večinoma zelo slabo zadovoljene. V Centru za tujce smo na primer tudi tokrat predlagali, da poskrbi za prevode jedilnikov v tujcem razumljive jezike, saj samo v slovenskem niso uporabni.

Druga najpogostejša tema pritožb tujcev oziroma prosilcev za mednarodno zaščito se je nanašala na postopke, ki so jih zadevali. Poleg nepoznavanja prava so izstopali predvsem njihovi očitki na račun dolgotrajnosti postopkov. Gre za zelo zapleteno problematiko, kjer se morebitni očitki o ne zadosti hitrem (po)teku lahko hitro izkažejo za neupravičene, saj je vselej treba upoštevati posebnosti posameznega primera in ne prehitro posploševati. Pozabiti tudi ne gre, da je že po sami naravi stvari to zelo posebno področje, ki ga zaznamujejo komunikacijske ovire, nezadovoljivo sodelovanje stranke in podobno. Okoliščin, ki bi kazale na to, da bi se s temi postopki namerno zavlačevalo, nismo ugotovili. Smo pa v Azilnem domu izpostavili, da bi se lahko postopek skrajšal, če izvedencem za izdelavo psihiatričnih oziroma psiholoških izvedenskih mnenj (da se ugotovi, ali je prosilec za mednarodno zaščito sploh sposoben zaslišanja) ne bi dovolili roka za opravo izvedenskega dela v 60 dneh. V Centru za tujce smo posebej preverili, kako je urejeno informiranje tujcev, kar ima v tem okviru nedvomno pomembno vlogo. V zvezi z informiranjem pomanjkljivosti nismo ugotovili, saj je poleg ustnega informiranja strokovnih delavcev centra omogočeno tudi pisno informiranje z vloženkami, možnost telefonskih klicev tudi na diplomatsko-konzularno predstavništvo in na organizacije, na katere se lahko tujci obrnejo po nasvet oziroma pomoč, možnost pridobivanja informacij po svetovnem spletu ...).

Visit to the Asylum Centre and the Aliens Centre

In 2011, we also visited the Asylum Centre (12 October 2011) and the Aliens Centre (18 November 2011). Both are facilities of the Ministry of the Interior; the first is primarily intended for the accommodation of applicants for international protection, and the other is for the accommodation of aliens who are illegally in the Republic of Slovenia. Details related to each of them are noted in the reports on the visits published on the Ombudsman's website; for the needs of this report, only the most important findings are described below.

The official capacities of both facilities are significantly higher than (for several years) the number of persons accommodated, which is encouraging, of course. Living conditions in both were acceptable and the persons to whom we talked did not raise any issues related thereto. Some items of the inventory or equipment of accommodation rooms indicate that replacement will eventually be necessary.

Because both facilities accommodate individuals coming from very different, often very distant (in geographical terms and otherwise) countries or cultures, it is not surprising that complaints regarding food were very common. If the meals meet sanitary standards, contain the prescribed amount of energy and also satisfy any special health or religious needs of the applicants, such food cannot be considered as inappropriate, in the opinion of the DPM. Nonetheless, some reasonable comments could be underlined in this area. In the Asylum Centre, we emphasised the opinion of our expert, who stated that constant dissatisfaction with food was 'a symptom and not a disease'. For such people, food has special, symbolic meaning – it might be the only subject that can (or could) be under control in their current situation, since everything else is rather insecure. Moreover, their national food is something that connects them with their home country. On the other hand, it is a subject through which it is 'safe' to express dissatisfaction with the host country. Being concerned with food this satisfies basic psychological needs (establishment, power, sense of belonging, freedom), which in their current situation are mostly poorly satisfied. In the Aliens Centre, we proposed they provide translations of menus into languages comprehensible to aliens, as having them only in Slovenian is pointless.

The second most common cause of complaint from aliens or from applicants for international protection regarded procedures that concern them. Besides being unfamiliar with the law, the most numerous reproaches concerned long-lasting procedures. This is a very complex issue, where any complaints concerning an insufficiently rapid procedure may prove unjustified, as the specifics of a particular case must be taken into account and general conclusions must not be drawn. It should be noted that the nature of this area is very specific, involving communication barriers, insufficient cooperation of the client and similar. There were no circumstances found to indicate intentional delays in procedures. However, we pointed out in the Asylum Centre that the procedure could be faster if the experts for the preparation of psychiatric or psychological expert opinions (to establish whether an applicant for international protection is capable of being questioned) were not given 60 days to perform the expert work. In the Aliens Centre, we specifically checked how the information of aliens is regulated, which undoubtedly plays an important role in this context. There were no deficiencies observed in relation to information, since in addition to oral information provided by the competent workers at the Centre, aliens are informed in writing by means of leaflets, and have the option to make telephone calls to a diplomatic mission or consular post and other organisations for advice, help or information, and may also use the internet for information.

Posebej smo preverjali tudi psihosocialno oskrbo in zagotavljanje organiziranih dejavnosti za tujce oziroma prosilce za mednarodno zaščito. V obeh krajih odvzema prostosti na tem področju pritegnejo predvsem zunanje izvajalce, bodisi na podlagi pogodb bodisi prostovoljno. V Azilnem domu pa smo se spraševali, ali zagotovi vodstva o izvajanju programov res povsem držijo in ali so ti res zadovoljivi. Glede na to, da naj ne bi tako redko prihajalo do trenj predvsem med osebjem in prosilci za mednarodno zaščito (nevljudnost, nasilnost, grožnje, kljubovanje in podobno pri prosilcih za mednarodno zaščito), bi z ustreznimi programi lahko vplivali na to. V Centru za tujce pa že dalj časa opažamo ravnodušnost tujcev oziroma z njo povezanimi možnostmi za organizirane dejavnosti. Vodstvo sicer o tem vselej zastopa stališče, da za dejavno preživljanje časa nastanitve nista dovolj samo trud in volja strokovnega osebja, to morajo izkoristiti tudi tujci, ki pa so velikokrat pasivni opazovalci dogajanja. Pri DPM menimo, da je prav to razlog več, da bi bilo treba poskušati (po)iskati (nove oziroma še druge) načine, kako (še bolj) motivirati tujce za razne kulturne, rekreativne in druge družabne dejavnosti.

Poleg zgoraj že omenjenega smo zaznali še nekaj drugih pomembnih vidikov življenja v Azilnem domu in Centru za tujce (na primer stiki z odvetniki, zagotavljanje prevodov odločb ...), ki pa so (med pripravo tega poročila) še v obravnavanju pri Varuhu.

We also checked psychosocial care and the provision of organised activities for aliens or applicants for international protection. In both detention facilities, these activities are outsourced, either on a contractual or voluntary basis. In the Asylum Centre, we wondered whether the management's assurances of their implementation of programmes were true, and whether they were satisfactory. Considering that there are frequent conflicts between the personnel and the applicants for international protection (impoliteness, aggression, threats, defiance and similar on the part of applicants for international protection), adequate programmes might positively influence this issue. In the Aliens Centre, we have for some time observed the indifference of the aliens towards organised activities. The management stands on the position that the effort and will of the expert personnel are not sufficient to enable active use of time during detention; the aliens should also use the opportunity, but they are often merely passive observers of events. According to the DPM, this is another reason that (new or other) methods to motivate aliens to take up different cultural, recreational and other social activities should be sought.

In addition to the above, several other important aspects of detention in the Asylum Centre and the Aliens Centre were observed (e.g. contacts with lawyers, providing translations of decisions etc), which are (during the preparation of this report) still under consideration by the Ombudsman.

Obiski zavodov za vzgojo in izobraževanje otrok in mladostnikov s čustvenimi in vedenjskimi motnjami

Splošno

V Sloveniji je dest zavodov za vzgojo in izobraževanje otrok in mladostnikov s čustvenimi in vedenjskimi motnjami (zavodi), za katere je pristojno Ministrstvo za šolstvo in šport (MŠŠ). Za sprejemanje otrok in mladostnikov z motnjami v duševnem razvoju, ki jim je izrečen vzgojni ukrep oddaje v zavod, pa je bil določen en zavod za usposabljanje, za katerega je pristojno Ministrstvo za delo, družino in socialne zadeve (MDDSZ). V zavode se tako vključujejo mladostniki na podlagi odločb centrov za socialno delo (na primer zaradi ogroženosti v družini), odločb sodišč (kot vzgojni ukrep) ali pa z odločbami o usmeritvi (v vzgojni program).

Število obiskov in lokacije

V letu 2011 smo obiskali štiri zavode (Vzgojni zavod Slivnica pri Mariboru pa že v decembru 2010):

- Mladinski dom Maribor,
- Vzgojni zavod Kranj,
- Vzgojno-izobraževalni zavod Višnja Gora,
- Vzgojni zavod Logatec.

Organiziranost

Dva zavoda (Mladinski dom Maribor in Vzgojni zavod Kranj) sta organizirana le v stanovanjskih skupinah – v individualnih hišah oziroma v samostojnih stanovanjih v urbanih naseljih. Stanovanjske skupine delujejo v stavbah na različnih lokacijah in v najetih oziroma kupljenih stanovanjih v večjih mestih (Ljubljana, Maribor, Kranj, Postojna). Glede na normativ je v skupine običajno vključenih do osem mladostnikov. Stanovanjsko skupino strokovno vodijo štirje vzgojitelji. V stanovanjskih skupinah, v katerih so vključeni tudi osnovnošolski otroci, je dodatno zaposlena tudi gospodinja. Iz stanovanjskih skupin vsi mladostniki obiskujejo zunanje osnovne in srednje šole.

Trije zavodi pa so kombinirani. Dejavnost izvajajo v stavbah internatskega tipa s klasičnim modelom vzgoje – v vzgojnih skupinah. Tudi ti zavodi imajo vsaj po eno stanovanjsko skupino, ki je povsem ločena od glavne stavbe in večinoma na drugi lokaciji. V vzgojnih skupinah je po normativih lahko največ 12 mladostnikov. Zavodi s klasičnim modelom vzgoje imajo svoje interne šole (osnovne in srednje poklicne), kar je posledica zahtevnejše populacije, ki se vanje vključuje.

DPM meni, da je življenje in delo z mladostniki s čustvenimi in vedenjskimi motnjami v stanovanjskih skupinah primerna organizacijska oblika. Mladostniki po principu družinske vzgoje v njih neposredno pridobivajo življenjske vzorce ter se navajajo na samostojnost in odgovornost. Za čustveno in vedenjsko najbolj oškodovane pa je ta oblika življenja lahko tudi preveč zahtevna, zato je smiselno vsaj v manjšem obsegu ohraniti klasični model in s tem možnost namestitve v vzgojne skupine.

Visits to institutions for the care and education of children and adolescents with emotional and behavioural disorders

General

In Slovenia, there are ten institutions for the care and education of children and adolescents with emotional and behavioural disorders ("institutions"), which are the responsibility of the Ministry of Education and Sport (MŠŠ). One juvenile institution, for which the Ministry of Labour, Family and Social Affairs (MDDSZ) is responsible, was determined to accept children and adolescents with mental disorders on whom an educational measure of committal to the institution has been imposed. Adolescents are committed to these institutions based on the decisions of social work centres (e.g. because they are endangered in the family), on court decisions (as an educational measure) or on placement decisions (placement in an educational programme).

Number of visits and locations

In 2011, we visited four institutions (and the Slivnica pri Mariboru Juvenile Institution already in December 2010):

- Maribor Juvenile Home,
- Kranj Juvenile Institution,
- Višnja Gora Juvenile Institution,
- Logatec Juvenile Institution.

Organisational structure

Two institutions (Maribor Juvenile Home and Kranj Juvenile Institution) are organised as residential groups only – in individual houses or independent apartments in urban settlements. The residential groups function in buildings in various locations and in rented or purchased apartments in larger cities (Ljubljana, Maribor, Kranj, Postojna). According to the standards, up to eight adolescents are included in each group. Four childcare workers professionally lead the residential group. A housekeeper is additionally employed in residential groups which include primary school children. All adolescents from residential groups attend external primary and secondary schools.

Three institutions are combined. Their activity is performed in boarding-type buildings through a classic educational model – in educational groups. These institutions also have at least one residential group entirely separate from the main building, usually located elsewhere. According to the standards, up to 12 adolescents may be included in one educational group. The institutions with the classic educational model have internal schools (primary and secondary – vocational), which is a consequence of the more demanding population included there.

In the opinion of the DPM, residential groups are a suitable organisational form where adolescents with emotional and behavioral disorders may live and work. Following the principle of family education, adolescents directly acquire living patterns and become used to independence and responsibility. For adolescents with the greatest emotional and behavioural problems, this type of arrangement may be too demanding; therefore, it is reasonable to preserve the classic model and the option of placement in educational groups at least to a smaller extent.

DPM je zaradi vseh posebnosti življenja in dela v zavodih MŠŠ predlagal premislek o posebnem zakonu ali o samostojnih določbah v okviru obstoječe zakonodaje, ki bi posebej urejale področje organiziranosti in delovanja zavodov. MŠŠ je sprejelo pobudo za pripravo posebnega zakona, ki bi urejal področje vzgojnih zavodov. V odzivnem poročilu je sporočilo, da je tako pobudo dal tudi aktiv ravnatelj vzgojnih zavodov. Dogovorjeno naj bi bilo, da ravnatelji opredelijo področja, ki so po njihovem slabo določena ali v obstoječi zakonodaji manjkajo in bi jih tak zakon urejal.

Kadrovske in prostorske razmere

Ob upoštevanju standardov in normativov za delo z mladostniki s čustvenimi in vedenjskimi motnjami je število strokovnega osebja primerno, prav tako tudi njihova vrsta in stopnja izobrazbe. Gre za strokovnjake z univerzitetno izobrazbo s področij socialne pedagogike, psihologije, socialnega dela in drugih, ki so še dodatno usposobljeni za delo s to populacijo.

Prostorske razmere in oprema so v dveh zavodih primerne (Vzgojni zavod Slivnica in Mladinski dom Maribor), v enem zelo dobre (Vzgojni zavod Kranj), slabše pa v Vzgojno-izobraževalnem zavodu Višnja Gora (za dve stanovanjski skupini), precej slabe (potrebna je temeljita adaptacija, dograditev telovadnice, posodobitev učnih delavnic, zamenjava opreme) pa v Vzgojnem zavodu Logatec, na kar je DPM opozoril MŠŠ, ki izvaja ustanovitelske dolžnosti.

MŠŠ je v sprejelo naša priporočila in dalo obljubo, da bo poskušalo zagotoviti finančna sredstva za zavode, v katerih so potrebne manjše naložbe. Ni pa se opredelilo do vseh predlogov DPM za izboljšanje prostorskih razmer v Vzgojnem zavodu Logatec (dograditev telovadnice, posodobitev učnih delavnic), ampak je zapisalo, da so bila že predvidena finančna sredstva za adaptacijo prostorov za dve vzgojni skupini. Posega ni bilo mogoče izvesti zaradi rebalansov državnega proračuna in lani sprejetih omejitev na področju naložb.

Izvajanje dejavnosti: pohvale in priporočila DPM

Da bi se zmanjšal strah pred institucionalnim življenjem v zavodih, mladostnikom in staršem pred namestitvijo predstavijo posamezen zavod oziroma stanovanjsko skupino. Vsi obiskani zavodi imajo zgledno izdelane publikacije z osnovnimi informacijami. To in še drugo gradivo je objavljeno tudi na spletnih straneh posameznega zavoda.

DPM je zavodom predlagal interdisciplinarno razpravo o potrebnosti ustanovitve triažnega diagnostičnega centra (v preteklosti je bil to 'prehodni mladinski dom'), v katerega bi se v prvem obdobju oddaje v zavod nameščali mladostniki za krajše obdobje – od treh do štirih mesecev. Po tem obdobju bo odločitev, v kateri zavod bi posameznik sodil, lažja in strokovnejša. Odziva na ta predlog DPM ni bilo niti od zavodov niti od MŠŠ. Za vsakega mladostnika praviloma v mesecu dni po sprejemu vzgojni zavod pripravi individualni vzgojno-izobraževalni načrt s konkretnimi dejavnostmi za uspešen osebnostni razvoj. Na podlagi naključno pregledanih osebnih spisov mladostnikov je DPM ugotovil, da zavodi zgledno vodijo njihovo osebno dokumentacijo. V zvezi z individualnim načrtom je DPM zavodom priporočil, da ga poleg ravnatelja podpiše tudi mladostnik, saj sta mu s tem dani primerna veljavnost in večja odgovornost za sodelovanje v učno-vzgojnem procesu.

Posebno pozornost namenjajo sodelovanju s starši ali skrbniki. Starši se prek Sveta staršev in Sveta zavoda tudi uradno vključujejo v življenje in delo posameznega zavoda.

Because of all the specific features of living and working in the institutions, the DPM has suggested that MŠŠ consider introducing a special act or separate provisions within the existing legislation to regulate the organisational structure and operation of the institutions. MŠŠ adopted an initiative to prepare a special act governing juvenile institutions. In their response report, they informed us that such an initiative had also been submitted by the working group of juvenile institutions' principals. It was agreed that the principals would define those areas which they believe are poorly regulated or absent from the existing legislation and which would be regulated by this act.

Personnel and residential conditions

Taking into account the standards specifying work with adolescents with emotional and behavioural disorders, the number of expert personnel is adequate, as well as their type and level of education. They are experts with a university education in the fields of social pedagogy, psychology, social work and others, with additional training for work with this population.

Residential conditions and equipment in two institutions are suitable (Slivnica Juvenile Institution and Maribor Juvenile Home), in one very good (Kranj Juvenile Institution), poorer in Višnja Gora Juvenile Institution (for two residential groups) and rather bad (thorough renovation, construction of a gym, modernisation of teaching workshops, replacement of equipment are needed) in Logatec Juvenile Institution, of which the DPM warned MŠŠ, which performs founding responsibilities.

MŠŠ accepted our recommendations and promised to try to provide financial resources for the institutions in which minor investments are necessary. However, they did not take a position on all the proposals of the DPM to improve residential conditions in Logatec Juvenile Institution (construction of a gym, modernisation of teaching workshops) but wrote that financial resources for the adaptation of the rooms for two educational groups had been earmarked. The work could not be carried out because of the amended national budget and limitations in the field of investments adopted in the previous year.

Activity performance: praise and recommendations from the DPM

In order to reduce the fear of institutionalised life in the institutions, each institution or residential group is presented to the adolescents and their parents prior to committal. All institutions visited have exemplary publications with basic information. This and other materials are also published on the website of each institution.

The DPM proposed to the institutions that they conduct an interdisciplinary discussion on the need to establish a triage diagnostic centre (in the past, this was called a 'transitory juvenile facility') in which adolescents would be placed in the first period of committal to an institution – for three or four months. After this period, the decision as to which institution an individual should be placed in would be easier and more professional. There has been no response to this proposal of the DPM from either the institutions or MŠŠ. For each adolescent, the juvenile institution usually prepares an individual educational plan within a month after admission, including concrete activities needed for successful personality development. Based on the randomly reviewed personal files of adolescents, the DPM found that the institutions kept their personal documentation in an exemplary way. As far as the individual plan is concerned, the DPM recommended to the institutions that, in addition to the principal, the plan should also be signed by the adolescent, as this would give them recognition and responsibility for participating in the educational process.

Special attention is dedicated to cooperation with parents or guardians, who are, through the Parents Council and the Institution Council, officially involved in the life and work of a particular institution.

Izobraževanje je temeljna vrednota vsakega zavoda. Mladostniki se lahko vključijo v različne programe izobraževanja in poklicnega usposabljanja neposredno v zavodih ali vključeni v zunanje šole. Za sodelovanje zavodov s srednjimi šolami v izvajanju učnih procesov je DPM priporočil, da vsak zavod posebej sklene ustrezne pogodbe o sodelovanju in opredeli pravice in obveznosti zunanjih izvajalcev učno-vzgojnih programov.

Na priporočilo DPM se je odzvalo MŠŠ. Pristojni so sporočili, da bo s srednjimi šolami, s katerimi vzgojni zavodi sodelujejo, v kratkem sklenjen dogovor o sodelovanju. V njem bodo opredeljene pravice in obveznosti srednjih šol. Na MŠŠ usklajujejo besedilo, da bo poenoteno.

Mladostnike spodbujajo k dejavnemu preživljanju prostega časa. Vsi zavodi organizirajo številne prostočasne dejavnosti, v katerih mladostniki lahko odkrivajo in razvijajo svojo nadarjenost.

Težave z nedovoljenimi mamili, alkoholom in kajenjem so v nekaterih zavodih bolj, v drugih pa manj navzoče. Različni so tudi načini obravnave teh pojavov, zato DPM zavodom predlaga razmislek o izdelavi enotne strategije obravnave zasvojenosti z nedovoljenimi mamili, alkoholom in kajenjem.

DPM zavodom priporoča, da pripravijo sistematično izobraževanje mladostnikov o učinkih in posledicah uživanja nedovoljenih mamil, alkohola, kajenja ter o posledicah tveganih vedenj, preprečevanju okužb z virusi HIV, s hepatitisom in o odvijanju od škodljivih razvad oziroma zasvojenosti.

Na priporočilo se je odzval le Mladinski dom Maribor. Strokovni delavci so izrazili dvom o tovrstnem sistematičnem izobraževanju mladostnikov, saj po njihovem mnenju ni vedno smiselno. Menijo, da bi lahko z njim dosegli tudi nasprotni učinek, saj lahko pretiran poudarek takšnih izobraževanj doseže učinek v smislu popularizacije neželenih pojavov. Zato težave in nevarnosti, ki pretijo mladostniku, učinkoviteje rešujejo individualno z vsakim posameznikom, saj se vsi mladostniki ne srečujejo z enakimi težavami.

DPM je pri institucionalnih oblikah namestitve mladostnikov posebej pozoren na pravila bivanja v njih, na hišni red in morebitne sankcije, ki sledijo, če stanovalci institucij pravil ne upoštevajo. Glede na različnost vzgojnega ukrepanja po posameznih zavodih ob kršitvah pravil DPM predlaga, da socialno-pedagoška stroka prouči možnosti za pripravo smernic za izdelavo vzgojnega načrta (kot je predviden za osnovne šole v skladu z Zakonom o osnovni šoli) in iz njega izhajajoča pravila prebivanja v zavodu, vključno s pritožbenimi možnostmi in potmi. MŠŠ je podprlo to priporočilo DPM in zagotovilo, da bo pobudo za izdelavo smernic za vzgojni načrt v vzgojnih zavodih in s tem jasnejših pravil prebivanja v njih predstavilo na aktivu ravnateljev vzgojnih zavodov.

DPM prav tako priporoča, da zavodi v letne delovne načrte na vzgojnem področju vključijo tudi poglavje o vrednotah, ki so jim zavezani vsi v zavodih.

Stanovanjske skupine običajno prebivajo v individualnih hišah sredi urbanih naselij in navzven ne dajejo vtisa institucionalnega življenja. Glede na to, da so državne ustanove opremljene z napisi, DPM zavodom priporoča, da posamezne lokacije, v katerih zavodi opravljajo svojo dejavnost, opremijo z ustreznimi napisi.

Education is the basic value of each institution. The adolescents may be included in various programmes of educational and vocational training, either directly in the institutions or at external schools. As far as cooperation between the institutions and secondary schools in the education process is concerned, the DPM recommended that each institution concludes contracts on cooperation and defines the rights and obligations of contractors for external educational programmes.

MŠŠ responded to the DPM recommendation. The responsible persons indicated that a cooperation agreement would soon be concluded with the secondary schools with which the juvenile institutions cooperate. The agreements will set out the rights and obligations of the secondary schools. MŠŠ is harmonising the text.

The adolescents are encouraged to spend their leisure time actively; all institutions organise numerous free-time activities for them to discover and develop their talents.

Problems with illicit drugs, alcohol and smoking are more present in some institutions than others. Institutions also deal differently with these issues; therefore, the DPM suggests that institutions consider preparing a uniform strategy for treating addiction to illicit drugs, alcohol and smoking.

The DPM recommends that institutions prepare systematic education to teach adolescents about the effects and consequences of using illicit drugs, alcohol, smoking and on the consequences of risky behaviour, the prevention of HIV infections, hepatitis and the treatment of bad habits or addiction.

Only Maribor Juvenile Home responded to the recommendation. The expert workers expressed doubts on such systematic education for the adolescents, as they believe this is not always reasonable. Their view is that this could lead to the opposite effect, since excessive emphasis of such education may popularise undesirable behaviour. Institutions solve problems and deal with the dangers threatening adolescents more efficiently on an individual basis, as not all adolescents encounter the same issues.

In institutionalised forms of adolescent accommodation, the DPM pays particular attention to the rules related to residing there, the house rules and any sanctions arising from a failure to observe the rules. Considering the fact that each institution has distinct correctional measures for dealing with violations of the rules, the DPM suggests that experts in social and pedagogic science consider the options to prepare guidelines for an educational plan (as provided for primary schools in accordance with the Elementary School Act) and associated house rules in an institution, including possibilities and procedures for complaints. MŠŠ supported this DPM recommendation and assured they would present the initiative for preparing guidelines for the educational plan in juvenile institutions and clearer house rules at the working group of the juvenile institutions' principals.

The DPM also recommends that, in their annual operational plans in the educational field, the institutions include a chapter on the values to which all the people in the institutions are bound.

The residential groups usually stay in individual houses in the middle of urban settlements and do not present an impression of institutionalised life to the outside world. Considering that state institutions are fitted with signboards, the DPM recommends the institutions fit each location where they perform their activity with corresponding signboards.

Na priporočilo se je odzval Mladinski dom Maribor, ki priporočila ne sprejema. Strokovni delavci menijo, da dolgoletna praksa kaže, da neoznačevanje ustanove ni moteče niti za okolje niti zanje in da do zdaj niso imeli nobenih težav. Prepričani so, da je tudi to prispevek k normalizaciji in destigmatizaciji mladostnikov kakor tudi ustanove, v kateri prebivajo.

Sklep

DPM meni, da obiskani zavodi delujejo dobro in izpolnjujejo svoje poslanstvo. V pogovorih z mladostniki je bilo le malo pritožb zoper ravnanje zaposlenih v zavodih in zatiranje kršitev človekovih pravic.

DPM predlaga interdisciplinarno razpravo in strokovni razmislek o organiziranju večine zavodov po načelu stanovanjskih skupin. Obvladovanje zahtevnejše populacije je lažje v manjših skupinah. To bi zahtevalo več organizacijskih sprememb in drugih prilagoditev, ki pa bi bile lahko zahtevne z vidika varnosti mladostnikov in doseganja namena oddaje v zavod (gre predvsem za mladostnike, ki jim je izrečen vzgojni ukrep namestitve v zavod).

Maribor Juvenile Home responded to the recommendation, but did not accept it. The expert workers believe that long practice shows that not indicating the nature of the institution does not disturb the environment or the institution, and that there have never been any problems. They are convinced that this contributes to the normalisation and destigmatisation of the adolescents and the institution in which they live.

Conclusion

It is the DPM's opinion that the visited institutions function well and fulfil their mission. When talking to the adolescents, there were only a few complaints regarding the conduct of employees in the institutions and reported violations of human rights.

The DPM proposes an interdisciplinary discussion and professional reflection on organising the majority of institutions according to the principle of residential groups. The management of a more demanding population is easier in smaller groups. This would require several organisational changes and other adaptations, which would be demanding primarily from the perspective of the safety of the adolescents and achieving the objective of committal to an institution (this specifically concerns adolescents on whom the educational measure of committal to the institution has been imposed).

II. PREGLED DEJAVNOSTI DRŽAVNEGA
PREVENTIVNEGA MEHANIZMA V LETU 2011

II. REVIEW OF THE ACTIVITIES OF THE NATIONAL
PREVENTIVE MECHANISM IN 2011

PREGLED DEJAVNOSTI DRŽAVNEGA PREVENTIVNEGA MEHANIZMA (DPM) V LETU 2011

DATUM	KRAJ	OPIS	UDELEŽENCI	ORGANIZATOR
12. 1. 2011	Jesenice, Hrušica in Bled	Obisk Policijske postaje za izravnalne ukrepe Kranj in Policijske postaje Bled	Robert Gačnik (Varuh) in Tina Šimunovič (Inštitut Primus – NVO)	Varuh človekovih pravic RS
25. 1. 2011	Bruselj, Belgija	Sodelovanje na okrogli mizi in strokovnem srečanju o vprašanih odrejanja in izvajanja pripora – pridržanja ter priprave Zelene knjige o pridrževalnih vprašanih v EU	Ivan Šelih in Robert Gačnik (Varuh)	Evropska komisija
27. 1. 2011	Begunje na Gorenjskem	Obisk Psihiatrične bolnišnice Begunje na Gorenjskem	dr. Zdenka Čebašek – Travnik, mag. Jure Markič, mag. Simona Šemen (vsi Varuh)	Varuh človekovih pravic RS
27. – 28. 1. 2011	Koper	Obisk Zavoda za prestajanje kazni zapora Koper	Robert Gačnik in Andreja Srebotnik (Varuh) ter Tina Šimunovič (Inštitut Primus – NVO) in Ciril Klajnšček (Rdeči križ Slovenije - NVO)	Varuh človekovih pravic RS
10. 2. 2011	Na sedežu Varuha	Sodelovanje med Varuhom in Inštitutom za kriminologijo	dr. Zdenka Čebašek – Travnik in Ivan Šelih (Varuh)	Varuh človekovih pravic RS
15. 2. 2011	Ljubljana	Pogovor na Generalni policijski upravi Republike Slovenije o vprašanih policijskega pridržanja	Ivan Šelih in Robert Gačnik (Varuh)	Varuh v sodelovanju s Policijo
16. 2. 2011	Idrija in Tolmin	Obisk policijskih postaj Idrija in Tolmin	Robert Gačnik (Varuh) in Tina Šimunovič (Inštitut Primus – NVO)	Varuh človekovih pravic RS
17. 2. 2011	Nova Gorica	Obisk varovanega oddelka Doma upokoencev	dr. Ingrid Russi – Zagožen in mag. Jure Markič (Varuh) ter Dora Sedmak (Rdeči križ Slovenije – NVO) in Senka Šifkovič Vrbica (Pravno-informacijski center za NVO)	Varuh človekovih pravic RS
24. 2. 2011	Ig	Obisk Zavoda za prestajanje kazni zapora Ljubljana, Odprtega oddelka Ig	Andreja Srebotnik in Robert Gačnik (Varuh) ter Katja Piršič (Primus – NVO)	Varuh človekovih pravic RS
13.–15. 3. 2011	Pariz, Francija	Sodelovanje na 4. tematski delavnici državnih preventivnih mehanizmov na temo Varnost in dostojanstvo v prostorih odvzema prostosti	Andreja Srebotnik (Varuh)	Svet Evrope in Evropska komisija, v sodelovanju s francoskim državnim preventivnim mehanizmom
15. 3. 2011	Solkan pri Novi Gorici	Obisk Zavoda za prestajanje kazni zapora Koper, oddelka v Novi Gorici	Miha Horvat in Robert Gačnik (Varuh) ter Ciril Klajnšček (Rdeči križ Slovenije – NVO) in Gruša Matevžič (Pravno-informacijski center NVO)	Varuh človekovih pravic RS
15. 3. 2011	Ljubljana	Pogovor s predsednikom Komisije za preprečevanje korupcije in članom Pododbora OZN za preprečevanje mučenja dr. Goranom Klemenčičem na temo Sodelovanje pri izvajanju nalog po Opcijskem protokolu (OPCAT)	Ivan Šelih (Varuh)	Komisija za preprečevanje korupcije in Varuh človekovih pravic RS
16. 3. 2011	Laško	Obisk varovanega oddelka doma starejših v Laškem	dr. Ingrid Russi – Zagožen in mag. Jure Markič (Varuh) ter Mojca Pinterič Krajnc (Rdeči križ Slovenije – NVO)	Varuh človekovih pravic RS
23. 3. 2011	Jesenice in Kranj	Obisk policijskih postaj Jesenice in Kranj	Robert Gačnik (Varuh) in Tina Šimunovič (Inštitut Primus – NVO)	Varuh človekovih pravic RS

REVIEW OF NATIONAL PREVENTIVE MECHANISM (NPM) ACTIVITIES IN 2011

DATE	PLACE	DESCRIPTION	PARTICIPANTS	ORGANISED BY
12. 1. 2011	Jesenice, Hrušica and Bled	Visit to Kranj Police Station for countervailing measures and Bled Police Station	Robert Gačnik (Ombudsman's office) and Tina Šimunovič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
25. 1. 2011	Brussels, Belgium	Cooperation at the round table and expert meeting regarding issues of ordering and enforcing detention and the preparation of the Green Paper on Detention issues in the EU	Ivan Šelih and Robert Gačnik (Ombudsman's office)	European Commission
27. 1. 2011	Begunje na Gorenjskem	Visit to Begunje Psychiatric Hospital	Dr Zdenka Čebašek – Travnik, Jure Markič, and Simona Šemen (all Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
27. – 28. 1. 2011	Koper	Visit to Koper Prison	Robert Gačnik and Andreja Srebotnik (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO) and Ciril Klajnšček (Slovenian Red Cross – NGO)	Human Rights Ombudsman of the Republic of Slovenia
10. 2. 2011	At the Ombudsman's head office	Cooperation between the Ombudsman and the Institute of Criminology	Dr Zdenka Čebašek – Travnik and Ivan Šelih (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
15. 2. 2011	Ljubljana	Discussion at the General Police Directorate of the Republic of Slovenia on police detention issues	Ivan Šelih and Robert Gačnik (Ombudsman's office)	Ombudsman in cooperation with the police
16. 2. 2011	Idrija and Tolmin	Visit to the Idrija and Tolmin police stations	Robert Gačnik (Ombudsman's office) and Tina Šimunovič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
17. 2. 2011	Nova Gorica	Visit to the secure ward of a nursing home	Dr Ingrid Russi – Zagožen and Jure Markič (Ombudsman's office), Dora Sedmak (Slovenian Red Cross – NGO), Senka Šifkovič Vrbica (Legal Information Centre of NGOs)	Human Rights Ombudsman of the Republic of Slovenia
24. 2. 2011	Ig	Visit to Ljubljana Prison, Ig Open Prison Section	Andreja Srebotnik and Robert Gačnik (Ombudsman's office), Katja Piršič (Primus – NGO)	Human Rights Ombudsman of the Republic of Slovenia
13.–15. 3. 2011	Paris, France	Cooperation on the 4th theme workshop for national preventive mechanisms regarding protection and dignity in detention premises	Andreja Srebotnik (Ombudsman's office)	Council of Europe and European Commission in cooperation with the French national preventive mechanism
15. 3. 2011	Solkan near Nova Gorica	Visit to Koper Prison, Nova Gorica Section	Miha Horvat and Robert Gačnik (Ombudsman's office) and Ciril Klajnšček (Slovenian Red Cross – NGO) and Gruša Matevžič (Legal Information Centre of NGOs)	Human Rights Ombudsman of the Republic of Slovenia
15. 3. 2011	Ljubljana	Discussion with the president of the Commission for the Prevention of Corruption and the member of the UN Sub-committee for Torture Prevention, Dr Goran Klemenčič, in relation to cooperation on the execution of tasks according to the Optional Protocol (OPCAT)	Ivan Šelih (Ombudsman's office)	Commission for the Prevention of Corruption and Human Rights Ombudsman of the Republic of Slovenia
16. 3. 2011	Laško	Visit to the secure ward of the nursing home in Laško	Dr Ingrid Russi – Zagožen and Jure Markič (Ombudsman's office), Mojca Pinterič Krajnc (Slovenian Red Cross NGO)	Human Rights Ombudsman of the Republic of Slovenia
23. 3. 2011	Jesenice and Kranj	Visit to Jesenice and Kranj police stations	Robert Gačnik (Ombudsman's office) and Tina Šimunovič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia

DATUM	KRAJ	OPIS	UDELEŽENCI	ORGANIZATOR
28. 3. 2011	Na sedežu Varuha, Ljubljana	Pogovor s predsednikom Sindikata Uprave za izvrševanje kazenskih sankcij	dr. Zdenka Čebašek – Travnik, Ivan Šelih, Kornelija Marzel, Lan Vošnjak (Varuh)	Varuh človekovih pravic RS
31. 3. 2011	Maribor	Obisk Mladinskega doma Maribor	Ivan Šelih in Brigita Urh (Varuh) ter Katja Piršič (Inštitut Primus – NVO) in Olga Perhanc (izvedenka za področje pedagogike in psihologije)	Varuh človekovih pravic RS
14. 4. 2011	Radeče	Obisk Prezgojnega doma Radeče	Robert Gačnik in Andreja Srebotnik (Varuh) ter Tina Šimunovič (Inštitut Primus – NVO), Ciril Klajnšček (Rdeči križ Slovenije – NVO) in prim. Darja Boben – Bardutzky, dr. med. (izvedenka za področje zdravstva)	Varuh človekovih pravic RS
18. 4. 2011	Ormož	Obisk Psihiatrične bolnišnice Ormož	dr. Zdenka Čebašek – Travnik, mag. Jure Markič in Miha Horvat (Varuh) ter Tina Šimunovič Inštitut Primus – NVO) in Gruša Matevžič (Pravno-informacijski center NVO)	Varuh človekovih pravic RS
20. 4. 2011	Izola in Koper	Obisk Policijske postaje Izola in prostorov za pridržanje na Policijski postaji Koper	Robert Gačnik (Varuh) ter Tina Šimunovič in Katja Piršič (Inštitut Primus – NVO)	Varuh človekovih pravic RS
4. 5. 2011	Lukavci - Križevci pri Ljutomeru	Obisk Posebnega socialnovarstvenega zavoda Dom Lukavci	mag. Jure Markič, mag. Simona Šemen (Varuh)	Varuh človekovih pravic RS
10. 5. 2011	Ljubljana	Obisk Zavoda za prestajanje kazni zapora Ljubljana	Andreja Srebotnik, Miha Horvat in Robert Gačnik (Varuh), Tina Šimunovič (Inštitut Primus – NVO) in Ciril Klajnšček (Rdeči križ Slovenije - NVO) ter prim. Darja Boben – Bardutzky, dr. med., (izvedenka za področje zdravstva)	Varuh človekovih pravic RS
18. 5. 2011	Ptuj in Dolga vas	Pregled prostorov za pridržanje policijske postaje in postopkov o pridržanju na Policijski postaji Murska Sobota	Ivan Šelih, Robert Gačnik (Varuh) in Tanja Sarič (Pravno-informacijski center NVO) in Tina Šimunovič (Inštitut Primus – NVO)	Varuh človekovih pravic RS
31. 5. 2011	Kranj, Škofja Loka, Preddvor	Obisk Vzgojnega zavoda Kranj	Brigita Urh (Varuh) ter Olga Perhanc (izvedenka za področje pedagogike in psihologije) in Tina Šimunovič (Inštitut Primus - NVO)	Varuh človekovih pravic RS
2. 6. 2011	Celje	Obisk Zavoda za prestajanje mladoletniškega zapora in kazni zapora Celje	Ivan Šelih, Robert Gačnik in Andreja Srebotnik (Varuh) ter Ciril Klajnšček (Rdeči križ Slovenije – NVO) in prim. Darja Boben – Bardutzky, dr. med., (izvedenka za področje zdravstva)	Varuh človekovih pravic RS
9. 6. 2011	Ohrid, Makedonija	Sodelovanje na regionalni konferenci o vlogi ombudsmanov na področjih borbe proti diskriminaciji in preprečevanju mučenja	Ivan Šelih (Varuh), Jernej Rovšek (Varuh)	OVSE v sodelovanju z ombudsmanom Makedonije in Švedsko organizacijo za razvoj (SIDA)
9. 6. 2011	Srednja vas v Bohinju	Obisk Doma starejših – Zavoda sv. Martina	mag. Jure Markič, Miha Horvat (Varuh) ter Katja Piršič (Inštitut Primus – NVO) in Tanja Sarič (Pravno-informacijski center NVO)	Varuh človekovih pravic RS
13. 6. 2011	Talin, Estonija	Sodelovanje na predstavitvi mednarodnega projekta o neodvisnih medicinskih strokovnjakih pri izvajanju nalog v vlogi DPM ter na peti tematski delavnici DPM o zbiranju informacij ob obiskih ustanov, kjer so nastanjene osebe, ki jim je bila odvzeta prostost	Ivan Šelih (Varuh)	Svet Evrope in Evropska komisija

DATE	PLACE	DESCRIPTION	PARTICIPANTS	ORGANISED BY
28. 3. 2011	At the Ombudsman's head office, Ljubljana	Discussion with the president of the Union of the Prison Administration	Dr Zdenka Čebašek – Travnik, Ivan Šelih, Kornelija Marzel, Lan Vošnjak (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
31. 3. 2011	Maribor	Visit to Maribor Youth Centre	Ivan Šelih and Brigita Urh (Ombudsman's office), Katja Piršič (Primus Institute – NGO) and Olga Perhanc (expert on pedagogical sciences and psychology)	Human Rights Ombudsman of the Republic of Slovenia
14. 4. 2011	Radeče	Visit to Radeče Youth Detention Centre	Robert Gačnik and Andreja Srebotnik (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO), Ciril Klajnšček (Slovenian Red Cross – NGO) and Prim. Darja Boben – Bardutzky, Dr. Med. (expert on health care)	Human Rights Ombudsman of the Republic of Slovenia
18. 4. 2011	Ormož	Visit to Ormož Psychiatric Hospital	Dr Zdenka Čebašek – Travnik Jure Markič and Miha Horvat (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO) and Gruša Matevžič (Legal Information Centre of NGOs)	Human Rights Ombudsman of the Republic of Slovenia
20. 4. 2011	Izola and Koper	Visit to Izola Police Station and detention premises at Koper police station	Robert Gačnik (Ombudsman's office), Tina Šimunovič and Katja Piršič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
4. 5. 2011	Lukavci - Križevci pri Ljutomeru	Visit to the Dom Lukavci Special Social Care Institution	Jure Markič, MSc, Simona Šemen, MSc (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
10. 5. 2011	Ljubljana	Visit to Ljubljana Prison	Andreja Srebotnik, Miha Horvat and Robert Gačnik (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO), Ciril Klajnšček (Slovenian Red Cross – NGO) and Prim. Darja Boben – Bardutzky, Dr. Med. (expert on health care)	Human Rights Ombudsman of the Republic of Slovenia
18. 5. 2011	Ptuj and Dolga vas	Examination of detention premises and detention procedures at Murska Sobota Police Station	Ivan Šelih, Robert Gačnik (Ombudsman's office), Tanja Sarič (Legal Information Centre of NGOs) and Tina Šimunovič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
31. 5. 2011	Kranj, Škofja Loka, Preddvor	Visit to Kranj Juvenile Facility	Brigita Urh (Ombudsman's office), Olga Perhanc (expert on pedagogical sciences and psychology) and Tina Šimunovič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
2. 6. 2011	Celje	Visit to Celje Prison and Juvenile Prison	Ivan Šelih, Robert Gačnik and Andreja Srebotnik (Ombudsman's office), Ciril Klajnšček (Slovenian Red Cross – NGO) and Prim. Darja Boben – Bardutzky, Dr. Med. (expert on health care)	Human Rights Ombudsman of the Republic of Slovenia
9. 6. 2011	Ohrid, Macedonia	Cooperation at the regional conference on the role of ombudsmen in the fields of combating discrimination and the prevention of torture	Ivan Šelih, Jernej Rovšek (Ombudsman's office)	OSCE in cooperation with the Macedonian Ombudsman and SIDA
9. 6. 2011	Srednja vas v Bohinju	Visit to the St Martin Nursing Home	Jure Markič, MSc, Miha Horvat (Ombudsman's office), Katja Piršič (Primus Institute – NGO) and Tanja Sarič (Legal Information Centre of NGOs)	Human Rights Ombudsman of the Republic of Slovenia
13. 6. 2011	Tallinn, Estonia	Cooperation on the presentation of the international project on independent medical experts in the execution of tasks within the scope of NPM, and on the fifth theme workshop of NPM in the collection of information during visits to institutions where persons who have been deprived of liberty are accommodated	Ivan Šelih (Ombudsman's office)	Council of Europe and European Commission

DATUM	KRAJ	OPIS	UDELEŽENCI	ORGANIZATOR
15. 6. 2011	Lenart in Šentilj	Pregled prostorov za pridržanje in postopkov o pridržanju na policijskih postajah Lenart in Šentilj	Robert Gačnik (Varuh) in Tina Šimunovič (Inštitut Primus – NVO) ter Tanja Sarič (Pravno-informacijski center NVO)	Varuh človekovih pravic RS
28. 7. 2011	Hrastovec v Slovenskih goricah	Obisk Socialnovarstvenega zavoda Hrastovec.	dr. Zdenka Čebašek – Travnik, mag. Jure Markič, mag. Simona Šemen, Jasna Vunduk in Jožica Matjašič (Varuh) ter Katja Piršič (Inštitut Primus – NVO). 19. 10. 2011 sta dom še enkrat obiskali Jasna Vunduk in mag. Simona Šemen.	Varuh človekovih pravic RS
8. 9. 2011	Slovenske Konjice	Obisk Lambrechtovega doma za starejše občane	mag. Jure Markič in mag. Simona Šemen (Varuh) ter Tina Šimunovič (Inštitut Primus – NVO)	Varuh človekovih pravic RS
13. – 14. 9. 2011	Varšava, Poljska	Seminar OPCAT (Opcijski protokol h Konvenciji proti mučenju) in ombudsmeni	Andreja Srebotnik (Varuh)	International Ombudsman Institute (IOI)
14. 9. 2011	Talin, Estonija	Obisk DPM Estonije ter sodelovanje pri obisku zapora, policijske postaje in psihiatrične bolnišnice	Ivan Šelih, mag. Jure Markič in Robert Gačnik (Varuh)	Varuh človekovih pravic RS
21. 9. 2011	Cerknica in Ilirska Bistrica	Obisk in pregled prostorov za pridržanje ter postopkov o pridržanju na Policijski postaji Cerknica in Ilirska Bistrica	Robert Gačnik (Varuh)	Varuh človekovih pravic RS
27. 9. 2011	Na sedežu Varuha, Ljubljana	Obisk delegacije srbskega DPM in predstavnikov OVSE v Srbiji ter njihovo sodelovanje pri obisku ZPKZ Ig	Ivan Šelih, Andreja Srebotnik in Robert Gačnik (Varuh)	Varuh človekovih pravic RS v sodelovanju z OVSE Beograd
28. 9. 2011	Ig pri Ljubljani	Obisk Zavoda za prestajanje kazni zapora Ig	Andreja Srebotnik in Robert Gačnik (Varuh) ter Tina Šimunovič (Inštitut Primus – NVO) in prim. Darja Boben – Bardutzky, dr. med. (izvedenka za področje zdravstva)	Varuh človekovih pravic RS
3. 10. 2011	Na sedežu Varuha, Murska Sobota	Obisk predstavnikov makedonskega in albanskega državnega preventivnega mehanizma in njihovo sodelovanje pri obisku Zapora Murska Sobota	Ivan Šelih, mag. Jure Markič, Andreja Srebotnik in Robert Gačnik (Varuh)	Varuh človekovih pravic RS
12. 10. 2011	Ljubljana	Obisk Azilnega doma	Miha Horvat in Mojca Valjavec (Varuh) ter prim. Darja Boben – Bardutzky, dr. med. (izvedenka za področje zdravja), Tina Šimunovič (Inštitut Primus – NVO)	Varuh človekovih pravic RS
18. 10. 2011	Na sedežu Varuha, Škofja Loka	Obisk delegacije ombudsmana Tadžikistana.	Ivan Šelih, mag. Jure Markič, Andreja Srebotnik in Robert Gačnik (Varuh)	Varuh človekovih pravic RS
18. 10. 2011	Škofja Loka	Obisk in pregled prostorov za pridržanje na Policijski postaji Škofja Loka	Ivan Šelih in Robert Gačnik (Varuh)	Varuh človekovih pravic RS
19. 10. 2011	Hrastovec v Slovenskih goricah	Obisk Posebnega socialnovarstvenega zavoda Hrastovec	dr. Zdenka Čebašek – Travnik, mag. Simona Šemen, Jasna Vunduk, dr. Ingrid Russi – Zagožen (Varuh)	Varuh človekovih pravic RS
19. 10. 2011	Baku, Azerbajdžan	Sodelovanje na šesti tematski delavnici v okviru The European NPM Project – Zaščita posebej ranljivih skupin v krajih odvzema prostosti	Ivan Šelih (Varuh)	Svet Evrope in Evropska komisija v sodelovanju z ombudsmanom Azerbajdžana
20. 10. 2011	Višnja Gora, Stična	Obisk Vzgojno-izobraževalnega zavoda (VIZ) Višnja Gora	Brigita Urh (Varuh), Olga Perhavic (izvedenka za področje pedagogike in psihologije) ter Tina Šimunovič in Branka Pondelek (Inštitut Primus – NVO)	Varuh človekovih pravic RS

DATE	PLACE	DESCRIPTION	PARTICIPANTS	ORGANISED BY
15. 6. 2011	Lenart and Šentilj	Examination of detention premises and detention procedures at Lenart and Šentilj Police stations	Robert Gačnik (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO) and Tanja Sarič (Legal Information Centre of NGOs)	Human Rights Ombudsman of the Republic of Slovenia
28. 7. 2011	Hrastovec in Slovenske gorice	Visit to Hrastovec Social Care Institution	Dr Zdenka Čebašek – Travnik, Jure Markič, Simona Šemen, Jasna Vunduk and Jožica Matjašič (Ombudsman's office), Katja Piršič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
8. 9. 2011	Slovenske Konjice	Visit to the Lambrect Nursing Home	Jure Markič, MSc, Simona Šemen, MSc (Ombudsman's office) and Tina Šimunovič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
13.–14. 9. 2011	Warsaw, Poland	OPCAT Seminar (Optional Protocol to the Convention against Torture) and ombudsmen	Andreja Srebotnik (Ombudsman's office)	International Ombudsman Institute (IOI)
14. 9. 2011	Tallinn, Estonia	Visit to the Estonia NPM and cooperation during the visit to the prison, police station and psychiatric hospital	Ivan Šelih, Jure Markič, MSc and Robert Gačnik (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
21. 9. 2011	Cerknica and Ilirska Bistrica	Visit to, and examination of, detention premises and detention procedures at Cerknica and Ilirska Bistrica police stations	Robert Gačnik (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
27. 9. 2011	At the Ombudsman's head office, Ljubljana	Visit of the Serbian NPM delegation and OSCE representatives in Serbia, their cooperation on the visit to Ig Prison	Ivan Šelih, Andreja Srebotnik and Robert Gačnik (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia in cooperation with OSCE Belgrade
28. 9. 2011	Ig pri Ljubljani	Visits to Ig Prison	Andreja Srebotnik and Robert Gačnik (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO) and Prim. Darja Boben – Bardutzky, Dr. Med. (expert on health care)	Human Rights Ombudsman of the Republic of Slovenia
3. 10. 2011	At the Ombudsman's head office, Murska Sobota	Visit of representatives of the Macedonian and Albanian national preventive mechanism, their cooperation during the visit to Murska Sobota Prison	Ivan Šelih, Jure Markič, MSc, Andreja Srebotnik and Robert Gačnik (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
12. 10. 2011	Ljubljana	Visit to the Asylum Centre	Miha Horvat and Mojca Valjavec (Ombudsman's office), Prim. Darja Boben – Bardutzky, Dr. Med. (expert on health care), Tina Šimunovič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
18. 10. 2011	At the Ombudsman's head office, Škofja Loka	Visit of the Tajikistan ombudsman's delegation	Ivan Šelih, Jure Markič, MSc, Andreja Srebotnik and Robert Gačnik (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
18. 10. 2011	Škofja Loka	Visit and examination of the detention premises at Škofja Loka Police Station	Ivan Šelih and Robert Gačnik (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
19. 10. 2011	Hrastovec in Slovenske gorice	Visit to Hrastovec Social Care Institution	Dr Zdenka Čebašek – Travnik, Simona Šemen, MSc, Jasna Vunduk, Dr Ingrid Russi – Zagožen (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
19. 10. 2011	Baku, Azerbaijan	Cooperation on the sixth theme workshop within the European NPM Project – Protection of specially vulnerable groups in detention premises	Ivan Šelih (Ombudsman's office)	Council of Europe and European Commission in cooperation with the Ombudsman of Azerbaijan
20. 10. 2011	Višnja Gora, Stična	Visit to the Višnja Gora Juvenile Education Institution	Brigita Urh (Ombudsman's office), Olga Perhavic (expert on pedagogical studies and psychology), Tina Šimunovič and Branka Pondelek (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia

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20. 10. 2011	Moravske Toplice	Sodelovanje na izobraževanju za delo z osebami z demenco, s prispevkom Omejevanje svobode gibanja osebam z demenco.	Tone Dolčič, dr. Ingrid Russi – Zagožen, mag. Jure Markič (Varuh)	FIRIS Imperl & Co., d. n. o.
24. 10. 2011	Na sedežu Varuha, Ljubljana	Delovno srečanje z Upravo za izvrševanje kazenskih sankcij (UIKS)	dr. Zdenka Čebašek – Travnik, Ivan Šelih, Robert Gačnik (Varuh)	Varuh človekovih pravic RS v sodelovanju z UIKS
26. 10. 2011	Vižmarje–Brod	Obisk stanovanjske skupine Vzgojno-izobraževalnega zavoda Višnja Gora	Brigita Urh (Varuh), Olga Perhanc (izvedenka za področje pedagogike in psihologije) in Tina Šimunovič (Inštitut Primus – NVO)	Varuh človekovih pravic RS
27. 10. 2011	Videm, Ponikve, Predstruge, Sodražica	Obisk Posebnega socialnovarstvenega zavoda Prizma Ponikve in bivalnih enot	mag. Jure Markič in Jasna Vunduk (Varuh) ter Tina Šimunovič (Inštitut Primus – NVO)	Varuh človekovih pravic RS
28. 10. 2011	Na sedežu Varuha, Ljubljana	Obisk predstavnikov predstavništva UNHCR (Regional Representation for Central Europe), Budimpešta	Ivan Šelih (Varuh)	Varuh človekovih pravic RS
28. 10. 2011	Mengeš	Obisk bivalnih enot Doma Prizma Ponikve	mag. Jure Markič (Varuh)	Varuh človekovih pravic RS
9. 11. 2011	Rogoza	Obisk Zavoda za prestajanje kazni zapora Maribor, Odrptega oddelka Rogoza	Robert Gačnik in Andreja Srebotnik (Varuh) ter Tina Šimunovič (Inštitut Primus – NVO) in Ciril Klajnšček (Rdeči križ Slovenije – NVO)	Varuh človekovih pravic RS
10. 11. 2011	Ženeva, Švica	Udeležba na Globalnem forumu Združenja za preprečevanje mučenja (APT) – Preprečevanje mučenja, vzdrževanje dostojanstva: od obljub do delovanja	Ivan Šelih (Varuh)	Združenje za preprečevanje mučenja (APT)
13. 11. 2011	Beograd, Srbija	Udeležba na okrogli mizi o vprašanih vzpostavljanja pogojev za delo DPM (državnega preventivnega mehanizma) v Republiki Srbiji in o izzivih prihodnjega sodelovanja	Ivan Šelih (Varuh)	Ministrstvo za človekove pravice in manjšine, delo in socialno politiko Republike Srbije
18. 11. 2011	Grosuplje in Ribnica	Obisk prostorov za pridržanje na Policijski postaji Grosuplje in Policijski postaji Ribnica	Robert Gačnik (Varuh) ter Tina Šimunovič in Katja Piršič (Inštitut Primus – NVO) in Anja Gašperlin (Pravno-informacijski center NVO)	Varuh človekovih pravic RS
24. 11. 2011	Na sedežu Varuha, Ljubljana	Pogovor o delu državnega preventivnega mehanizma v Sloveniji	Ivan Šelih in Robert Gačnik (Varuh)	Varuh človekovih pravic RS v sodelovanju z Velevposlaništvom Francije
24. 11. 2011	Petrovo Brdo	Obisk Doma upokoencev Podbrdo, enota Petrovo Brdo	mag. Jure Markič in Jasna Vunduk (Varuh) ter Tina Šimunovič in Branka Pondelek (Inštitut Primus - NVO)	Varuh človekovih pravic RS
28. 11. 2011	Veliki Otok	Obisk Centra za tujce	Miha Horvat, Mojca Valjavec in Barbara Kranjc (Varuh) ter Tina Šimunovič (Inštitut Primus - NVO) in prim. Darja Boben – Bardutzky, dr. med. (izvedenka za področje zdravstva)	Varuh človekovih pravic RS
1. 12. 2011	Logatec	Obisk Zavoda za vzgojo in izobraževanje Logatec	Ivan Šelih in Brigita Urh (Varuh) ter Tina Šimunovič (Inštitut Primus, NVO) in Olga Perhanc (izvedenka za področje pedagogike in psihologije)	Varuh človekovih pravic RS

DATE	PLACE	DESCRIPTION	PARTICIPANTS	ORGANISED BY
20. 10. 2011	Moravske Toplice	Participation in education for work with persons suffering from dementia with contribution Restriction of Freedom of Movement of Persons Suffering from Dementia	Tone Dolčič, Dr Ingrid Russi – Zagožen and Jure Markič MSc, (Ombudsman's office)	FIRIS Imperl & Co., d. n. o.
24. 10. 2011	At the Ombudsman's head office, Ljubljana	Working meeting with the Prison Administration	Dr Zdenka Čebašek-Travnik, Ivan Šelih, Robert Gačnik (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia in cooperation with the Prison Administration
26. 10. 2011	Vižmarje–Brod	Visit to the residential group of the Višnja Gora Juvenile Education Institution	Brigita Urh (Ombudsman's office), Olga Perhanc (expert on pedagogical studies and psychology) and Tina Šimunovič (Primus Institute - NGO)	Human Rights Ombudsman of the Republic of Slovenia
27. 10. 2011	Videm, Ponikve, Predstruge, Sodražica	Visit to the Prizma Ponikve Special Social Care Institution and its residential units	Jure Markič and Jasna Vunduk (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
28. 10. 2011	At the Ombudsman's head office, Ljubljana	Visit of UNHCR representatives (Regional Representation for Central Europe), Budapest	Ivan Šelih (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
28. 10. 2011	Mengeš	Visit to the Dom Primza Ponikve residential units	Jure Markič , MSc (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia
9. 11. 2011	Rogoza	Visit to Maribor Prison, Rogoza Open Prison Section	Robert Gačnik and Andreja Srebotnik (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO) and Ciril Klajnšček (Slovenian Red Cross – NGO)	Human Rights Ombudsman of the Republic of Slovenia
10. 11. 2011	Geneva, Switzerland	Participation at the Global Forum of the Association for the Prevention of Torture – Preventing Torture, Upholding Dignity: from Pledges to Actions	Ivan Šelih (Ombudsman's office)	Association for the Prevention of Torture (APT)
13. 11. 2011	Belgrade, Serbia	Participation in the round table on the issues of establishing conditions for NPM work in the Republic of Slovenia, and on the challenges of future cooperation	Ivan Šelih (Ombudsman's office)	Ministry of Human Rights and Minorities, Labour and Social Policy of the Republic of Serbia
18. 11. 2011	Grosuplje and Ribnica	Visit to the detention premises at the Grosuplje and Ribnica police stations	Robert Gačnik (Ombudsman's office), Tina Šimunovič (Primus Institute - NGO) and Anja Gašperlin (Legal Information Centre of NGOs)	Human Rights Ombudsman of the Republic of Slovenia
24. 11. 2011	At the Ombudsman's head office, Ljubljana	Discussion on the work of NPM in Slovenia	Ivan Šelih and Robert Gačnik (Ombudsman's office)	Human Rights Ombudsman of the Republic of Slovenia in cooperation with the French Embassy
24. 11. 2011	Petrovo Brdo	Visit to the Podbrdo Retirement Home, Petrovo Brdo unit	Jure Markič, Jasna Vunduk (Ombudsman's office), Tina Šimunovič and Branka Pondelek (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
28. 11. 2011	Veliki Otok	Visit to the Aliens Centre	Miha Horvat, Mojca Valjavec and Barbara Kranjc (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO) and Prim. Darja Boben – Bardutzky, Dr. Med. (expert on health care)	Human Rights Ombudsman of the Republic of Slovenia
1. 12. 2011	Logatec	Visit to the Logatec Juvenile and Education Institution	Ivan Šelih and Brigita Urh (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO) and Olga Perhanc (expert on pedagogical sciences and psychology)	Human Rights Ombudsman of the Republic of Slovenia

DATUM	KRAJ	OPIS	UDELEŽENCI	ORGANIZATOR
5. 12. 2011	Brdo pri Kranju	Tretje letno srečanje vodij in kontaktnih oseb državnih preventivnih mehanizmov proti mučenju (NPMs), odbora OZN za preprečevanje mučenja (SPT) ter Evropskega odbora za preprečevanje mučenja in nečloveškega ali ponižujočega ravnanja ali kaznovanja(CPT)	dr. Zdenka Čebašek – Travnik, Ivan Šelih, mag. Jure Markič (Varuh)	Svet Evrope in EU v sodelovanju z Varuhom človekovih pravic RS
6. 12. 2011	Slovenska vas	Obisk prostorov Zavoda za prestajanje kazni zapora Dob pri Mirni, Polodprtega oddelka Slovenska vas	Robert Gačnik in Miha Horvat (Varuh) ter Tina Šimunovič (Inštitut Primus – NVO), Ciril Klajnšček (Rdeči križ Slovenije – NVO) in prim. Darja Boben – Bardutzky, dr. med. (izvedenka za področje zdravstva)	Varuh človekovih pravic RS
8. 12. 2011	Na sedežu Varuha, Ljubljana	Tiskovna konferenca s predstavitvijo dela državnega preventivnega mehanizma (DPM)	dr. Zdenka Čebašek – Travnik, Ivan Šelih, Nataša Kuzmič in mag. Jure Markič (Varuh), Katarina Bervar Strnad (PIC NVO) in Ciril Klanjšček (Pravno-informacijski center NVO)	Varuh človekovih pravic RS
12. 12. 2011	Na sedežu Varuha, Ljubljana	Delovno srečanje, na katerem so udeleženci predstavili delovanje in izkušnje NETZ (NVO v Švici) na področju priprave in izvedbe izobraževalnih programov za zapornike	dr. Zdenka Čebašek – Travnik, varuhinja	Varuh človekovih pravic RS v sodelovanju z Zavodom za izobraževanje PTICA
13. 12. 2011	Ljubljana	Obisk stanovanjske skupine Rdeča kljuka v Ljubljani, ki je del Zavoda za vzgojo in izobraževanje Logatec	Brigita Urh (Varuh) in Olga Perhanc (izvedenka za področje pedagogike in psihologije)	Varuh človekovih pravic RS
13. 12. 2011	Maribor	Obisk doma za starostnike Dom pod Gorco	mag. Jure Markič in Miha Horvat (Varuh) ter Tina Šimunovič (Primus – NVO)	Varuh človekovih pravic RS
13. 12. 2011	Varšava, Poljska	Udeležba na tematskem seminarju o vprašanih vloge in pristojnostih zdravnikov, ki v Evropi sodelujejo z nacionalnimi državnimi preventivnimi mehanizmi	dr. Zdenka Čebašek – Travnik, varuhinja	Svet Evrope in EU v sodelovanju z ombudsmanom Poljske
15. 12. 2011	Ženeva, Švica	Sodelovanje na regionalnem posvetovanju o krepitvi sodelovanja med OZN in regionalnimi mehanizmi za človekove pravice o preprečevanju mučenja in zaščito žrtev mučenja, posebej oseb, ki jim je bila odvzeta prostost	Ivan Šelih (Varuh)	OZN, visoki komisar za človekove pravice
21. 12. 2011	Gornja Radgona in Ruše	Obisk policijskih postaj Gornja Radgona in Ruše	Robert Gačnik (Varuh) in Tina Šimunovič (Inštitut Primus – NVO)	Varuh človekovih pravic RS
13. 1. 2012	Na sedežu Varuha, Ljubljana	Letno srečanje DPM	Člani in članice DPM ter predstavnice in predstavniki nevladnih organizacij (NVO): Ivan Šelih, Andreja Srebotnik, Robert Gačnik, mag. Jure Markič, Miha Horvat, mag. Simona Šemen (vsi Varuh človekovih pravic RS) ter Katarina Bervar Strnad (PIC NVO), Ciril Klanjšček (RKS – NVO), Katja Piršič, Neja Gregorc in Katja Sodja (Inštitut Primus – NVO), Slavica Smrtnik (Novi Paradoks – NVO) in Ana Canjko (ZDUS – NVO)	Varuh človekovih pravic RS

DATE	PLACE	DESCRIPTION	PARTICIPANTS	ORGANISED BY
5. 12. 2011	Brdo pri Kranju	Third annual meeting of managers and contact persons of NPMs against torture, UN Sub-committee for the Prevention of Torture (SPT) and the European Committee for the Prevention of Torture and Non-human or Degrading Treatment or Punishment (CPT)	Dr Zdenka Čebašek – Travnik, Ivan Šelih, Jure Markič MSc (Ombudsman's office)	Council of Europe and the EU in cooperation with the Human Rights Ombudsman of the Republic of Slovenia
6. 12. 2011	Slovenska vas	Visit to the premises of the Dob pri Mirna Prison, Slovenska vas Semi-open Prison Section	Robert Gačnik and Miha Horvat (Ombudsman's office), Tina Šimunovič (Primus Institute – NGO), Ciril Klajnšček (Slovenian Red Cross – NGO) and Prim. Darja Boben – Bardutzky, Dr. Med. (expert on health care)	Human Rights Ombudsman of the Republic of Slovenia
8. 12. 2011	At the Ombudsman's head office, Ljubljana	Press conference and presentation of NPM's work	Dr Zdenka Čebašek – Travnik, Ivan Šelih, Nataša Kuzmič and Jure Markič, MSc, (Ombudsman's office), Katarina Bervar Strnad (Legal Information Centre of NGOs) and Ciril Klanjšček (Legal Information Centre of NGOs)	Human Rights Ombudsman of the Republic of Slovenia
12. 12. 2011	At the Ombudsman's head office, Ljubljana	Working meeting where participants presented the operations and experience of NETZ (NGO in Switzerland) in the field of preparing and implementing education programmes for imprisoned persons	Dr Zdenka Čebašek – Travnik, the Ombudsman	Human Rights Ombudsman of the Republic of Slovenia in cooperation with the PTICA Education Institute
13. 12. 2011	Ljubljana	Visit to the Rdeča kljuka residential group in Ljubljana, which is part of the Logatec Juvenile and Education Institution	Brigita Urh (Ombudsman's office) and Olga Perhanc (expert in pedagogical sciences and psychology)	Human Rights Ombudsman of the Republic of Slovenia
13. 12. 2011	Maribor	Visit to the Dom pod Gorco Retirement Home	Jure Markič and Miha Horvat (Ombudsman), Tina Šimunovič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
13. 12. 2011	Warsaw, Poland	Participation at the theme seminar on issues related to the role and competences of doctors who cooperate with national preventive mechanisms in Europe	Dr Zdenka Čebašek – Travnik, the Ombudsman	Council of Europe and the EU in cooperation with the Polish Ombudsman
15. 12. 2011	Geneva, Switzerland	Cooperation at regional consultations on strengthening cooperation between the UN and regional mechanisms for human rights on the prevention of torture and protection of torture victims, especially persons deprived of liberty	Ivan Šelih (Ombudsman's office)	UN High Commissioner for Human Rights
21. 12. 2011	Gornja Radgona and Ruše	Visit to the Gornja Radgona and Ruše police stations	Robert Gačnik (Ombudsman's office) and Tina Šimunovič (Primus Institute – NGO)	Human Rights Ombudsman of the Republic of Slovenia
13. 1. 2012	At the Ombudsman's head office, Ljubljana	NPM annual meeting	Members of the NPM, representatives of NGOs: Ivan Šelih, Andreja Srebotnik, Robert Gačnik, Jure Markič, MSc, Miha Horvat, Simona Šemen (Ombudsman's office), Katarina Bervar Strnad (Legal Information Centre of NGOs), Ciril Klanjšček (Slovenian Red Cross – NGO), Katja Piršič, Neja Gregorc and Katja Sodja (Primus Institute – NGO), Slavica Smrtnik (Novi Paradoks – NGO) and Ana Canjko (ZDUS – NGO)	Human Rights Ombudsman of the Republic of Slovenia

III. KONVENCIJA IN PROTOKOL

III. CONVENTION AND PROTOCOL

Združeni narodi



Generalna skupščina

KONVENCIJA OZN PROTI MUČENJU IN DRUGIM KRUTIM, NEČLOVEŠKIM ALI PONIŽEVALNIM KAZNIM ALI RAVNANJU

Sprejeta ter na voljo za podpis, ratifikacijo in pristop, dne 10. decembra 1984, z resolucijo Generalne skupščine Združenih narodov 39/46. Datum začetka veljavnosti konvencije: 26. junija 1987 – v skladu s 27(1) členom konvencije.

Objavljena v Uradnem listu Republike Slovenije – Mednarodne pogodbe št. 7/93.

Države članice te konvencije,

menijo, da je v skladu z načeli ustanovne listine Združenih narodov priznavanje enakih in neodtujljivih pravic vseh članov človeške družine temelj svobode, pravice in miru v svetu,

menijo, da te pravice izhajajo iz dostojanstva, neločljivega od človekove osebnosti,

menijo, da morajo države na podlagi ustanovne listine, predvsem pa njenega 55. člena, spodbujati splošno in dejansko spoštovanje človekovih pravic in temeljnih svoboščin,

upoštevajo 5. člen splošne deklaracije o človekovih pravicah in 7. člen mednarodnega pakta o državljanskih in političnih pravicah, po katerih nihče ne sme biti izpostavljen mučenju in ne krutim, nečloveškim ali poniževalnim kaznim ali ravnanju,

upoštevajo tudi deklaracijo o varstvu vseh oseb pred mučenjem in drugimi krutimi, nečloveškimi ali poniževalnimi kaznimi ali ravnanju, ki jo je Generalna skupščina sprejela 9. decembra 1975,

želijo povečati učinkovitost boja proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju v vsem svetu, in

so se zedinile o naslednjem:

I. DEL

1. člen

1. V tej konvenciji pomeni izraz »mučenje« vsako dejanje, ki osebi namenoma prizadene hudo bolečino ali trpljenje, bodisi telesno ali duševno, da bi se od nje ali koga drugega dobila obvestila ali priznanja ali da bi se kaznovala za dejanje, ki ga je storila sama ali kdo drug ali je zanj osumljena sama ali kdo drug, da bi se ustrahovala ali nanjo izvajal pritisk ali da bi se ustrahoval kdo drug ali nanj izvajal pritisk, ali iz kateregakoli drugega razloga, ki temelji na katerikoli obliki diskriminacije, če to bolečino ali trpljenje prizadeva uradna oseba ali kdo drug, ki nastopa kot oseba z uradnim statusom ali na njeno pobudo ali z njeno izrecno privolitvijo ali privolitvijo molče. Ta izraz se ne nanaša na bolečino ali trpljenje, ki je posledica izključno zakonitih sankcij, ki ni ločljivo od teh sankcij ali ga te sankcije povzročajo.

United Nations



General Assembly

UN CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984, entry into force 26 June 1987, in accordance with article 27 (1).

Published in Uradni list RS - Mednarodne pogodbe, No. 7/93 (Official Gazette of the Republic of Slovenia - International Treaties).

The States Parties to this Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Having regard also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

Desiring to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

PART I

Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. Ta člen ne vpliva na noben mednarodni instrument ali nacionalni zakon, ki vsebuje ali utegne vsebovati določbe širšega pomena.

2. člen

1. Vsaka država članica izvaja zakonske, upravne, sodne ali druge učinkovite ukrepe, da bi na ozemlju pod svojo jurisdikcijo preprečila mučenje.

2. Kot opravičilo za mučenje se ne more navesti nikakršna izredna okoliščina – bodisi da gre zavojno stanje ali vojno nevarnost, notranjo politično nestabilnost ali kako drugo izredno stanje.

3. Kot opravičilo za mučenje se ne more navesti odredba kake nadrejene osebe ali organa oblasti.

3. člen

1. Nobena država članica ne bo pregnala, izgnala in ne izročila osebe drugi državi, če so resni razlogi za sum, da utegne biti mučena.

2. Da bi ugotovili, ali so taki razlogi, bodo pristojni organi upoštevali vse relevantne okoliščine, med drugim tudi to, ali obstaja v zadevni državi vrsta sistematičnih resnih, očitnih ali množičnih kršitev človekovih pravic.

4. člen

1. Vsaka država članica si prizadeva, da se po njenem kazenskem pravu vsa dejanja mučenja štejejo za kazniva dejanja. To velja tudi za poskuse mučenja ali kakega drugega dejanja, ki ga kdo stori, pomeni pa soudeležbo ali udeležbo pri dejanju mučenja.

2. Vsaka država članica določi za ta kazniva dejanja ustrezne kazni, ki upoštevajo njihovo težo.

5. člen

1. Vsaka država članica sprejme potrebne ukrepe, da bi določila svojo pristojnost za kazniva dejanja iz 4. člena v naslednjih primerih:

a) kadar je kaznivo dejanje storjeno na ozemlju pod njeno jurisdikcijo ali na letalih ali ladjah, vpisanih v njeni državi;

b) kadar je domnevni storilec kaznivega dejanja njen državljan;

c) kadar je žrtev njen državljan, če meni, da je to potrebno.

2. Vsaka država članica prav tako sprejme potrebne ukrepe, da bi določila svojo pristojnost za omenjena kazniva dejanja, če je domnevni storilec teh dejanj na ozemlju pod njeno jurisdikcijo in če ga v skladu z 8. členom ne izroči kaki državi iz prvega odstavka tega člena.

3. Ta konvencija ne izključuje nobene kazenske pristojnosti, ki temelji na nacionalni zakonodaji.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:

(a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the victim is a national of that State if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

6. člen

1. Če meni, da okoliščine to opravičujejo, in po poprejšnji obravnavi obvestil, s katerimi razpolaga, poskrbi vsaka država članica, na ozemlju katere je oseba, za katero se sumi, da je storila kaznivo dejanje iz 4. člena, da se zadevna oseba aretira, ali pa izvede vse potrebne zakonske ukrepe, da bi zagotovila njeno navzočnost. Ta aretacija in ti ukrepi morajo biti v skladu z zakonodajo omenjene države, toda izvajajo se lahko samo toliko časa, kolikor je potrebno za začetek kazenskega pregona ali postopka za izročitev.

2. Omenjena država takoj opravi predhodno preiskavo, da bi ugotovila dejstva.

3. Vsaka oseba, aretirana v skladu s prvim odstavkom tega člena, lahko takoj stopi v stik z najbližjim pooblaščenim predstavnikom države, katere državljanstvo ima, ali, če gre za apatrida, s predstavnikom države, v kateri ima običajno prebivališče.

4. Če je kaka država aretirala osebo v skladu s tem členom, mora o tej aretaciji in okoliščinah, ki jo opravičujejo, takoj obvestiti države iz prvega odstavka 5. člena. Država, ki izvaja predhodno preiskavo iz drugega odstavka tega člena, mora svoje ugotovitve takoj sporočiti omenjenim državam in jih obvestiti, ali namerava izvršiti jurisdikcijo.

7. člen

1. Država članica, na katere ozemlju pod njeno jurisdikcijo je odkrit domnevni storilec kaznivega dejanja iz 4. člena, če ga ne izroči, predloži v primerih iz 5. člena zadevo pristojnim organom, da bi izvedli kazenski postopek.

2. Ti organi odločajo pod enakimi pogoji kot za vsako hudo kaznivo dejanje splošnega prava v skladu s pravnimi predpisi zadevne države. V primerih iz drugega odstavka 5. člena dokazna pravila, ki se uporabljajo za pregon in obsodbo, nikakor ne smejo biti manj stroga od pravil, ki se uporabljajo v primerih iz prvega odstavka 5. člena.

3. Vsaki osebi, ki se preganja za katerokoli kaznivo dejanje iz 4. člena, je zajamčeno pravično ravnanje v vseh fazah postopka.

8. člen

1. Kazniva dejanja iz 4. člena so avtomatično vključena v vsako pogodbo o izročitvi, že sklenjeno med državami članicami. Države članice prevzemajo obveznost, da bodo omenjena kazniva dejanja vključile v vsako pogodbo o izročitvi, ki jo bodo sklenile med seboj.

2. Če dobi država članica, ki za izročitev postavlja kot pogoj pogodbo, od druge države članice, s katero ni vezana s pogodbo o izročitvi, zahtevo za izročitev, lahko šteje to konvencijo kot pravno podlago za izročitev glede omenjenih kaznivih dejanj. Izročitev je odvisna od drugih pogojev, določenih s pravom zaprosene države.

3. Države članice, ki za izročitev ne postavljajo kot pogoj pogodbe, medsebojno priznavajo omenjena kazniva dejanja kot primere za izročitev pod pogoj, predvidenimi s pravom zaprosene države.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.

3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Med državami članicami se za omenjena kazniva dejanja za namene izročitve šteje, kot da so bila storjena ne le v kraju, kjer so se zgodila, temveč tudi na ozemljih držav, ki morajo določiti svojo pristojnost po prvem odstavku 5. člena.

9. člen

1. Države članice dajejo druga drugi kar največjo pravno pomoč v vsakem kazenskem postopku v zvezi s kaznivimi dejanji iz 4. člena, vštevši tudi pošiljanje vseh razpoložljivih dokaznih elementov, ki so potrebni za postopek.

2. Države članice izpolnjujejo svoje obveznosti v skladu s prvim odstavkom tega člena smiselno vsaki morebitni medsebojni pogodbi o pravni pomoči.

10. člen

1. Vsaka država članica bo zagotovila, da bosta seznanjanje s prepovedjo mučenja in informiranje o njej sestavni del izobraževanja civilnega ali vojaškega osebja, zadolženega za uporabo zakonov, medicinskega osebja, vršilcev javnih funkcij in drugih oseb, ki utegnejo kakorkoli sodelovati pri straženju aretirane, priprte ali zaprte osebe, pri njenem zaslišanju ali ravnanju z njo.

2. Vsaka država članica vključi omenjeno prepoved v pravila ali navodila v zvezi z obveznostmi in dolžnostmi teh oseb.

11. člen

Vsaka država članica sistematično nadzoruje pravila, navodila, metode in prakso zasliševanja ter določbe v zvezi s straženjem kakorkoli aretiranih, priprtih ali zaprtih oseb na kakem ozemlju pod njeno jurisdikcijo ter ravnanjem z njimi, da bi preprečila kakršnokoli mučenje.

12. člen

Vsaka država članica skrbi za to, da pristojni organi takoj opravijo nepristransko preiskavo vsakega, ko so upravičeni razlogi za sum, da je bilo dejanje mučenja storjeno, na kakem ozemlju pod njeno jurisdikcijo.

13. člen

Vsaka država članica zagotovi vsaki osebi, ki trdi, da je bila mučena na kakem ozemlju pod njeno jurisdikcijo, pravico, da se pritoži pristojnim organom omenjene države, ki takoj in nepristransko preučijo primer. Sprejeti bodo ukrepi, da se oseba, ki se je pritožila, in priče zavarujejo pred kakršnimkoli grdim ravnanjem ali ustrahovanjem zaradi vložene pritožbe ali dane izjave.

14. člen

1. Vsaka država članica v svojem pravnem sistemu jamči žrtvi dejanja mučenja odstranitev krivice ter pravico do pravične in ustrezne odškodnine, vštevši sredstva, potrebna za njeno čim popolnejšo rehabilitacijo. V primeru smrti žrtve dejanja mučenja imajo imetniki pravic te žrtve pravico do odškodnine.

2. Ta člen ne izključuje nobene pravice do odškodnine, ki bi jo imela žrtev ali kdo drug v skladu z nacionalno zakonodajo.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

15. člen

Vsaka država članica skrbi za to, da se izjava, za katero se dokaže, da je bila dobljena z mučenjem, ne more navesti kot dokazni element v kakem postopku, razen zoper osebo, obtoženo za mučenje, da bi se ugotovilo, da je bila izjava dana.

16. člen

1. Vsaka država članica prevzema obveznost, da bo na ozemlju pod svojo jurisdikcijo preprečila druga dejanja krutih, nečloveških ali poniževalnih kazni ali ravnanja, ki niso dejanja mučenja, kot jih opredeljuje 1. člen, kadar takšna dejanja stori predstavnik javne funkcije ali kdo drug, ki nastopa kot oseba z uradnim statusom ali na njeno spodbudo ali z njeno izrecno privolitvijo ali privolitvijo molče. Zlasti obveznosti, navedene v 10., 11., 12. in 13. členu, se uporabljajo s tem, da se pojem mučenja nadomesti s pojmom drugih oblik krutih, nečloveških ali poniževalnih kazni ali ravnanja.

2. Določbe te konvencije ne vplivajo na določbe kateregakoli mednarodnega instrumenta ali nacionalnega zakona, ki prepoveduje krute, nečloveške ali poniževalne kazni ali ravnanja ali ki se nanaša na izročitev ali izgon.

II. DEL

17. člen

1. Ustanovi se komite proti mučenju (v nadaljnjem besedilu: komite), katerega funkcije so tu določene. Komite sestavlja deset izvedencev z visokimi moralnimi kvaliteta, katerih kompetentnost na področju človekovih pravic je priznana in ki zasedajo v osebni statusu. Izvedence volijo države članice, pri tem pa upoštevajo pravično zemljepisno zastopanost in da je pomembno, da pri delu komiteja sodelujejo osebe s pravnimi izkušnjami.

2. Člani komiteja se volijo s tajnim glasovanjem z liste kandidatov, ki jih določijo države članice. Vsaka država članica določi enega kandidata izmed svojih državljanov. Države članice upoštevajo, kako pomembno je, da so določeni kandidati hkrati člani komiteja za človekove pravice, ustanovljenega v skladu z mednarodnim paktom o državljanskih in političnih pravicah, in da so pripravljeni biti člani komiteja proti mučenju.

3. Člani komiteja se volijo na sestanku držav članic, ki ga sklicuje generalni sekretar Organizacije združenih narodov in ki je vsako drugo leto. Na tem sestanku, ki je sklepčen, če so navzoči predstavniki dveh tretjin držav članic, so za člane komiteja izvoljeni kandidati, ki dobijo največ glasov in absolutno večino glasov predstavnikov držav članic, ki so navzoči in glasujejo.

4. Prve volitve se izvedejo najpozneje šest mesecev po uveljavitvi te konvencije. Najmanj štiri mesece pred vsakimi volitvami pošlje generalni sekretar Organizacije združenih narodov pismo državam članicam in jih pozove, naj predložijo svoje kandidature v treh mesecih. Generalni sekretar sestavi abecedni seznam vseh tako določenih kandidatov z navedbo držav članic, ki so jih določile, in ga pošlje državam članicam.

5. Člani komiteja se volijo za štiri leta. Lahko so ponovno izvoljeni, če so znova kandidirani. Vendar mandat petih članov, izvoljenih na prvih volitvah, preneha po dveh letih. Neposredno po prvih volitvah izžreba imena teh petih članov predsednik sestanka, navedenega v tretjem odstavku tega člena.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

PART II

Article 17

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.

3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.

6. Če član komiteja umre, odstopi ali iz kakršnegakoli razloga ne more več opravljati svojih funkcij v komiteju, imenuje država članica, ki ga je določila, drugega izvedenca – svojega državljanca, ki ostane v komiteju preostali čas mandata, če to odobri večina držav članic. Šteje se, da je privolitev dana, razen če polovica ali več kot polovica držav članic ne izrazi nasprotnega mnenja v šestih tednih od trenutka, ko jih generalni sekretar Organizacije združenih narodov obvesti o predlaganem imenovanju.

7. Države članice plačajo stroške članov komiteja, dokler opravljajo funkcije v komiteju.

18. člen

1. Komite voli svoj biro za dve leti. Člani biroja se lahko ponovno volijo.

2. Komite sam določi svoj poslovnik. Ta poslovnik mora imeti predvsem naslednji določbi:

a) za sklepčnost je potrebna navzočnost šestih članov;

b) sklepi komiteja se sprejemajo z večino glasov navzočih članov.

3. Generalni sekretar Organizacije združenih narodov da komiteju na razpolago osebe in prostore, ki jih ta potrebuje za učinkovito opravljanje del, ki so mu zaupana v skladu s to konvencijo.

4. Generalni sekretar Organizacije združenih narodov skliče prvi sestanek članov komiteja. Po svojem prvem sestanku se komite sestaja ob priložnostih, določenih z njegovim poslovnikom.

5. Države članice plačajo stroške sestankov držav članic in komiteja, všteti plačilo vseh stroškov Organizaciji združenih narodov, kot so stroški za plačilo osebja in prostorov, ki jih organizacija angažira v skladu s tretjim odstavkom tega člena.

19. člen

1. Države članice predložijo komiteju s posredovanjem generalnega sekretarja Organizacije združenih narodov poročilo o ukrepih, ki so jih izvedle, da bi izpolnile svoje obveznosti v skladu s to konvencijo, in sicer v enem letu po uveljavitvi konvencije za zadevno državo članico. Države članice nato vsako četrto leto predložijo dodatno poročilo o vseh novih ukrepih in druga poročila, ki jih komite zahteva.

2. Generalni sekretar Organizacije združenih narodov pošlje poročila vsem državam članicam.

3. Komite obravnava vsako poročilo in lahko da o njem splošne komentarje, ki so po njegovem mnenju potrebni, omenjene komentarje pa pošlje zainteresirani državi članici. Ta država članica lahko pošlje komiteju kot odgovor vse pripombe, ki so po njenem mnenju koristne.

4. Komite lahko sklene, da v letnem poročilu, ki ga sestavi po 24. členu, ponovi vse komentarje, ki jih je dal v skladu s tretjim odstavkom tega člena, skupaj s pripombami, ki jih je v zvezi s tem vprašanjem dobil od zainteresirane države članice. Če zainteresirana država članica to zahteva, lahko komite priloži tudi poročilo, predloženo na podlagi prvega odstavka tega člena.

6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 18

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:

(a) Six members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present.

3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.

4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

Article 19

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.

3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.

4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

20. člen

1. Če komite prejme verodostojna obvestila, za katera se mu zdi, da vsebujejo zanesljiva obvestila o tem, da se mučenje sistematično izvaja na ozemlju kake države članice, pozove zadevno državo, da sodeluje pri obravnavanju teh obvestil in da ga v ta namen obvesti o svojih ugotovitvah v zvezi s tem vprašanjem.

2. Upoštevajoč vse morebitne pripombe zainteresirane države članice in druga ustrezna obvestila, s katerimi razpolaga, lahko komite, če je to po njegovem mnenju upravičeno, naloži enemu ali več svojim članom, da začnejo zaupno preiskavo in da mu o tem takoj predložijo poročilo.

3. Če se izvaja preiskava v skladu z drugim odstavkom tega člena, zaprosi komite za sodelovanje zainteresirano državo članico. V dogovoru z omenjeno državo članico lahko taka preiskava zajema obisk na njeno ozemlje.

4. Po obravnavi ugotovitev, ki mu jih predloži član ali člani v skladu z drugim odstavkom tega člena, pošlje komite te ugotovitve zainteresirani državi članici in tudi vse komentarje in sugestije, za katere meni, da so primerne glede na dano stanje.

5. Celotna dejavnost komiteja, navedena v prvem do četrtem odstavku tega člena, je zaupna, v vseh etapah tega dela pa se teži vzpostaviti sodelovanje z državo članico. Komite lahko po končanem delu v zvezi s preiskavo, ki je bila vodena v skladu z drugim odstavkom, po posvetovanju z zainteresirano državo članico odloči, da se v letno poročilo, ki ga izdela v skladu s 24. členom, vključi kratko poročilo o rezultatih dela.

21. člen

1. Država članica te konvencije lahko v skladu s tem členom kadarkoli izjavi, da prizna, da je komite pristojen prejemati in obravnavati poročila, v katerih ena država članica trdi, da kakšna druga država članica ne izpolnjuje svojih obveznosti na podlagi te konvencije. Ta sporočila se lahko prejemajo in obravnavajo v skladu s tem členom samo, če prihajajo iz države članice, ki je dala izjavo, da prizna pristojnost komiteja. Komite ne obravnava nobenega sporočila, ki se nanaša na državo članico, ki ni dala take izjave. Za sporočila, prejeta po tem členu, velja takle postopek:

a) če država članica te konvencije meni, da kakšna druga država, ki je tudi članica konvencije, ne uporablja določb konvencije, lahko pisno opozori zadevno državo na to vprašanje. Država, ki ji je poslano sporočilo, pošlje v treh mesecih po njegovem prejemu državi, ki ji je poslala sporočilo, pojasnilo ali kakršnokoli drugo pisno izjavo, ki pojasnjuje vprašanje in ki naj bi vsebovala čim več in čim koristnejša obvestila o pravilih postopka in o pravnih sredstvih, bodisi da so že uporabljena ali se uporabljajo ali se šele utegnejo uporabiti;

b) če v šestih mesecih od dneva, ko je prejemna država dobila začetno sporočilo, vprašanje ni zadovoljivo rešeno za obe zainteresirani državi članici, imata obe pravico predložiti to vprašanje komiteju, pri čemer se pošlje sporočilo komiteju in drugi zainteresirani državi;

Article 20

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.

2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.

3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.

4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

Article 21

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

c) komite je lahko pristojen za zadevo, ki jo dobi v skladu s tem členom, šele ko se prepriča, da so bila vsa razpoložljiva interna pravna sredstva izkoriščena in izčrpana v skladu s splošno priznanimi načeli mednarodnega prava. To pravilo se ne uporablja v primerih, ko pritožbeni postopki presegajo razumne roke ali ni pričakovati, da bodo dejansko učinkoviti za osebo, ki je žrtev kršenja te konvencije;

d) komite obravnava sporočila, predvidena s tem členom, na zaprtih sejah;

e) s pridržkom določb pod c) ponudi komite svoje dobre usluge zainteresiranima državama članicama, da bi mimo rešili vprašanje ob spoštovanju obveznosti iz te konvencije. Če komite meni, da je potrebno, lahko v ta namen ustanovi ad hoc spravno komisijo;

f) v vsaki zadevi, ki mu je predložena v skladu s tem členom, lahko komite zahteva od zainteresiranih držav članic iz pododstavka b), da mu pošljeta vsa ustrezna obvestila;

g) zainteresirani državi članici, navedeni v pododstavku b), imata pravico biti zastopani, ko komite obravnava zadevo, in dajati ustne in/ali pisne pripombe;

h) komite mora predložiti poročilo v dvanajstih mesecih od dneva, ko je prejel sporočilo, navedeno v pododstavku b);

i) če je bilo mogoče najti rešitev v skladu z določbo pod e), se komite v svojem poročilu omeji na kratko navedbo dejstev in dosežene rešitve;

ii) če rešitve ni bilo mogoče najti v skladu z določbo pod e), se komite v svojem poročilu omeji na kratko navedbo dejstev, besedilo pisnih pripomb in zapisnik o ustnih pripombah, ki sta jih navedli zainteresirani državi članici, se dodata k poročilu. Za vsako zadevo se pošlje poročilo zainteresiranima državama članicama.

2. Določbe tega člena začnejo veljati, ko pet držav članic te konvencije da izjavo, predvideno v prvem odstavku tega člena. To izjavo deponira država članica pri generalnem sekretarju Organizacije združenih narodov, ki pošlje kopijo drugim državam članicam. Izjava se lahko umakne kadarkoli s sporočilom, poslanim generalnemu sekretarju. Ta umik ne vpliva na obravnavo kakršnegakoli vprašanja, ki je predmet že poslanega sporočila v skladu s tem členom: nobeno nadaljnje sporočilo katerekoli države članice ne bo sprejeto v skladu s tem členom, ko generalni sekretar prejme sporočilo o umiku izjave, razen če zainteresirana država članica ne da nove izjave.

22. člen

1. Država članica te konvencije lahko v skladu s tem členom kadarkoli izjavi, da prizna, da je komite pristojen sprejemati in obravnavati sporočila, ki jih dobi od posameznikov ali v imenu posameznikov, ki so pod njeno jurisdikcijo in trdijo, da so žrtve kršenja določb konvencije s strani kakšne države članice. Komite ne sprejme nobenega sporočila, ki se nanaša na posamezno državo članico, ki ni dala take izjave.

2. Za komite bo nesprejemljivo vsako sporočilo, dano v skladu s tem členom, ki je anonimno ali za katerega meni, da pomeni zlorabo pravice do takih sporočil ali da je nezdržljivo z določbami te konvencije.

(c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;

(f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report;

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 22

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.

3. Ob pridržku drugega odstavka pošlje komite vsako sporočilo, dano v skladu s tem členom, državi članici te konvencije, ki je dala izjavo v skladu s prvim odstavkom in se zanjo trdi, da je kršila katerokoli določbo konvencije. Navedena država v naslednjih šestih mesecih pošlje komiteju pisna pojasnila ali izjave, ki pojasnjujejo vprašanje in morebitne ukrepe, ki jih je že sprejela za izboljšanje položaja.

4. Komite obravnava sporočila, ki jih je prejel v skladu s tem členom, ob upoštevanju vseh informacij, ki jih je dobil od posameznikov ali v njihovem imenu in od zainteresirane države članice.

5. Komite ne obravnava nobenega sporočila posameznika v skladu s tem členom, ne da bi se poprej prepiral o naslednjem:

a) da navedeno vprašanje ni bilo obravnavano in ni v obravnavi pred kakšno drugo mednarodno instanco, pristojno za preiskavo ali reševanje spora;

b) da je posameznik izkoristili vsa interna razpoložljiva sredstva. To pravilo se ne uporablja, če pritožbeni postopki presegajo razumne roke ali ni pričakovati, da bodo dejansko učinkoviti za posameznika, ki je žrtev kršenja te konvencije.

6. Komite obravnava sporočila, predvidena v tem členu, na zaprtih sejah.

7. Komite sporoči svoje ugotovitve zainteresirani državi članici in posamezniku.

8. Določbe tega člena začnejo veljati, ko pet držav članic te konvencije da izjavo, predvideno v prvem odstavku tega člena. Država članica deponira to izjavo pri generalnem sekretarju Organizacije združenih narodov, ki pošlje kopijo drugim državam članicam. Izjava se lahko kadarkoli umakne s sporočilom, poslanim generalnemu sekretarju. Ta umik ne vpliva na obravnavo kakršnegakoli vprašanja, ki je predmet že poslanega sporočila v skladu s tem členom; nobeno nadaljnje sporočilo, ki ga je poslal posameznik ali je bilo poslano zanj, ne bo sprejeto v skladu s tem členom, ko generalni sekretar prejme sporočilo o umiku izjave, razen če zainteresirana država članica ni dala nove izjave.

23. člen

Člani komiteja in člani ad hoc pravne komisije, ki utegnejo biti imenovani v skladu s prvim odstavkom pod e) 21. člena, imajo pravico do olajšav, privilegijev in imunitet, ki so priznane izvedencem v službi Organizacije združenih narodov tako, kot so navedene v ustreznih delih konvencije o privilegijih in imunitetah Združenih narodov.

24. člen

Komite predloži državam članicam in generalni skupščini Organizacije združenih narodov letno poročilo o svojih dejavnostih po tej konvenciji.

3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

5. The Committee shall not consider any communications from an individual under this article unless it has ascertained that:

(a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

(b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.

6. The Committee shall hold closed meetings when examining communications under this article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 23

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph 1 (e), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

III. DEL

25. člen

1. Ta konvencija je odprta za podpis vsem državam.
2. Ta konvencija se mora ratificirati. Ratifikacijske listine bodo deponirane pri generalnem sekretarju Organizacije združenih narodov.

26. člen

Vse države lahko pristopijo k tej konvenciji. Pristop se uveljavi tako, da se pristopna listina deponira pri generalnem sekretarju Organizacije združenih narodov.

27. člen

1. Ta konvencija začne veljati trideseti dan potem, ko je dvajseta listina o ratifikaciji ali pristopu deponirana pri generalnem sekretarju Organizacije združenih narodov.
2. Za vsako državo, ki bo to konvencijo ratificirala ali k njej pristopila po deponiranju dvajsete listine o ratifikaciji ali pristopu, začne konvencija veljati trideseti dan potem, ko je deponirala svojo listino o ratifikaciji ali pristopu.

28. člen

1. Vsaka država lahko ob podpisu ali ratifikaciji ali pristopu izjavi, da ne prizna pristojnosti, ki jo ima komite v skladu z 20. členom konvencije.
2. Vsaka država članica, ki bo imela pridržek v skladu s prvim odstavkom tega člena, lahko kadarkoli umakne ta pridržek tako, da pošlje sporočilo generalnemu sekretarju Organizacije združenih narodov.

29. člen

1. Vsaka država članica te konvencije lahko predlaga amandma in da svoj predlog generalnemu sekretarju Organizacije združenih narodov. Generalni sekretar sporoči predlog amandmaja državam članicam, pri čemer od njih zahteva, da mu sporočijo, ali so za to, da se organizira konferenca držav članic, da bi se predlog obravnaval in dal na glasovanje. Če se v štirih mesecih od dneva, ko je bilo dano tako sporočilo, vsaj tretjina držav članic izjavi za konferenco, jo generalni sekretar organizira pod pokroviteljstvom Organizacije združenih narodov. Vsak amandma, ki ga sprejme večina držav članic, ki so navzoče na konferenci in glasujejo, predloži generalni sekretar v sprejetje vsem državam članicam.
2. Amandma, sprejet po prvem odstavku tega člena, začne veljati, ko dve tretjini držav članic te konvencije obvestijo generalnega sekretarja Organizacije združenih narodov, da so ga sprejele v skladu s postopkom, predvidenim z njihovo ustavo.
3. Ko začnejo amandmaji veljati, so obvezni za vse države članice, ki so jih sprejele, za druge države članice pa veljajo določbe te konvencije in vsi prejšnji amandmaji, ki so jih sprejele.

PART III

Article 25

1. This Convention is open for signature by all States.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 27

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.
2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 29

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.
2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.
3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

30. člen

1. Vsak spor med dvema ali več državami članicami v zvezi z razlago ali uporabo te konvencije, ki ga ni mogoče rešiti s pogajanjem, se predloži v arbitražo na zahtevo ene izmed teh držav. Če v šestih mesecih po dani zahtevi za arbitražo strani ne dosežejo sporazuma o organiziranju arbitraže, lahko vsaka med njimi predloži spor Mednarodnemu sodišču z zahtevo v skladu s statutom sodišča.

2. Vsaka država lahko ob podpisu ali ratifikaciji ali pristopu h konvenciji izjavi, da zanjo ne velja prvi odstavek tega člena. Za druge države članice ne velja navedena določba glede na vsako državo članico, ki izrazi tak pridržek.

3. Vsaka država članica, ki izrazi pridržek v skladu z drugim odstavkom tega člena, ga lahko kadarkoli umakne tako, da pošlje sporočilo generalnemu sekretarju Organizacije združenih narodov.

31. člen

1. Država članica lahko odpove to konvencijo s pisnim sporočilom, poslanim generalnemu sekretarju Organizacije združenih narodov. Odpoved začne veljati eno leto potem, ko je generalni sekretar prejel sporočilo.

2. Zaradi take odpovedi država članica ni oproščena obveznosti, ki jih ima v skladu s to konvencijo v zvezi z vsakim dejanjem ali vsako opustitvijo pred dnem, ko začne odpoved veljati. Odpoved tudi ni ovira za nadaljnjo obravnavo vsakega vprašanja, ki je bilo že predloženo komiteju na dan, ko je začela odpoved veljati.

3. Po dnevu, ko začne veljati odpoved posamezne države članice, komite ne obravnava več nobenega novega vprašanja v zvezi z zadevno državo.

32. člen

Generalni sekretar Organizacije združenih narodov sporoči vsem državam članicam Organizacije združenih narodov in vsem državam, ki bodo podpisale to konvencijo ali pristopile k njej:

a) podpise, ratifikacije in pristope, prejete na podlagi 25. in 26. člena;

b) datum, ko začne konvencija veljati na podlagi 27. člena, in datum, ko začne veljati vsak amandma po 29. členu;

c) odpovedi, prejete na podlagi 31. člena.

33. člen

1. Ta konvencija, katere besedila v arabskem, angleškem, francoskem, kitajskem, ruskem in španskem jeziku so enako verodostojna, bo deponirana pri generalnem sekretarju Organizacije združenih narodov.

2. Generalni sekretar Organizacije združenih narodov pošlje vsem državam overjene kopije te konvencije.

Article 30

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 31

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 32

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

(a) Signatures, ratifications and accessions under articles 25 and 26;

(b) The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;

(c) Denunciations under article 31.

Article 33

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

Opcijski Protokol h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

(Uradni list RS, št. 114/2006 – Mednarodne pogodbe, št. 20 z dne 9. novembra 2006)

ZAKON O RATIFIKACIJI OPCIJSKEGA PROTOKOLA H KONVENCIJI PROTI MUČENJU IN DRUGIM KRUTIM, NEČLOVEŠKIM ALI PONIŽEVALNIM KAZNIM ALI RAVNANJU (MOPPM)

1. člen

Ratificira se Opcijski protokol h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju, sprejet na 57. zasedanju Generalne skupščine Združenih narodov 18. decembra 2002.

2. člen

Besedilo protokola se v izvirniku v angleškem jeziku ter v prevodu v slovenskem jeziku glasi:

PREAMBULA

Države pogodbenice tega protokola

ponovno potrjujejo, da so mučenje in druge oblike okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja prepovedane in pomenijo resno kršenje človekovih pravic,

so prepričane, da so potrebni nadaljnji ukrepi, da bi lahko uresničili cilje Konvencije proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (v nadaljevanju: konvencija) in okrepili varstvo oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja,

se sklicujejo na 2. in 16. člen konvencije, ki zavezuje vse države pogodbenice, da učinkovito ukrepajo, da bi preprečile mučenje in druge oblike okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja na katerem koli ozemlju pod njihovo jurisdikcijo,

ugotavljajo, da so predvsem države odgovorne za izvajanje teh dveh členov, da je skupna odgovornost vseh držav okrepiti varstvo oseb, ki jim je bila odvzeta prostost, in v celoti spoštovati njihove človekove pravice, in da mednarodni organi izvajanja dopolnjujejo in krepijo državne ukrepe,

se sklicujejo na to, da sta za učinkovito preprečevanje mučenja in drugega okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja potrebni izobraževanje in povezovanje zakonodajnih, upravnih, sodnih in drugih ukrepov,

se sklicujejo na to, da so na Svetovni konferenci o človekovih pravicah odločno izjavile, da je treba prizadevanja za odpravo mučenja usmeriti predvsem na preprečevanje, in pozvale k sprejetju opcijskega protokola h konvenciji, ki naj bi vzpostavil preventivni sistem rednih obiskov na krajih odvzema prostosti,

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

(Official Gazette RS no. 114/06 – International Treaties no. 20/06)

ACT OF RATIFICATION OF THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Article 1

The Optional Protocol to the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted at the 57th session of the General Assembly of the United Nations 18 December 2002 is hereby ratified.

Article 2

The text of the Protocol in the original in the English language and in translation into the Slovene language reads as follows:

PREAMBLE

The States Parties to the present Protocol,

Reaffirming that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights,

Convinced that further measures are necessary to achieve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention) and to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling that articles 2 and 16 of the Convention oblige each State Party to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction,

Recognizing that States have the primary responsibility for implementing those articles, that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures,

Recalling that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures,

Recalling also that the World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

so prepričane, da se lahko varstvo oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja okrepi z nesodnimi preventivnimi sredstvi, ki temeljijo na rednih obiskih na krajih odvzema prostosti,

in so se dogovorile:

I. DEL

Splošna načela

1. člen

Namen tega protokola je vzpostaviti sistem rednih obiskov neodvisnih mednarodnih in državnih organov na krajih, kjer je ljudem odvzeta prostost, da bi preprečili mučenje in druge oblike okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja.

2. člen

1. Ustanovi se Pododbor za preprečevanje mučenja in drugega okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja Odbora proti mučenju (v nadaljevanju: pododbor za preprečevanje), ki opravlja naloge, določene s tem protokolom.

2. Pododbor za preprečevanje opravlja svoje delo v okviru Ustanovne listine Združenih narodov in spoštuje njene cilje in načela ter norme Združenih narodov glede ravnanja z ljudmi, ki jim je bila odvzeta prostost.

3. Pododbor za preprečevanje spoštuje tudi načela zaupnosti, nepristranskosti, nerazlikovanja, univerzalnosti in objektivnosti.

4. Pododbor za preprečevanje in države pogodbenice sodelujejo pri izvajanju tega protokola.

3. člen

Vsaka država pogodbenica na državni ravni ustanovi, določi ali vzdržuje enega ali več organov za obiskovanje zaradi preprečevanja mučenja in drugega okrutnega, nečloveškega ali ponižujočega ravnanja ali kaznovanja (v nadaljevanju: državni preventivni mehanizem).

4. člen

1. Vsaka država pogodbenica v skladu s tem protokolom dovoli obiske organov iz 2. in 3. člena na katerem koli kraju, ki je v njeni pristojnosti in pod njenim nadzorom, kjer so ali bi lahko bile osebe, ki jim je bila odvzeta prostost na podlagi odredbe javne oblasti ali na njihovo pobudo ali z njihovo izrecno ali tiho privolitvijo (v nadaljevanju: kraji odvzema prostosti). Namen teh obiskov je, če je potrebno, okrepiti varstvo teh oseb pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja.

2. V tem protokolu pomeni odvzem prostosti vsako obliko pridržanja ali zapora ali namestitve osebe v javni ali zasebni zavod, ki ga ta oseba po odredbi sodne, upravne ali katere koli druge oblasti ne sme zapustiti po svoji volji.

Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention,

Have agreed as follows:

PART I

General principles

Article 1

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Article 2

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.

2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.

3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.

4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

Article 3

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

Article 4

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.

2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

II. DEL**Pododbor za preprečevanje****5. člen**

1. Pododbor za preprečevanje sestavlja 10 članov. Po petdeseti ratifikaciji ali pristopu k temu protokolu se število članov v pododboru za preprečevanje poveča na 25.

2. Člani pododbora so izbrani med osebami, ki imajo visok moralni ugled, morajo imeti poklicne izkušnje na področju pravosodja, zlasti kazenskega prava, upravljanja zaporov ali policijske uprave ali na različnih področjih, povezanih z ravnanjem z osebami, ki jim je bila odvzeta prostost.

3. Pri sestavi pododbora za preprečevanje se upoštevata pravična geografska zastopanost in zastopanost različnih oblik civilizacij in pravnih sistemov držav pogodbenic.

4. V tej sestavi se upošteva tudi uravnotežena zastopanost spolov na podlagi načel enakosti in nediskriminacije.

5. Vsak član pododbora mora biti državlján druge države.

6. Člani pododbora za preprečevanje opravljajo svoje delo kot posamezniki, morajo biti neodvisni in nepristranski ter morajo biti pododboru na razpolago za učinkovito opravljanje dela.

6. člen

1. Vsaka država pogodbenica lahko v skladu z drugim odstavkom tega člena predlaga največ dva kandidata, ki sta ustrezno usposobljena in izpolnjujeta zahteve iz 5. člena, pri čemer mora predložiti podrobne podatke o njuni usposobljenosti.

2. (a) Kandidati morajo biti državljani držav pogodbenic tega protokola.

(b) Vsaj eden od obeh kandidatov mora biti državlján države pogodbenice, ki ga je predlagala.

(c) Posamezna država pogodbenica lahko predlaga največ dva svoja državljana.

(d) Preden država pogodbenica predlaga državljana druge države pogodbenice, zaprosi za njeno soglasje in ga pridobi.

3. Generalni sekretar Združenih narodov vsaj pet mesecev pred dnevom sestanka držav pogodbenic, na katerem bodo potekale volitve, pošlje pismo državam pogodbenicam, s katerim jih pozove, naj v treh mesecih predlagajo svoje kandidate. Generalni sekretar nato predloži abecedni seznam vseh predlaganih oseb z navedbo držav pogodbenic, ki so jih predlagale.

PART II**Subcommittee on Prevention****Article 5**

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification of or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.

2. The members of the Subcommittee on Prevention shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.

3. In the composition of the Subcommittee on Prevention due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.

4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.

5. No two members of the Subcommittee on Prevention may be nationals of the same State.

6. The members of the Subcommittee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee on Prevention efficiently.

Article 6

1. Each State Party may nominate, in accordance with paragraph 2 of the present article, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.

2. (a) The nominees shall have the nationality of a State Party to the present Protocol;

(b) At least one of the two candidates shall have the nationality of the nominating State Party;

(c) No more than two nationals of a State Party shall be nominated;

(d) Before a State Party nominates a national of another State Party, it shall seek and obtain the consent of that State Party.

3. At least five months before the date of the meeting of the States Parties during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list, in alphabetical order, of all persons thus nominated, indicating the States Parties that have nominated them.

7. člen

1. Člani pododbora za preprečevanje se izvolijo po naslednjem postopku:

a) najprej se upošteva izpolnjevanje zahtev in meril iz 5. člena tega protokola;

b) prve volitve potekajo najpozneje šest mesecev po začetku veljavnosti tega protokola;

c) države pogodbenice izvolijo člane pododbora s tajnim glasovanjem;

d) volitve članov pododbora potekajo vsaki dve leti na sestankih držav pogodbenic, ki jih skliče generalni sekretar Združenih narodov. Na sestankih, na katerih je za sklepčnost potrebna navzočnost dveh tretjin držav pogodbenic, so v pododbor izvoljene tiste osebe, ki dobijo največ glasov in absolutno večino glasov predstavnikov držav pogodbenic, ki so navzoči in glasujejo.

2. Če na volitvah dva državljana države pogodbenice dobita dovolj glasov za članstvo v pododboru za preprečevanje, postane član pododbora tisti kandidat, ki dobi več glasov. Če sta državljana dobila enako število glasov, velja naslednji postopek:

a) če je le enega od obeh kandidatov predlagala država pogodbenica, katere državljan je, postane ta kandidat član pododbora za preprečevanje;

b) če je oba kandidata predlagala država pogodbenica, katere državljana sta, poteka ločeno tajno glasovanje, s katerim se odloči, kateri državljan bo član pododbora,

c) če nobenega kandidata ne predlaga država pogodbenica, katere državljana sta, poteka ločeno tajno glasovanje, s katerim se odloči, kateri kandidat bo član pododbora.

8. člen

Če član pododbora umre, odstopi ali zaradi kakršnega koli razloga ne more več opravljati svojih dolžnosti, država pogodbenica, ki je tega člana predlagala, predlaga drugo osebo, ki je ustrezno usposobljena in izpolnjuje zahteve iz 5. člena, ob upoštevanju potrebe po uravnoteženi zastopanosti različnih področij, in bo opravljala delo do naslednjega sestanka držav pogodbenic, če se s tem strinja večina držav pogodbenic. Šteje se, da se države pogodbenice strinjajo, razen če polovica ali več držav pogodbenic odgovori negativno v šestih tednih, potem ko jih je generalni sekretar Združenih narodov obvestil o predlaganem imenovanju.

9. člen

Člani pododbora za preprečevanje so izvoljeni za štiri leta. Enkrat so lahko ponovno izvoljeni, če so ponovno predlagani. Polovici članov, izvoljeni na prvih volitvah, se mandat izteče po dveh letih; imena teh članov neposredno po prvih volitvah z žrebom določi predsedujoči sestanka iz točke d prvega odstavka 7. člena.

Article 7

1. The members of the Subcommittee on Prevention shall be elected in the following manner:

(a) Primary consideration shall be given to the fulfilment of the requirements and criteria of article 5 of the present Protocol;

(b) The initial election shall be held no later than six months after the entry into force of the present Protocol;

(c) The States Parties shall elect the members of the Subcommittee on Prevention by secret ballot;

(d) Elections of the members of the Subcommittee on Prevention shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee on Prevention shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.

2. If during the election process two nationals of a State Party have become eligible to serve as members of the Subcommittee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Subcommittee on Prevention. Where nationals have received the same number of votes, the following procedure applies:

(a) Where only one has been nominated by the State Party of which he or she is a national, that national shall serve as the member of the Subcommittee on Prevention;

(b) Where both candidates have been nominated by the State Party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become the member;

(c) Where neither candidate has been nominated by the State Party of which he or she is a national, a separate vote by secret ballot shall be held to determine which candidate shall be the member.

Article 8

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

Article 9

The members of the Subcommittee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected at the first election shall expire at the end of two years; immediately after the first election the names of those members shall be chosen by lot by the Chairman of the meeting referred to in article 7, paragraph 1 (d).

10. člen

1. Pododbor za preprečevanje izvoli svoje vodstvo za dve leti. Lahko je ponovno izvoljeno.
2. Pododbor za preprečevanje sprejme svoj poslovnik. Ta med drugim določa, da:
 - a) je za sklepčnost potrebna več kot polovica članov;
 - b) se odločitve pododborna za preprečevanje sprejmejo z večino navzočih članov;
 - c) se pododbor za preprečevanje sestaja brez navzočnosti javnosti.
3. Prvi sestanek pododborna za preprečevanje skliče generalni sekretar Združenih narodov. Po prvem sestanku se pododbor sestaja, kot to določa poslovnik. Pododbor za preprečevanje in odbor proti mučenju zasedata hkrati vsaj enkrat letno.

III. DEL**Naloge in pooblastila pododborna za preprečevanje****11. člen****Pododbor za preprečevanje:**

- a) obiskuje kraje iz 4. člena in daje priporočila državam pogodbenicam glede varstva oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
- b) v zvezi z državnimi preventivnimi mehanizmi:
 - i) svetuje in pomaga državam pogodbenicam pri njihovi vzpostavitvi, če je potrebno;
 - ii) vzdržuje neposredne, in če je potrebno, zaupne stike z državnimi preventivnimi mehanizmi in jim omogoča usposabljanje in strokovno pomoč, da bi okrepili svoje zmogljivosti;
 - iii) jim svetuje in pomaga pri oceni potreb in sredstev, potrebnih za krepitev varstva oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
 - iv) daje priporočila in pripombe državam pogodbenicam, da bi okrepile zmogljivosti, naloge in pooblastila državnih preventivnih mehanizmov za preprečevanje mučenja in drugih oblik okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
- c) za preprečevanje mučenja na splošno sodeluje z ustreznimi organi in mehanizmi Združenih narodov in mednarodnimi, regionalnimi in državnimi institucijami ali organizacijami, ki si prizadevajo za okrepitev varstva oseb pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja.

Article 10

1. The Subcommittee on Prevention shall elect its officers for a term of two years. They may be re-elected.
2. The Subcommittee on Prevention shall establish its own rules of procedure. These rules shall provide, inter alia, that:
 - (a) Half the members plus one shall constitute a quorum;
 - (b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;
 - (c) The Subcommittee on Prevention shall meet in camera.
3. The Secretary-General of the United Nations shall convene the initial meeting of the Subcommittee on Prevention. After its initial meeting, the Subcommittee on Prevention shall meet at such times as shall be provided by its rules of procedure. The Subcommittee on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

PART III**Mandate of the Subcommittee on Prevention****Article 11****The Subcommittee on Prevention shall:**

- (a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) In regard to the national preventive mechanisms:
 - (i) Advise and assist States Parties, when necessary, in their establishment;
 - (ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;
 - (iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
 - (iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
- (c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

12. člen

Da bi pododboru za preprečevanje omogočili uresničevanje njegovih nalog in pooblastil iz 11. člena, se države pogodbenice zavezujejo, da bodo:

- a) sprejele pododbor za preprečevanje na svojem ozemlju in mu dovolile dostop do krajev odvzema prostosti, kot je opredeljeno v 4. členu tega protokola;
- b) priskrbele pododboru za preprečevanje vse ustrezne informacije, ki bi jih od njih zahteval, da bi lahko ocenil potrebe in ukrepe, ki bi jih bilo treba sprejeti za okrepitev varstva oseb, ki jim je bila odvzeta prostost, pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
- c) spodbujale in omogočale stike med pododborom za preprečevanje in državnimi preventivnimi mehanizmi;
- d) obravnavale priporočila pododbora za preprečevanje in vzpostavile dialog z njim o mogočih ukrepih za izvajanje.

13. člen

1. Pododbor za preprečevanje najprej z žrebom sestavi program rednih obiskov v državah pogodbenicah, da izpolni naloge in pooblastila iz 11. člena.
2. Po posvetovanjih pododbor za preprečevanje uradno obvesti države pogodbenice o svojem programu, tako da se lahko nemudoma dogovorijo o potrebnih praktičnih podrobnostih glede obiskov, ki naj se opravijo.
3. Obiske opravita vsaj dva člana pododbora za preprečevanje. Če je potrebno, člane spremljajo strokovnjaki z dokazanimi strokovnimi izkušnjami in znanjem na področjih, ki jih vključuje ta protokol, in so izbrani s seznama strokovnjakov, pripravljenega na podlagi predlogov držav pogodbenic, Urada visokega komisarja Združenih narodov za človekove pravice in Centra Združenih narodov za mednarodno preprečevanje kriminala. Pri pripravi seznama države pogodbenice predlagajo največ pet nacionalnih strokovnjakov. Država pogodbenica lahko nasprotuje, da je posamezen strokovnjak navzoč pri obisku, nato pododbor za preprečevanje predlaga drugega strokovnjaka.
4. Če se pododboru za preprečevanje zdi primerno, lahko po rednem obisku predlaga še kratek dopolnilni obisk.

14. člen

1. Da bi pododboru za preprečevanje omogočili izpolnjevanje nalog in pooblastil, se države pogodbenice tega protokola zavezujejo, da mu bodo zagotovile:
 - a) neomejen dostop do vseh informacij o številu oseb, ki jim je bila odvzeta prostost, na krajih odvzema prostosti, kot je opredeljeno v 4. členu, in o številu krajev in njihovih lokacijah;
 - b) neomejen dostop do vseh informacij o ravnanju s temi osebami in njihovimi pogoji odvzema prostosti;
 - c) neomejen dostop do vseh krajev odvzema prostosti ter njihovih objektov in opreme ob upoštevanju drugega odstavka;

Article 12

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

- (a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;
- (b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;
- (d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

Article 13

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.
2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.
3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.
4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

Article 14

1. In order to enable the Subcommittee on Prevention to fulfil its mandate, the States Parties to the present Protocol undertake to grant it:
 - (a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
 - (b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;
 - (c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;

d) možnost zaupnih pogovorov z osebami, ki jim je bila odvzeta prostost, brez prič, osebno ali s prevajalcem, če je potrebno, in s katero koli osebo, za katero pododbor za preprečevanje meni, da lahko priskrbi ustrezne informacije;

e) svobodno izbiro krajev, ki jih želi obiskati, in oseb, s katerimi želi govoriti.

2. Obisku določenega kraja odvzema prostosti se lahko nasprotuje le iz nujnih in tehtnih razlogov zaradi državne obrambe, javne varnosti, naravne nesreče ali hudega nereda na kraju, ki naj bi ga obiskali, in ki trenutno preprečujejo izvedbo takega obiska. Država pogodbenica se ne sme sklicevati na obstoj razglašenega izrednega stanja kot na razlog za nasprotovanje obisku.

15. člen

Nobena oblast ali uradna oseba ne sme odrediti, uporabiti, dovoliti ali dopustiti kakršne koli sankcije proti nobeni osebi ali organizaciji, ker je pododboru ali njegovim delegatom dala resnične ali neresnične informacije, in nobene osebe ali organizacije se zaradi tega ne sme kako drugače oškodovati.

16. člen

1. Pododbor za preprečevanje svoja priporočila in pripombe zaupno sporoči državi pogodbenici, in če je potrebno, državnemu preventivnemu mehanizmu.

2. Pododbor za preprečevanje objavi svoje poročilo z morebitnimi pripombami prizadete države pogodbenice, kadar to zahteva. Če država pogodbenica objavi del poročila, lahko pododbor za preprečevanje objavi poročilo v celoti ali delno. Osebni podatki pa se ne smejo objaviti brez izrecne privolitve prizadete osebe.

3. Pododbor za preprečevanje mora Odboru za mučenje predložiti javno letno poročilo o svojih dejavnostih.

4. Če država pogodbenica v skladu z 12. in 14. členom zavrne svoje sodelovanje s pododborom za preprečevanje ali ukrepanje, ki bi glede na priporočila pododbora izboljšalo stanje, lahko Odbor proti mučenju na prošnjo pododbora za preprečevanje z večino svojih članov odloči, da bo dal javno izjavo o zadevi ali objavil poročilo pododbora, potem ko je imela država pogodbenica možnost predstaviti svoja stališča.

IV. DEL

Državni preventivni mehanizmi

17. člen

Vsaka država pogodbenica najpozneje leto po začetku veljavnosti tega protokola, njegovi ratifikaciji ali pristopu k njemu vzpostavi, določi ali ustanovi enega ali več neodvisnih državnih preventivnih mehanizmov za preprečevanje mučenja. Mehanizmi, ki so jih vzpostavile decentralizirane enote, se lahko za namene tega protokola določijo za državne preventivne mehanizme, če so v skladu z njegovimi določbami.

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;

(e) The liberty to choose the places it wants to visit and the persons it wants to interview.

2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

Article 15

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

Article 16

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.

2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the recommendations of the Subcommittee on Prevention, the Committee against Torture may, at the request of the Subcommittee on Prevention, decide, by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee on Prevention.

PART IV

National preventive mechanisms

Article 17

Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

18. člen

1. Države pogodbenice zagotavljajo neodvisnost delovanja državnih preventivnih mehanizmov in neodvisnost njihovega osebja.
2. Države pogodbenice ukrepejo vse potrebno, da zagotovijo, da so strokovnjaki državnega preventivnega mehanizma ustrezno usposobljeni in imajo strokovno znanje. Prizadevajo si za uravnoteženo zastopanost spolov in ustrezno zastopanost etničnih skupin in manjšin v državi.
3. Države pogodbenice se zavezujejo, da bodo dale na voljo potrebna sredstva za delovanje državnih preventivnih mehanizmov.
4. Pri vzpostavitvi državnih preventivnih mehanizmov države pogodbenice ustrezno upoštevajo načela glede statusa in delovanja nacionalnih institucij za spodbujanje in varstvo človekovih pravic.

19. člen

Državni preventivni mehanizmi imajo vsaj naslednja pooblastila, da:

- a) na krajih odvzema prostosti, kot so opredeljeni v 4. členu, redno preverjajo ravnanje z osebami, ki jim je bila odvzeta prostost, da bi okrepili njihovo varstvo pred mučenjem in drugimi oblikami okrutnega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, če je potrebno;
- b) ob upoštevanju ustreznih norm Združenih narodov dajejo priporočila ustreznim organom, da bi izboljšali razmere in ravnanje z osebami, ki jim je bila odvzeta prostost, in preprečili mučenje in druge oblike okrutnega, nečloveškega, poniževalnega ravnanja ali kaznovanja;
- c) predložijo predloge in pripombe k veljavnim ali predlaganim zakonom.

20. člen

Da bi državni preventivni mehanizmi lahko izpolnili svoje naloge in pooblastila, se države pogodbenice tega protokola zavezujejo, da jim bodo zagotovile:

- a) dostop do vseh informacij o številu oseb, ki jim je bila odvzeta prostost, na krajih odvzema prostosti, kot so opredeljeni v 4. členu, in o številu krajev in njihovi lokaciji;
- b) dostop do vseh informacij o ravnanju s temi osebami in njihovih pogojih odvzema prostosti;
- c) dostop do vseh krajev odvzema prostosti ter njihovih objektov in opreme;
- d) možnost zaupnih pogovorov z osebami, ki jim je bila odvzeta prostost, brez prič, osebno ali s prevajalcem, če se zdi potrebno, in s katero koli osebo, za katero državni preventivni mehanizem meni, da lahko priskrbi ustrezne informacije;
- e) svobodno izbiro krajev, ki jih želijo obiskati, in oseb, s katerimi želijo govoriti;
- f) pravico do stikov s pododborom za preprečevanje, pošiljanja informacij pododboru in do srečanj z njim.

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.
2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.
3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.
4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

Article 19

The national preventive mechanisms shall be granted at a minimum the power:

- (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- (c) To submit proposals and observations concerning existing or draft legislation.

Article 20

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

- (a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
- (b) Access to all information referring to the treatment of those persons as well as their conditions of detention;
- (c) Access to all places of detention and their installations and facilities;
- (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;
- (e) The liberty to choose the places they want to visit and the persons they want to interview;
- (f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

21. člen

1. Nobena oblast ali uradna oseba ne sme odrediti, uporabiti, dovoliti ali dopustiti kakršne koli sankcije proti nobeni osebi ali organizaciji, ker je državnemu preventivnemu mehanizmu dala resnične ali neresnične informacije, in nobene osebe ali organizacije se zaradi tega ne sme kako drugače oškodovati.

2. Zaupne informacije, ki jih zbere državni preventivni mehanizem, so zavarovane kot take. Osebni podatki pa se ne smejo objaviti brez izrecne privolitve prizadete osebe.

22. člen

Pristojni organi prizadete države pogodbenice obravnavajo priporočila državnega preventivnega mehanizma in z njim vzpostavijo dialog o mogočih ukrepih za izvajanje.

23. člen

Države pogodbenice tega protokola se zavezujejo, da bodo objavile in razširjale letna poročila državnih preventivnih organov.

V. DEL

Izjava

24. člen

1. Ob ratifikaciji lahko države pogodbenice izjavijo, da bodo odložile izpolnjevanje svojih obveznosti iz III. ali IV. dela tega protokola.

2. Odložitev obveznosti velja največ tri leta. Odbor proti mučenju lahko podaljša to obdobje za dodatni dve leti ob utemeljenih navedbah države pogodbenice in po posvetovanjih s pododborom za preprečevanje.

VI. DEL

Finančne določbe

25. člen

1. Stroške pododbora za preprečevanje, ki nastanejo pri izvajanju tega protokola, krijejo Združeni narodi.

2. Generalni sekretar Združenih narodov zagotovi ustrezno osebje in prostore za učinkovito opravljanje nalog pododbora za preprečevanje po tem protokolu.

Article 21

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

PART V

Declaration

Article 24

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations under either part III or part IV of the present Protocol.

2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

PART VI

Financial provisions

Article 25

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.

2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee on Prevention under the present Protocol.

26. člen

1. V skladu z ustreznimi postopki Generalne skupščine se ustanovi poseben sklad, za pomoč pri financiranju izvajanja priporočil, ki jih je pododbor za preprečevanje dal po obisku v državi pogodbenici, in za izobraževalne programe državnih preventivnih mehanizmov, ki ga je treba upravljati v skladu s finančnimi predpisi in pravili Združenih narodov.

2. Poseben sklad se lahko financira s prostovoljnimi prispevki vlad, medvladnih in nevladnih organizacij in drugih zasebnih ali javnih subjektov.

VII. DEL**Končne določbe****27. člen**

1. Protokol je na voljo za podpis vsem državam, ki so podpisale konvencijo.
2. Protokol lahko ratificira vsaka država, ki je ratificirala konvencijo ali k njej pristopila. Listine o ratifikaciji se deponirajo pri generalnem sekretarju Združenih narodov.
3. Protokol je na voljo za pristop vsem državam, ki so ratificirale konvencijo ali k njej pristopile.
4. Pristop se opravi z deponiranjem listine o pristopu pri generalnem sekretarju Združenih narodov.
5. Generalni sekretar Združenih narodov o deponiranju vsake listine o ratifikaciji ali pristopu obvesti vse države, ki so podpisale ta protokol ali k njemu pristopile.

28. člen

1. Protokol začne veljati trideseti dan po dnevu, ko se pri generalnem sekretarju Združenih narodov deponira dvajseta listina o ratifikaciji ali pristopu.
2. Za vsako državo, ki ratificira protokol ali k njemu pristopi po deponiranju dvajsete listine o ratifikaciji ali pristopu pri generalnem sekretarju Združenih narodov, začne protokol veljati trideseti dan po dnevu deponiranja njene listine o ratifikaciji ali pristopu.

29. člen

Določbe tega protokola veljajo za vse dele zveznih držav brez omejitev ali izjem.

30. člen

K temu protokolu niso dopustni pridržki.

Article 26

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms.

2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

PART VII**Final provisions****Article 27**

1. The present Protocol is open for signature by any State that has signed the Convention.
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 28

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

Article 29

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 30

No reservations shall be made to the present Protocol.

31. člen

Določbe tega protokola ne vplivajo na obveznosti držav pogodbenic po regionalnih konvencijah, ki uvajajo sistem obiskov na krajih odvzema prostosti. Pododbor za preprečevanje in organi, ustanovljeni na podlagi takih regionalnih konvencij, pa se spodbujajo k posvetovanju in sodelovanju, da bi se izognili podvajanju in učinkovito podpirali cilje tega protokola.

32. člen

Določbe tega protokola ne vplivajo na obveznosti držav pogodbenic štirih Ženevskih konvencij z dne 12. avgusta 1949 in dopolnilnih protokolov k Ženevskim konvencijam z dne 8. junija 1977, niti na možnost katere koli države pogodbenice, da pooblasti Mednarodni odbor Rdečega križa, da obišče kraje odvzema prostosti v razmerah, ki jih ne zajema mednarodno humanitarno pravo.

33. člen

1. Vsaka država pogodbenica lahko kadar koli odpove ta protokol s pisnim uradnim obvestilom, naslovljenim na generalnega sekretarja Združenih narodov, ki obvesti druge države pogodbenice tega protokola in konvencije. Odpoved začne veljati eno leto po dnevu, ko generalni sekretar prejme uradno obvestilo.

2. Odpoved države pogodbenice ne odvezuje obveznosti po tem protokolu glede katerega koli dejanja ali razmer, ki lahko nastanejo pred dnevom, ko začne odpoved veljati, ali ukrepov, za katere se je pododbor za preprečevanje odločil ali se lahko odloči, da jih sprejme glede te države pogodbenice; odpoved prav tako na noben način ne vpliva na nadaljnje obravnavanje katere koli zadeve, ki je pri pododboru za preprečevanje že v obravnavi pred dnevom, ko začne veljati odpoved.

3. Po datumu, ko začne veljati odpoved države pogodbenice, pododbor za preprečevanje ne začne obravnavati nobene nove zadeve, povezane s to državo.

34. člen

1. Vsaka država pogodbenica tega protokola lahko predlaga spremembo in jo predloži generalnemu sekretarju Združenih narodov. Generalni sekretar sporoči predlagano spremembo državam pogodbenicam tega protokola in jih zaprosi, da ga obvestijo, ali se strinjajo s konferenco držav pogodbenic zaradi obravnavanja in glasovanja o predlogu. Če se v štirih mesecih od dneva tega sporočila vsaj tretjina držav pogodbenic strinja s to konferenco, generalni sekretar skliče konferenco pod pokroviteljstvom Združenih narodov. Generalni sekretar Združenih narodov pošlje vsem državam pogodbenicam v sprejetje vsako spremembo, ki jo z dvetretjinsko večino sprejmejo države pogodbenice, ki so navzoče in glasujejo na konferenci.

2. Sprememba, sprejeta v skladu s prvim odstavkom tega člena, začne veljati, ko jo sprejmejo države pogodbenice tega protokola z dvetretjinsko večino v skladu z njihovimi ustavnimi postopki.

3. Ko začnejo spremembe veljati, so zavezujoče za vse tiste države pogodbenice, ki so jih sprejele, za druge države pogodbenice pa še naprej veljajo določbe tega protokola in katera koli prejšnja sprememba, ki so jo sprejele.

Article 31

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

Article 32

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 33

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date on which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date on which the denunciation becomes effective.

3. Following the date on which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

Article 34

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.

2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

35. člen

Člani pododбора za preprečevanje in državnih preventivnih mehanizmov uživajo take privilegije in imunitete, ki so potrebni za neodvisno izvajanje njihovih nalog. Člani pododбора za preprečevanje uživajo privilegije in imunitete iz 22. člena Konvencije Združenih narodov o privilegijih in imunitetah z dne 13. februarja 1946 ob upoštevanju določb 23. člena te konvencije.

36. člen

Člani pododбора za preprečevanje ob obisku v državi pogodbenici uživajo privilegije in imunitete, ne da bi posegali v določbe in namene tega protokola, in sicer:

(a) spoštujejo zakone in predpise države, ki jo obiščejo;

(b) se vzdržijo katerega koli ukrepa ali dejavnosti, ki ni v skladu z nepristransko in mednarodno naravo njihovih nalog.

37. člen

1. Ta protokol, katerega besedilo v angleškem, arabskem, francoskem, kitajskem, ruskem in španskem besedilu je enako verodostojno, se deponira pri generalnem sekretarju Združenih narodov.

2. Generalni sekretar Združenih narodov pošlje overjene kopije tega protokola vsem državam.

3. člen

Za izvajanje protokola skrbi Ministrstvo za pravosodje.

4. člen

Republika Slovenija daje v zvezi s 17. členom Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju naslednjo izjavo: »Pristojnosti in naloge državnega preventivnega mehanizma po opcijskem protokolu, skladno s 17. členom, izvršuje Varuh človekovih pravic, v dogovoru z njim pa tudi nevladne organizacije, registrirane v Republiki Sloveniji ter organizacije, ki so pridobile status humanitarne organizacije v Republiki Sloveniji.«

5. člen

(1) Naloge in pooblastila državnega preventivnega mehanizma po tem protokolu izvršuje Varuh človekovih pravic. Pri opravljanju nadzora na krajih odvzema prostosti ter preverjanja ravnanja z osebami, ki jim je bila odvzeta prostost, lahko z Varuhom pri izvrševanju nalog in pooblastil Varuha po tem protokolu sodelujejo nevladne organizacije, registrirane v Republiki Sloveniji ter organizacije, ki so pridobile status humanitarne organizacije v Republiki Sloveniji, ki se ukvarjajo z varstvom človekovih pravic ali temeljnih svoboščin, zlasti s področja preprečevanja mučenja in drugih krutih, nečloveških ali poniževalnih kazni ali ravnanj.

Article 35

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

Article 36

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

(a) Respect the laws and regulations of the visited State;

(b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

Article 37

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

Article 3

The Ministry of Justice shall be responsible for the implementation of the Protocol.

Article 4

In connection with Article 17 of the Optional Protocol to the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment the Republic of Slovenia hereby makes the following statement: "The competences and tasks of national preventive mechanism under the Optional Protocol, in compliance with Article 17 shall be carried out by the Human Rights Ombudsman, and with his agreement also non-governmental organisations registered in the Republic of Slovenia and organisations that have obtained the status of humanitarian organisations in the Republic of Slovenia."

Article 5

(1) The tasks and authorities of national preventive mechanism under this protocol shall be performed by the Human Rights Ombudsman. In carrying out monitoring at places of detention and checking the treatment of persons who have been deprived of their liberty, non-governmental organisations registered in the Republic of Slovenia and organisations that have obtained the status of humanitarian organisations in the Republic of Slovenia, which deal with the protection of human rights or fundamental freedoms, especially in the field of preventing torture and other cruel, inhuman or degrading treatment or punishment, may cooperate with the Ombudsman in carrying out the tasks and authorities of the Ombudsman under this protocol.

(2) Organizacije, ki bodo sodelovale pri izvajanju nalog in pooblastil po določbah prejšnjega odstavka, se izberejo na podlagi javnega razpisa, katerega izvede Varuh, ki tudi odloči o izbiri organizacije. Vsebina javnega razpisa mora biti v skladu s 4. členom tega zakona ter podzakonskih aktov, izdanih na podlagi četrtega odstavka.

(3) Osebe iz izbranih organizacij, ki bodo sodelovale pri izvajanju nalog in pooblastil državnega preventivnega mehanizma po tem protokolu, podajo predhodno pisno izjavo, da bodo pri opravljanju teh nalog in pooblastil delovale po navodilih Varuha človekovih pravic in delovale po predpisih o varovanju tajnosti osebnih in tajnih podatkov, tako kot to velja za Varuha, njegove namestnike in uslužbence.

(4) Potrebne stroške in nagrade osebam iz organizacij, ki opravljajo naloge oziroma izvršujejo pooblastila po prvem odstavku, izplača Varuh človekovih pravic iz proračunskih postavk Varuha, po pravilniku, ki ga izda Varuh po predhodnem soglasju ministra, pristojnega za finance. Pravilnik se objavi v Uradnem listu Republike Slovenije.

6. člen

Ta zakon začne veljati 1. januarja 2007.

Št. 713-03/91-4/4

Ljubljana, dne 29. septembra 2006

EPA 1008-IV

Predsednik
Državnega zbora
Republike Slovenije
France Cukjati, dr. med., l.r.

(2) Organisations that will cooperate in the implementation of tasks and authorities under the provisions of the previous paragraph shall be chosen on the basis of public tender, which will be held by the Ombudsman, who will also decide on the choice of organisations. The content of the public tender must be in compliance with Article 4 of this Act and statutory regulations issued on the basis of the fourth paragraph.

(3) Persons from the selected organisations who will cooperate in implementing the tasks and authorities of national preventive mechanism under this Protocol shall provide a prior written declaration that in performing these tasks and authorities they will work according to the instructions of the Human Rights Ombudsman and work according to regulations on the protection of the confidentiality of personal and confidential information, as these apply for the Ombudsman and his deputies and staff.

(4) Necessary costs and rewards of persons from organisations that perform tasks or implement authorities under the first paragraph shall be paid by the Human Rights Ombudsman from budget headings of the Ombudsman, according to rules which the Ombudsman shall issue after the prior approval of the minister responsible for finance. The rules shall be published in the Official Gazette of the Republic of Slovenia.

Article 6

This Act shall take effect on 1 January 2007.

No. 713-03/91-4/4

Ljubljana, 29 September 2006

EPA 1008-IV

President
National Assembly
of the Republic of Slovenia
France Cukjati, M.D., l.r.

IV. DOKUMENTI
VARUHA ČLOVEKOVIH PRAVIC

IV. OMBUDSMAN DOCUMENTS

PRAVILNIK O POVRAČILU STROŠKOV IN O NAGRADAH osebam iz organizacij, ki opravljajo naloge oziroma izvršujejo pooblastila po določbah Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju

Uradni list RS, št. 17-565/2008, št. 20-829/2011

(Neuradni čistopis besedila)

I. SPLOŠNA DOLOČBA

1. člen

(1) Ta pravilnik ureja povračilo stroškov in nagradi osebam iz izbranih nevladnih in humanitarnih organizacij, za sodelovanje pri izvajanju nadzora po določilih Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju, katerega le te izvajajo po navodilih Varuha človekovih pravic (v nadaljnjem besedilu: Varuh).

(2) Povračilo stroškov po tem pravilniku obsega povračilo potnih stroškov in stroškov za prehrano in prenočišče ter pravico do nadomestila plače ali nadomestila za izgubljeni zaslužek v času nadzora. Nagradi po tem pravilniku sta plačilo za izdelavo poročila o opravljenem nadzoru in simbolični prejemek.

II. POVRAČILO STROŠKOV

2. člen

(1) Potni stroški obsegajo stroške prihoda in vrnitve osebe iz izbranih nevladnih in humanitarnih organizacij (v nadaljevanju: izvajalec nadzora) od kraja njenega prebivališča do kraja, kjer opravlja nadzor. Potni stroški se priznajo v višini dejanskih izdatkov za prevoz z javnim prevoznim sredstvom.

(2) Če ni možnosti prevoza z javnim prevoznim sredstvom, se izvajalcu nadzora priznajo stroški kilometrine.

3. člen

(1) Stroški za prehrano se izvajalcem nadzora priznajo v obliki dnevnice.

(2) Pravico do dnevnice ima udeleženec, ki ima stalno ali začasno prebivališče zunaj kraja, kjer se opravlja nadzor.

(3) Stroški za prenočišče se priznajo izvajalcem nadzora s povračilom dejansko plačanih stroškov prenočevanja.

(4) Pravico do povračila stroškov prenočišča ima izvajalec nadzora, ki ima stalno ali začasno prebivališče zunaj kraja, kjer se opravlja nadzor in je zaradi sodelovanja pri opravljanju nadzora moral prenočevati v tem kraju.

RULES ON THE REIMBURSEMENT OF COSTS AND OTHER REWARDS to persons from organisations that perform tasks or exercise authorities under the provisions of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Official Gazette of the Republic of Slovenia, no. 17-565/2008, no. 20-829/2011

(Unofficial fair copy of the text)

I. GENERAL PROVISIONS

Article 1

(1) These rules regulate the reimbursement of costs and rewards to persons from selected non-governmental and humanitarian organisations for cooperation in implementing monitoring under the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which these (organisations) implement under the instructions of the Human Rights Ombudsman (hereinafter: Ombudsman).

(2) Reimbursement of costs under these rules covers reimbursement of travelling expenses and costs of food and accommodation and the right to compensation of pay or compensation of lost earnings during the time of monitoring. Rewards under these rules shall be payment for producing a report on monitoring and a symbolic payment.

II. REIMBURSEMENT OF COSTS

Article 2

(1) Travelling expenses shall include the costs of return travel of persons from chosen non-governmental and humanitarian organisations (hereinafter: monitors) from their place of residence to the place where monitoring is performed. Travelling expenses shall be recognised at the level of actual expenditures for transport by public means of transport.

(2) If travel by public transport is not possible, costs in the form of a kilometer rate will be awarded to monitors.

Article 3

(1) Costs for food shall be recognised for monitors in the form of a daily rate.

(2) A participant who has permanent or temporary residence outside the place where monitoring is performed shall have the right to the daily rate.

(3) Overnight costs shall be awarded to monitors by the reimbursement of actually paid costs of overnight accommodation.

(4) The right to the reimbursement of accommodation costs accrues to a monitor who has permanent or temporary residence outside the place where monitoring is taking place and because of cooperating in the performance of monitoring he or she must spend the night in that place.

4. člen

Dnevnic, stroški prenočišča in kilometrina se odmerijo na način in v višini, kot je določena za javne uslužbenke.

III. NADOMESTILO PLAČE OZIROMA IZGUBLJENI ZASLUŽEK**5. člen**

(1) Izvajalec nadzora, ki je zaposlen in je zaradi opravljanja nadzora odsoten z dela, ima na podlagi potrdila Varuha pravico do nadomestila plače. Izvajalcu nadzora, ki ima pravico do nadomestila plače, Varuh izda potrdilo o sodelovanju pri opravljanju nadzora naslednji dan po opravljenem nadzoru.

(2) Delodajalec izvajalcu nadzora izplača nadomestilo plače, Varuh pa nato delodajalcu povrne znesek, ki ustreza višini nadomestila plače na podlagi pisnega obračuna s priloženimi dokazili o višini plače izvajalca nadzora in o izplačanem nadomestilu.

6. člen

Izvajalcu nadzora, ki z izbrano nevladno oziroma humanitarno organizacijo sodeluje kot samostojni podjetnik oziroma kot oseba, ki samostojno opravlja dejavnost kot redni poklic ali pa na podlagi druge pogodbe, pripada nadomestilo za izgubljeni zaslužek v višini urne postavke, ki jo v ta namen določi izbrana nevladna oziroma humanitarna organizacija, vendar največ v višini 15 EUR bruto za vsako uro sodelovanja pri nadzoru.

7. člen

(1) Izvajalci nadzora, ki v času opravljanja nadzora niso bili odsotni z dela, imajo pravico do nadomestila v pavšalnem znesku.

(2) Višina nadomestila se v primeru iz prejšnjega odstavka odmeri v odvisnosti od časa opravljanja nadzora, pri čemer višina nadomestila na dan ne sme presegati 75 odstotkov zneska dnevnice za službeno potovanje, ki traja od šest do osem ur, kot je določen za javne uslužbenke.

IV. NAGRADA ZA IZDELAVO POROČILA O OPRAVLJENEM NADZORU**8. člen**

Izvajalec nadzora dobi za izdelavo poročila o opravljenem nadzoru nagrado v višini 100 EUR.

V. SIMBOLIČNI PREJEMEK**9. člen**

Izvajalcem nadzora pripada simbolični prejemek v višini 5 evrov (EUR) za vsako začeto uro sodelovanja pri nadzoru.

Article 4

Daily rates, accommodation costs and the kilometer rate shall be calculated in the way and at the level that is specified for public servants.

III. COMPENSATION OF PAY OR OF LOST EARNINGS**Article 5**

(1) A monitor who is employed and because of performing monitoring is absent from work has the right to compensation of pay on the basis of confirmation of the Ombudsman. The Ombudsman shall issue to the monitor confirmation of cooperation in the performance of monitoring the day after monitoring has been performed.

(2) The employer of the monitor shall pay compensation of pay and the Ombudsman shall then refund to the employer the amount corresponding to the level of compensation of pay on the basis of a written invoice with evidence enclosed of the amount of pay of the monitor and on the payment of compensation.

Article 6

A person implementing supervision which cooperates with a non-governmental or humanitarian organisation as an independent entrepreneur or as an entity that independently performs activity as a regular vocation or based on any other contract shall be reimbursed for the lost income in the amount of an hourly fee determined for this purpose by the non-governmental or humanitarian organisation; however, not more than 15 EUR gross per hour of cooperation for the implementation of supervision.

Article 7

(1) Persons implementing supervision who are not absent from work during the time of supervision implementation are entitled to a lump sum reimbursement.

(2) The level of compensation referred to in the previous paragraph shall be calculated on the basis of the time of performing monitoring, whereby the level of compensation per day may not exceed 75 percent of the amount of the daily rate for a business trip that lasts from six to eight hours, as determined for public servants.

IV. REMUNERATION FOR PRODUCING A REPORT ON THE MONITORING PERFORMED**Article 8**

A monitor shall receive remuneration of 100 EUR for producing a report on monitoring performed.

V. SYMBOLIC PAYMENT**Article 9**

A symbolic payment will be made to monitors of 5 EUR for each hour or part of an hour of cooperation in monitoring.

VI. SKUPNE DOLOČBE**10. člen**

Izvajalec nadzora predloži zahtevek za povračilo stroškov in nagradi na obrazcu št. 1, ki je sestavni del tega pravilnika, ob predaji poročila o opravljenem nadzoru, ki mora biti izdelano in posredovano Varuhu najpozneje v osmih dneh po opravljenem nadzoru.

11. člen

(1) Predstavnik Varuha, odgovoren za opravo posameznega nadzora, izda v roku treh dni po prejemu zahtevka za povračilo stroškov in nagradi, izvajalcu nadzora sklep o povračilu stroškov na obrazcu št. 2, ki je sestavni del tega pravilnika.

(2) Izplačilo stroškov in nagrad se izvrši na podlagi sklepa iz prejšnjega odstavka.

12. člen

(1) Nagrade in povračilo stroškov se izplačujejo iz proračunskih sredstev Varuha človekovih pravic RS – podprogram Opcijski protokol, sredstva namenjena za delo nevladnih in humanitarnih organizacij, na transakcijski račun izvajalca nadzora oziroma njegovega delodajalca (nevladne ali humanitarne organizacije) v primeru takšne njegove zahteve, obračunani davki in druge dajatve pa na ustrezne račune javnih sredstev.

(2) Nadomestila plače oziroma izgubljenega zaslužka se izplačujejo iz proračunskih sredstev Varuha človekovih pravic – podprogram Opcijski protokol, sredstva namenjena za delo nevladnih in humanitarnih organizacij, na transakcijski račun prejemnika.

VII. KONČNI DOLOČBI**13. člen**

V tem pravilniku uporabljeni izrazi, zapisani v moški spolni slovnični obliki, se uporabljajo kot nevtralni za moški in ženski spol.

14. člen

Ta pravilnik začne veljati petnajsti dan po objavi v Uradnem listu Republike Slovenije.

Obrazec 1: Zahtevek za povračilo stroškov in nagrad

Obrazec 2: Sklep o povračilu stroškov in nagrad

(Objavljeno 19. 2. 2008)

(1) Pravilnik o spremembah in dopolnitvah Pravilnika o povračilu stroškov in o nagradah osebam iz organizacij, ki opravljajo naloge oziroma izvršujejo pooblastila po določbah Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (Uradni list RS, št. 20-829/2011), objavljen 18.3.2011, velja od 2. 4. 2011.

VI. COMMON PROVISIONS**Article 10**

A monitor shall submit a claim for reimbursement of costs and remuneration on Form 1, which is an integral part of these rules, at the time of submitting the report on performed monitoring, which must be produced and sent to the Ombudsman not later than eight days after the monitoring was performed.

Article 11

(1) The Ombudsman's representative responsible for performing an individual monitoring, within three day of receipt of the claim for reimbursement of costs and remunerations, shall issue to the monitor a decision on the reimbursement of costs on Form 2, which is an integral part of these rules.

(2) Payment of costs and rewards shall be done on the basis of the decision referred to in the previous paragraph.

Article 12

(1) The rewards and reimbursement of costs are paid from the budget of the Human Rights Ombudsman of the Republic of Slovenia – Optional Protocol sub-programme, funds allocated for the work of non-governmental and humanitarian organisations, namely to the bank account of the person implementing supervision or his/her employer (non-governmental or humanitarian organisation); in the case of such a request, all taxes and other duties charged shall be paid to the appropriate accounts of public funds.

(2) Compensation of pay or lost earnings shall be paid from budget funds of the Human Rights Ombudsman – sub-program Optional Protocol, funds earmarked for the work of non-governmental and humanitarian organisations, to the transaction account of the recipient.

VII. FINAL PROVISIONS**Article 13**

Expressions used in these rules written in the masculine grammatical form shall be considered neutral for both masculine and feminine gender.

Article 14

These rules shall enter into force on the day following publication in the Official Gazette of the Republic of Slovenia.

Form 1: The claim for the reimbursement of costs and rewards

Form 2: The decision on the reimbursement of costs and rewards

(Published on 19. 2. 2008)

(1) Rules amending the Rules on the reimbursement of costs and rewards to persons from organisations that perform tasks or exercise authorities under the provisions of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette of the Republic of Slovenia, no. 20-829/2011), published 18. 3. 2011, entered into force on 2. 4. 2011.

Obrazec 1: Zahtevek za povračilo stroškov in nagrad

(ime in priimek) _____ po poklicu _____
stanujoč / a _____
davčna številka _____
številka transakcijskega računa _____ - _____
odprtega pri _____
sem sodeloval/a pri opravljanju nadzora _____

dne _____ od _____ do _____ ure.

Prosim, da se mi prizna in izplača:

1. SIMBOLIČNI PREJEMEK

število ur	višina nagrade za vsako začeto uro	skupaj EUR

2. PLAČILO ZA IZDELAVO POROČILA O OPRAVLJENEM NADZORU

3. POVRAČILO STROŠKOV

a) potni stroški javni prevoz

za relacijo od / do	skupaj EUR

b) Kilometrina

za relacijo od / do	Skupaj km	Cena za 1 km	skupaj EUR

c) stroški za prehrano in prenočišče (dnevnice)

višina dnevnice	višina stroškov prenočišča	skupaj EUR

d) nadomestilo plače, izgubljenega zaslužka, nadomestilo v pavšalnem znesku

skupaj EUR

V _____, dne _____

podpis

Priloge:
- izjava o opravljenem nadzoru in izdelavi poročila
- računi

Form 1: Claim for the reimbursement of costs and rewards

I, _____ by profession _____
residing at _____ tax number _____
transaction account number _____ - _____
at (bank) _____
cooperated in monitoring _____

on _____ from _____ to _____ hours.

Please acknowledge and pay:

1. SYMBOLIC PAYMENT

number of hours	level of reward for each hour or part	total EUR

2. PAYMENT FOR PRODUCING REPORT ON MONITORING PERFORMED

3. REIMBURSEMENT OF COSTS

a) travelling expenses by public transport

for journey from / to	total EUR

b) Kilometer rate

for the journey from/ to	total km price	per 1 km	total EUR

c) costs for food and accommodation (daily rate)

level of daily rate	level of costs of accommodation	total EUR

d) compensation of pay, lost earnings, compensation in a lump sum

total EUR

In _____, date _____

signature

Enclosures:
- confirmation of monitoring carried out and report produced
- invoices

Obrazec 2: Sklep o povračilu stroškov in nagrad (formular)

Za sodelovanje _____ pri
opravljanju nadzora, v _____, dne _____ po

določilu 11. člena Pravilnika o povračilu stroškov in o nagradah osebam iz organizacij, ki opravljajo naloge oziroma izvršujejo pooblastila po določbah Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju (MOPPM)

odmerim

simbolični prejemek	EUR
potni stroški	EUR
kilometrina	EUR
stroški za prehrano in prenočišče	EUR
nadomestilo plače	EUR
nadomestilo izgubljenega zaslužka, oz. pavšalno nadomestilo	EUR
plačilo za izdelavo poročila o opravljenem nadzoru	EUR
skupaj	EUR

in odredim plačilo davkov in drugih javnih dajatev.

Hkrati odredim izplačilo na ustrezne transakcijske račune in transakcijski račun prejemnika, vse v breme proračunskega uporabnika 1214 Varuh človekovih pravic RS – podprogram Opcijski protokol, podkonto sredstva namenjena za delo nevladnih in humanitarnih organizacij _____,

V _____, dne _____

podpis _____

Zneski, od katerih se plačujejo davki in druge javne dajatve, se odmerjajo »brutto«

Form 2: Decision on reimbursement of costs and rewards (form)

For the cooperation of _____ in
carrying out monitoring at _____, on _____ under the

provisions of Article 11 of the Rules on the reimbursement of costs and rewards to persons from organisations that perform tasks or exercise authorities under the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (MOPPM)

I hereby calculate:

symbolic payment	EUR
travelling expenses	EUR
kilometer rate	EUR
costs for food and accommodation	EUR
compensation of pay	EUR
compensation for lost earnings or lump compensation	EUR
payment for producing report on monitoring performed	EUR
total	EUR

and order payment of taxes and other public levies.

At the same time, I order payment to the relevant transaction account and the transaction account of the recipient, all to be paid from the budget of user 1214 Human Rights Ombudsman RS – sub-programme Optional Protocol, sub-account of funds earmarked for the work of non-governmental and humanitarian organisations _____,

in _____, date _____

Signature _____

Amounts on which taxes and other public levies are paid shall be calculated “gross”

V. DOKUMENTI ZDRUŽENIH NARODOV

V. UN DOCUMENTS

Združeni narodi



Generalna skupščina

Šestinšestdeseto zasedanje
Točka 69 a dnevnega reda

RESOLUCIJA, SPREJETA NA GENERALNI SKUPŠČINI

[Na podlagi poročila Tretjega odbora (A/66/462/Add.1)]

66/150. MUČENJE IN DRUGO KRUTO, NEČLOVEŠKO ALI
PONIŽEVALNO RAVNAJE ALI KAZNOVANJE

Generalna skupščina,

ob ponovni potrditvi, da nihče ne same biti izpostavljen mučenju ali drugemu krutemu, nečloveškemu ali poniževalnemu ravnanju ali kaznovanju,

ob sklicevanju na to, da je prepoved mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja neodtujljiva pravica po mednarodnem pravu, tudi mednarodnem pravu človekovih pravic in mednarodnem humanitarnem pravu, ki jo je treba spoštovati in varovati v vseh okoliščinah, tudi v mednarodnih ali nacionalnih oboroženih spopadih ali nemirih ali v kateri koli drugi splošni nevarnosti, da ustrezne mednarodne listine potrjujejo popolno prepoved mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja ter da se v zvezi s pravnimi in postopkovnimi jamstvi, ki varujejo pred takimi dejanji, ne smejo sprejeti ukrepi, s katerimi bi se ta pravica zaobšla,

ob sklicevanju na to, da je prepoved mučenja obvezna norma mednarodnega prava ter da mednarodna, regionalna in nacionalna sodišča pojmujejo prepoved krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja kot del običajnega mednarodnega prava,

ob sklicevanju na opredelitev mučenja iz 1. člena Konvencije proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju¹, brez poseganja v mednarodne listine ali notranjo zakonodajo, ki vključuje ali utegne vključevati širše uporabljane določbe,

ob poudarjanju pomena pravilnega razlaganja in izpolnjevanja obveznosti držav v zvezi z mučenjem in drugim krutim, nečloveškim ali poniževalnim ravnanjem ali kaznovanjem ter doslednega upoštevanja opredelitve mučenja iz 1. člena konvencije,

¹ Zbirka pogodb Združenih narodov, zv. 1465, št. 24841.

United Nations



General Assembly

Sixty-sixth session
Agenda item 69 (a)

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[on the report of the Third Committee (A/66/462/Add.1)]

66/150. TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT

The General Assembly,

Reaffirming that no one shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law, including international human rights law and international humanitarian law, that must be respected and protected under all circumstances, including in times of international or internal armed conflict or disturbance or any other public emergency, that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments and that legal and procedural safeguards against such acts must not be subject to measures that would circumvent this right,

Recalling also that the prohibition of torture is a peremptory norm of international law and that international, regional and domestic courts have held the prohibition of cruel, inhuman or degrading treatment or punishment to be customary international law,

Recalling further the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹, without prejudice to any international instrument or national legislation which contains or may contain provisions of wider application,

Emphasizing the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment and of abiding strictly by the definition of torture contained in article 1 of the Convention,

¹ United Nations, Treaty Series, vol. 1465, No. 24841.

ob ugotovitvi, da sta po ženevski konvenciji iz leta 1949² mučenje in nečloveško ravnanje huda kršitev ter da je po statutu mednarodnega sodišča za sodni pregon oseb, odgovornih za hujše kršitve mednarodnega humanitarnega prava, storjene na območju nekdanje Jugoslavije od leta 1991, po statutu mednarodnega kazenskega sodišča za sodni pregon oseb, odgovornih za genocid in druge hujše kršitve mednarodnega humanitarnega prava, storjene na območju Ruande, in državljanov Ruande, odgovornih za genocid in druge takšne kršitve, storjene na območju sosednjih držav med 1. januarjem 1994 in 31. decembrom 1994, ter po rimskem statutu mednarodnega kazenskega sodišča³ mučenje lahko kaznivo dejanje zoper človečnost in, če je storjeno v oboroženem spopadu, vojno hudodelstvo,

ob odobravanju začetka veljavnosti Mednarodne konvencije za zaščito vseh oseb pred prisilnim izginotjem⁴, ker bo njeno izvajanje znatno prispevalo k preprečevanju in prepovedi mučenja, tudi s prepovedjo tajnih krajev odvzema prostosti in spodbujanjem držav, ki tega še niso storile, da podpišejo ali ratificirajo konvencijo ali pristopijo k njej,

ob izrekanju priznanja za dolgotrajno prizadevanje organizacij civilne družbe, tudi nevladnih organizacij, državnih institucij za človekove pravice, državnih preventivnih mehanizmov in obsežne mreže centrov za rehabilitacijo žrtev mučenja, za preprečevanje mučenja in boj proti njemu ter za lajšanje trpljenja žrtev mučenja,

zaradi hude zaskrbljenosti nad dejanji, ki lahko pomenijo mučenje in drugo kruto, nečloveško ali poniževalno ravnanje ali kaznovanje, storjenih zoper osebe in njihove pravice do mirnega zbiranja in svobode izražanja v vseh delih sveta,

1. *Obsoja* vse oblike mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, tudi ustrahovanje, ki so in bodo ostale prepovedane vedno in povsod in zato nikoli ne morejo biti upravičene, ter poziva vse države k celovitemu izvajanju popolne in neodtujljive prepovedi mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
2. *Poudarja*, da morajo države sprejeti trajne, odločne in učinkovite ukrepe za preprečevanje mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja ter za boj proti vsemu temu, poudarja, da naj v notranji kazenski zakonodaji opredelijo mučenje kot kaznivo dejanje, in jih spodbuja, da z notranjo zakonodajo prepovejo dejanja krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
3. *Pozdravlja* vzpostavitev državnih mehanizmov za preprečevanje mučenja, nečloveškega ali poniževalnega ravnanja ali kaznovanja, poziva države, da vzpostavijo, določijo, vzdržujejo ali krepijo samostojne in učinkovite mehanizme s potrebnim znanjem za opravljanje nadzornih obiskov krajev odvzema prostosti, med drugim zaradi preprečevanja mučenja ali drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, in poziva države pogodbenice Opcijskega protokola h Konvenciji proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju⁵, da izpolnijo obveznost glede določitve ali vzpostavitve resnično neodvisnih in učinkovitih državnih preventivnih mehanizmov;

² Ibid., zv. 75, št. 970–973.

³ Ibid., zv. 2187, št. 38544.

⁴ Resolucija 61/177, priloga

⁵ Zbirka pogodb Združenih narodov, zv. 2375, št. 24841.

Noting that, under the Geneva Conventions of 1949², torture and inhuman treatment are a grave breach and that, under the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court³, acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

Welcoming the entry into force of the International Convention for the Protection of All Persons from Enforced Disappearance⁴, the implementation of which will make a significant contribution to the prevention and prohibition of torture, including by prohibiting secret places of detention, and encouraging all States that have not done so to consider signing, ratifying or acceding to the Convention,

Commending the persistent efforts of civil society organizations, including non-governmental organizations, national human rights institutions and national preventive mechanisms, and the considerable network of centres for the rehabilitation of victims of torture, to prevent and combat torture and to alleviate the suffering of victims of torture,

Deeply concerned with all acts which can amount to torture and other cruel, inhuman or degrading treatment or punishment committed against persons exercising their rights of peaceful assembly and freedom of expression in all regions of the world,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment;
2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture must be made offences under domestic criminal law, and encourages States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;
3. *Welcomes* the establishment of national preventive mechanisms to prevent torture and other cruel, inhuman or degrading treatment or punishment, urges States to consider establishing, appointing, maintaining or enhancing independent and effective mechanisms with qualified expertise to undertake monitoring visits to places of detention, inter alia with a view to preventing acts of torture or other cruel, inhuman or degrading treatment or punishment, and calls upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵ to fulfil their obligation to designate or establish truly independent and effective national preventive mechanisms;

² Ibid., vol. 75, Nos. 970–973.

³ Ibid., vol. 2187, No. 38544.

⁴ Resolution 61/177, annex.

⁵ United Nations, Treaty Series, vol. 2375, No. 24841.

4. *Poudarja* pomen ustreznega nadaljnjega ukrepanja držav na podlagi priporočil in sklepov ustreznih organov in mehanizmov iz pogodbe, tudi odbora proti mučenju, pododboru za preprečevanje mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja ter posebnega poročevalca sveta za človekove pravice o mučenju in drugem krutem, nečloveškem ali poniževalnem ravnanju ali kaznovanju;
5. *Obsoja* vsako dejanje ali poskus držav ali javnih uslužbencev, da bi v kakršnih koli okoliščinah legalizirali, odobrili ali privolili v mučenje in drugo kruto, nečloveško ali poniževalno ravnanje ali kaznovanje, tudi zaradi državne varnosti ali na podlagi sodnih odločb, in poziva države k zagotovitvi, da odgovorni odgovarjajo za taka dejanja;
6. *Spodbuja* države, da vzpostavijo ali ohranijo ustrezne notranje postopke za evidentiranje domnevnega mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
7. *Poudarja*, da mora neodvisni pristojni domači organ takoj, učinkovito in nepristransko preiskati vsako domnevno mučenje ali drugo kruto, nečloveško ali poniževalno ravnanje ali kaznovanje in ugotoviti, ali obstaja utemeljen sum, da je bilo tako dejanje storjeno, ter da morajo tisti, ki spodbujajo, odredijo, dopuščajo ali storijo tako dejanje, zanj odgovarjati, da jim je treba zanj soditi in jih kaznovati sorazmerno s težo kaznivega dejanja, tudi uradnike, ki so odgovorni za kraje odvzema prostosti ali druge kraje, kjer so osebe, ki jim je odvzeta prostost, če se ugotovi, da je bilo prepovedano dejanje storjeno;
8. *Opozarja* s tem v zvezi na načela učinkovitega preiskovanja in dokumentiranja mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja (istanbulska načela)⁶, ki so koristno orodje za preprečevanje mučenja in boj proti njemu, ter na dopolnjena načela varovanja in uveljavljanja človekovih pravic z bojem proti nekaznovanju⁷;
9. *Poziva* vse države, da izvajajo učinkovite ukrepe za preprečevanje mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, predvsem na krajih odvzema prostosti ali drugih krajih, kjer so osebe, ki jim je odvzeta prostost, vključno s pravnimi in postopkovnimi jamstvi, ter zagotavljajo izobraževanje in usposabljanje osebja, ki sodeluje pri pridržanju, zaslišanju ali ravnanju s kakor koli priprto, pridržano ali zaprto osebo;
10. *Poziva* države, da kot pomemben del preprečevanja mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja ter boja proti temu zagotovijo, da noben organ ali uradnik ne odredi, uporabi, dovoli ali dopusti nikakršne sankcije ali oškodovanja osebe ali organizacije zato, ker je v stiku s katerim koli nadzornim ali preventivnim notranjim ali mednarodnim organom, ki deluje na področju preprečevanja mučenja in drugega krutega, nečloveškega ali poniževalnega obravnavanja ali kaznovanja ter boja proti temu;
11. *Poziva* države, da v boju proti mučenju in drugemu krutemu, nečloveškemu ali poniževalnemu ravnanju ali kaznovanju upoštevajo vidik spola in namenjajo posebno pozornost nasilju zaradi spola;

⁶ Resolucija 55/89, priloga.
⁷ Glej E/CN.4/2005/102/Add.1

4. *Emphasizes* the importance of States ensuring proper follow-up to the recommendations and conclusions of the relevant treaty bodies and mechanisms, including the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment;
5. *Condemns* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions, and urges States to ensure accountability of those responsible for all such acts;
6. *Encourages* States to consider establishing or maintaining appropriate national processes to record allegations of torture and other cruel, inhuman or degrading treatment or punishment;
7. *Stresses* that an independent, competent domestic authority must promptly, effectively and impartially investigate all allegations of torture or other cruel, inhuman or degrading treatment or punishment, as well as wherever there is reasonable ground to believe that such an act has been committed, and that those who encourage, order, tolerate or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including the officials in charge of any place of detention, or other place where persons are deprived of their liberty, where the prohibited act is found to have been committed;
8. *Recalls*, in this respect, the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles)⁶ as a useful tool in efforts to prevent and combat torture and the updated set of principles for the protection and promotion of human rights through action to combat impunity⁷;
9. *Calls upon* all States to implement effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, particularly in places of detention and other places where persons are deprived of their liberty, including legal and procedural safeguards, as well as education and training of personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;
10. *Urges* States, as an important element in preventing and combating torture and other cruel, inhuman or degrading treatment or punishment, to ensure that no authority or official orders, applies, permits or tolerates any sanction or other prejudice against any person or organization for having been in contact with any national or international monitoring or preventive body active in the prevention and combating of torture and other cruel, inhuman or degrading treatment or punishment;
11. *Calls upon* all States to adopt a gender-sensitive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to gender-based violence;

⁶ Resolution 55/89, annex.
⁷ See E/CN.4/2005/102/Add.1.

12. *Poziva* države, da skladno s Konvencijo o pravicah invalidov⁸ zagotovijo celovito vključitev pravic invalidov v preprečevanje mučenja in varovanje pred njim ter pozdravlja prizadevanje posebnega poročevalca na tem področju;
13. *Spodbuja* vse države k zagotavljanju, da osebe, obsojene zaradi mučenja ali drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, ne sodelujejo več pri pridržanju ali zasliševanju priprtih, pridržanih, zaprtih ali tistih, ki jim je prostost odvzeta kako drugače, ali ne sodelujejo pri ravnanju z njimi in da osebe, obtožene mučenja ali drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, do razsodbe ne sodelujejo pri pridržanju ali zasliševanju priprtih, pridržanih, zaprtih ali tistih, ki jim je prostost odvzeta kako drugače, ali ne sodelujejo pri ravnanju z njimi;
14. *Poudarja*, da je mučenje v oboroženih spopadih huda kršitev mednarodnega humanitarnega prava in pomeni vojno hudodelstvo, da je mučenje lahko kaznivo dejanje zoper človečnost in da je treba storilce teh dejanj preganjati in kaznovati, in v zvezi s tem pozdravlja prizadevanje mednarodnega kazenskega sodišča za prenehanje nekaznovanja z uveljavljanjem odgovornosti in kaznovanjem storilcev takih dejanj v skladu z Rimskim statutom⁹ ter spodbuja države, ki tega še niso storile, da ratificirajo omenjeni statut ali pristopijo k njemu;
15. *Poziva* države k zagotavljanju, da se nobena izjava, za katero se ugotovi, da je bila dana zaradi mučenja, ne uporabi kot dokaz v nobenem postopku, razen kot dokaz proti osebi, obtoženi mučenja, spodbuja države, da tako prepoved razširijo na izjave, dane zaradi krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, in priznava ustrezno utemeljene izjave, tudi priznanja, ki se uporabijo v postopku, kot eno od varoval za preprečevanje mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
16. *Poudarja*, da države ne smejo kaznovati osebja za neizpolnitev ukazov, da morajo storiti ali prikriti dejanja, ki pomenijo mučenje ali drugo kruto, nečloveško ali poniževalno ravnanje ali kaznovanje;
17. *Poziva* države, da prisilno ne odstranijo, vrnejo, izročijo ali kako drugače premestijo osebe v drugo državo, če obstajajo resni razlogi za sum, da bi bila lahko izpostavljena mučenju, poudarja pomen učinkovitih pravnih in postopkovnih jamstev v zvezi s tem ter se zaveda, da diplomatska zagotovila, kadar se uporabljajo, držav ne odvezujejo obveznosti po mednarodnem pravu človekovih pravic ter begunskem in humanitarnem pravu, predvsem glede načela nevračanja;
18. *Opozarja*, da morajo pristojni organi pri ugotavljanju, ali taki razlogi obstajajo, upoštevati vse pomembne dejavnike, kjer je primerno, tudi to, ali v državi obstaja jasen vzorec velikih, grobih ali množičnih kršitev človekovih pravic;
19. *Poziva* države pogodbenice Konvencije proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju¹, da izpolnijo obveznost glede kazenskega pregona ali izročitve domnevnih storilcev mučenja, in ob upoštevanju potrebe po boju proti nekaznovanju spodbuja druge države, da storijo enako;

⁸ Zbirka pogodb Združenih narodov, zv. 2515, št. 44910..

12. *Calls upon* States to ensure that the rights of persons with disabilities, bearing in mind the Convention on the Rights of Persons with Disabilities⁸, are fully integrated into torture prevention and protection, and welcomes the efforts of the Special Rapporteur in this regard;
13. *Encourages* all States to ensure that persons convicted of torture or other cruel, inhuman or degrading treatment or punishment have no subsequent involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty and that persons charged with torture or other cruel, inhuman or degrading treatment or punishment have no involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty while such charges are pending;
14. *Emphasizes* that acts of torture in armed conflict are serious violations of international humanitarian law and in this regard constitute war crimes, that acts of torture can constitute crimes against humanity and that the perpetrators of all acts of torture must be prosecuted and punished, and in this regard notes the efforts of the International Criminal Court to end impunity by seeking to ensure accountability and punishment of perpetrators of such acts, in accordance with the Rome Statute⁹, bearing in mind its principle of complementarity, and encourages States that have not yet done so to consider ratifying or acceding to the Rome Statute;
15. *Strongly urges* States to ensure that no statement that is established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, encourages States to extend that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, and recognizes that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
16. *Stresses* that States must not punish personnel for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;
17. *Urges* States not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, stresses the importance of effective legal and procedural safeguards in this regard, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement;
18. *Recalls* that, for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights;
19. *Calls upon* States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹ to fulfil their obligation to submit for prosecution or extradite those alleged to have committed acts of torture, and encourages other States to do likewise, bearing in mind the need to fight impunity;

⁸ United Nations, Treaty Series, vol. 2515, No. 44910.

20. *Poudarja*, da morajo notranjepravni sistemi žrtvam mučenja ali drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja zagotoviti popravilo brez povračilnih ukrepov zaradi pritožbe ali pričanja, omogočiti dostop do sodišča ter jim dodeliti pravično in ustrezno nadomestilo, zagotoviti ustrezno socialno, psihološko, zdravstveno in drugo primerno strokovno rehabilitacijo, ter poziva države, da ustanovijo, vzdržujejo, omogočijo ali podprejo rehabilitacijske centre ali prostore, kjer žrtve mučenja lahko dobijo tako pomoč in kjer so sprejeti ukrepi za zagotovitev varnosti osebja in pacientov;
21. *Opozarja* na svojo resolucijo 43/173 z dne 9. decembra 1988 o temeljnih načelih ZN za varstvo vseh oseb, ki jim je kakor koli odvzeta prostost ali so zaprte, in v tem smislu poudarja, da je treba vsakogar, ki mu je bila odvzeta prostost, takoj privedi pred sodnika ali drugo uradno osebo, mu omogočiti takojšnjo in redno zdravstveno oskrbo ter pravno svetovanje, obiske družinskih članov in neodvisne mehanizme spremljanja, kar so učinkoviti ukrepi za preprečevanje mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja;
22. *Opozarja* vse države na to, da je mučenje in druga kruta, nečloveška ali poniževalna ravnanja ali kaznovanja lažje izvesti, če gre za daljši odvzem prostosti v osamitvi ali na tajnem kraju, kar samo po sebi lahko predstavlja obliko takega ravnanja, in poziva vse države, da upoštevajo zaščito svoboščin, varnosti in dostojanstva oseb ter poskrbijo za odpravo tajnih krajev za pridržanje in zasliševanje;
23. *Poudarja*, da morajo pogoji odvzema prostosti zagotavljati spoštovanje dostojanstva in človekovih pravic osebe, ki ji je odvzeta prostost, ter opozarja na pomembnost razmisleka o tem v prizadevanju za spodbujanje spoštovanja in varovanja pravic oseb, ki jim je odvzeta prostost, ter v zvezi na pomisleke glede kazni s samico, kadar pomeni mučenje ali drugo kruto, nečloveško ali poniževalno ravnanje ali kaznovanje;
24. *Poziva* države, da sprejmejo primerne in učinkovite pravne, upravne, sodne in druge ukrepe za preprečevanje in prepoved izdelovanja, trgovanja, izvoza, uvoza in uporabe opreme, katere edini praktični namen je uporaba pri mučenju ali drugem krutem, nečloveškem ali poniževalnem ravnanju ali kaznovanju;
25. *Spodbuja* vse države, ki tega še niso storile, da čim prej postanejo pogodbenice konvencije, in poziva države pogodbenice, da čim prej preučijo možnost podpisa in ratifikacije izbirnega protokola h konvenciji;
26. *Spodbuja* vse države pogodbenice konvencije, ki tega še niso storile, da oblikujejo izjave iz 21. in 22. člena glede meddržavnega sporočanja in sporočanja med posamezniki, da preučijo možnost umika pridržkov k 20. členu in da zaradi povečanja učinkovitosti odbora čim prej obvestijo generalnega sekretarja o sprejetju dopolnil k 17. in 18. členu;
27. *Spodbuja* države pogodbenice k doslednemu izpolnjevanju obveznosti po konvenciji in glede na veliko nepravočasno predloženih poročil tudi obveznosti glede predložitve poročila v skladu z 19. členom konvencije ter jih vabi, da v poročila vključijo vidik spola in podatke, ki se nanašajo na otroke, mladostnike in invalide;

20. *Stresses* that national legal systems must ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress without suffering any retribution for bringing complaints or giving evidence, have access to justice, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken;
21. *Recalls* its resolution 43/173 of 9 December 1988 on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and in this context stresses that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical care and legal counsel as well as visits by family members and independent monitoring mechanisms are effective measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
22. *Reminds* all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished;
23. *Emphasizes* that conditions of detention must respect the dignity and human rights of detainees, highlights the importance of reflecting on this in efforts to promote respect for and protection of the rights of detainees, and notes in this regard concerns about solitary confinement when it amounts to torture or other cruel, inhuman or degrading treatment or punishment;
24. *Calls upon* all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export, import and use of equipment that have no practical use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment;
25. *Urges* all States that have not yet done so to become parties to the Convention as a matter of priority, and calls upon States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention;
26. *Urges* all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 concerning inter-State and individual communications, to consider the possibility of withdrawing their reservations to article 20 and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 with a view to enhancing the effectiveness of the Committee as soon as possible;
27. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles and persons with disabilities when submitting reports to the Committee;

28. *Pozdravlja* delo odbora in njegovo poročilo, predloženo v skladu s 24. členom konvencije⁹, priporoča odboru, da v priporočila tudi v prihodnje vključuje podatke držav o spremljanju izvajanja, in podpira njegovo namero odbora za izboljšanje učinkovitosti metod dela;
29. *Vabi* predsednika odbora in pododбора, da na sedeminšestdesetem zasedanju generalne skupščine ustno poročata o delu odborov in sodelujeta v vzajemnem dialogu pri podtočki "Uresničevanje listin o človekovih pravicah";
30. *Poziva* visoko komisarko Združenih narodov za človekove pravice, da v skladu s svojim mandatom, ki ga je določila generalna skupščina v resoluciji 48/141 z dne 20. decembra 1993, državam na njihovo zahtevo še naprej svetuje glede preprečevanja mučenja in drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, tudi glede priprave njihovih poročil odboru, ter glede vzpostavitve in delovanja državnih preventivnih mehanizmov, daje pa tudi tehnično pomoč pri razvoju, izdelovanju in razširjanju temu namenjenega učnega gradiva;
31. *Se z zadovoljstvom seznanja* z začasnim poročilom posebnega poročevalca¹⁰ in ga spodbuja, naj v priporočila in predloge tudi v prihodnje vključuje preprečevanje in preiskovanje mučenja in drugih oblik krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, tudi pojavne oblike, ki izhajajo iz spola;
32. *Prosi* posebnega poročevalca, da v poročila še naprej vključuje podatke držav o spremljanju upoštevanja njegovih priporočil in o ukrepih, ki jih sprejmejo po njegovih obiskih in sporočilih, tudi doseženi napredek in nastale težave, ter o drugih uradnih stikih;
33. *Poziva* vse države, da sodelujejo s posebnim poročevalcem in mu pomagajo pri opravljanju nalog, mu dajo vse potrebne informacije, ki jih zahteva, na njegove nujne pozive hitro in popolno odgovorijo ter ustrezno ukrepajo, resno preučijo možnosti za ugoditev zaprosilu posebnega poročevalca glede obiskov v državi ter začnejo z njim o tem in o nadaljnjem ukrepanju v zvezi z njegovimi priporočili konstruktivne pogovore;
34. *Poudarja* potrebo po nenehni redni izmenjavi mnenj med odborom, pododborom, posebnim poročevalcem in drugimi pomembnimi mehanizmi in organi Združenih narodov, tudi zaradi sodelovanja v programih Združenih narodov, predvsem v programu za preprečevanje kriminalitete in kazensko pravosodje, z regionalnimi organizacijami in mehanizmi, če je to primerno, ter organizacijami civilne družbe, tudi nevladnimi organizacijami, zaradi izboljšanja njihove učinkovitosti in sodelovanja pri vprašanjih, povezanih s preprečevanjem in odpravljanjem mučenja, med drugim z izboljšanjem usklajevanja;
35. *Se zaveda* svetovne potrebe po mednarodni pomoči žrtvam mučenja, poudarja pomen dela upravnega odbora prostovoljnega sklada Združenih narodov za žrtve mučenja, poziva vse države in organizacije, da letno prispevajo v sklad, po možnosti z znatno višjimi prispevki, ter spodbuja prispevke v poseben sklad, ustanovljen na podlagi izbirnega protokola za pomoč pri financiranju uresničevanja priporočil pododбора in za izobraževalne programe državnih preventivnih mehanizmov;

⁹ Izdano bo kot Uradni zapisi generalne skupščine, šestinšestdeseto zasedanje, dodatek št. 44 (A/66/44).
¹⁰ Glej A/66/268.

28. *Welcomes* the work of the Committee and its report submitted in accordance with article 24 of the Convention⁹, recommends that the Committee continue to include information on the follow-up by States to its recommendations, and supports the Committee in its intention to further improve the effectiveness of its working methods;
29. *Invites* the Chairs of the Committee and of the Subcommittee to present oral reports on the work of the committees and to engage in an interactive dialogue with the General Assembly at its sixty-seventh session under the sub-item entitled "Implementation of human rights instruments";
30. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of States, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee and for the establishment and operation of national preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose;
31. *Takes note with appreciation* of the interim report of the Special Rapporteur¹⁰, and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;
32. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by States to his recommendations, visits and communications, including progress made and problems encountered, and on other official contacts;
33. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to fully and expeditiously respond to and follow up on his urgent appeals, to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur on requested visits to their countries as well as with respect to the follow-up to his recommendations;
34. *Stresses* the need for the continued regular exchange of views among the Committee, the Subcommittee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations crime prevention and criminal justice programme, with regional organizations and mechanisms, as appropriate, and with civil society organizations, including non-governmental organizations, with a view to enhancing further their effectiveness and cooperation on issues relating to the prevention and eradication of torture, inter alia, by improving their coordination;
35. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, appeals to all States and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions, and encourages contributions to the Special Fund established by the Optional Protocol to help finance the implementation of the recommendations made by the Subcommittee as well as education programmes of the national preventive mechanisms;

⁹ Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 44 (A/66/44).
¹⁰ See A/66/268.

36. *Prosi* generalnega sekretarja, da še naprej vsem državam pošilja pozive generalne skupščine za prispevke v sklade in da sklade vsako leto vključi med programe, za katere se zbirajo denarna sredstva na donatorski konferenci Združenih narodov za razvojne dejavnosti;
37. *Prosi* generalnega sekretarja tudi, da na sedeminšestdesetem zasedanju generalne skupščine svetu za človekove pravice predloži poročilo o delovanju skladov;
38. *Prosi* generalnega sekretarja, da v okviru proračuna Združenih narodov zagotovi ustrezno osebje in opremo za organe in mehanizme, ki se ukvarjajo s preprečevanjem mučenja in bojem proti njemu ter pomagajo žrtvam mučenja ali drugega krutega, nečloveškega ali poniževalnega ravnanja ali kaznovanja, predvsem odboru, pododboru in posebnemu poročevalcu, in sicer sorazmerno z odločno podporo, ki jo države članice dajejo za preprečevanje mučenja in boj proti njemu ter za pomoč žrtvam mučenja, da bi jim omogočili celovito, trajno in učinkovito izvajanje pooblastil ter popolno upoštevanje posebne narave njihovih pooblastil;
39. *Poziva* vse države, Urad visokega komisarja Združenih narodov za človekove pravice ter druge organe in agencije Združenih narodov ter pomembne medvladne organizacije in organizacije civilne družbe, tudi nevladne organizacije, da počastijo 26. junij, mednarodni dan Združenih narodov v podporo žrtvam nasilja;
40. *Sprejme sklep*, da na svojem sedeminšestdesetem zasedanju preuči poročila generalnega sekretarja, tudi poročilo prostovoljnega sklada Združenih narodov za žrtve mučenja in posebnega sklada, ustanovljenega na podlagi izbirnega protokola, poročilo odbora proti mučenju in začasno poročilo posebnega poročevalca o mučenju in drugem krutem, nečloveškem ali poniževalnem ravnanju ali kaznovanju.

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36. *Requests* the Secretary-General to continue to transmit to all States the appeals of the General Assembly for contributions to the Funds and to include the Funds on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;
37. *Also requests* the Secretary-General to submit to the Human Rights Council and to the General Assembly at its sixty-seventh session a report on the operations of the Funds;
38. *Further requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in preventing and combating torture and assisting victims of torture or other cruel, inhuman or degrading treatment or punishment, including, in particular, the Committee, the Subcommittee and the Special Rapporteur, commensurate with the strong support expressed by Member States for preventing and combating torture and assisting victims of torture, in order to enable them to discharge their mandates in a comprehensive, sustained and effective manner and taking fully into account the specific nature of their mandates;
39. *Calls upon* all States, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and civil society organizations, including non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;
40. *Decides* to consider at its sixty-seventh session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture and the Special Fund established by the Optional Protocol, the report of the Committee against Torture and the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

89th plenary meeting
19 December 2011

VI. DOKUMENTI SVETA EVROPE

VI. COUNCIL OF EUROPE DOCUMENTS

DOKUMENTI SVETA EVROPE



Evropski odbor za preprečevanje mučenja in nehumanega ali ponižujočega ravnanja ali kaznovanja

Enaindvajseto splošno poročilo CPT
31. avgust 2010 – 31. julij 2011

(Izveček od strani 39 do strani 50.
 Celotno poročilo je dosegljivo na spletnih straneh:
<http://www.cpt.coe.int/en/docsannual.htm>)

OSAMITEV ZAPORNIKOV

Uvod

53. Vsak zaporniški režim pozna v neki obliki in na nek način osamitev zapornikov. Odbor za preprečevanje mučenja in nečloveškega ali ponižujočega ravnanja ali kaznovanja (CPT) je vedno posvečal posebno pozornost zapornikom, ki prestajajo kazen v samici, saj lahko tako prestajanje kazni izredno škodljivo vpliva na duševno, telesno in socialno zdravje prizadetih¹.

Škodljive posledice so lahko takojšnje in se povečujejo s trajanjem in negotovostjo kazni. Najpomembnejši kazalnik škode, ki jo osamitev lahko povzroči, je bistveno več samomorov med zaporniki, ki prestajajo tako kazen, v primerjavi s splošno populacijo zapornikov. Zato je osamitev nedvomno sama po sebi vprašljiva zaradi prepovedi mučenja in nečloveškega ali ponižujočega ravnanja ali kaznovanja. Poleg tega lahko osamitev ustvari priložnost za namerno trpinčenje zapornikov, ki ostane skrito očem drugih zapornikov in osebja zaporov. Zato je osamitev osrednja skrb CPT in zato ob vsakem obisku zapornikov predstavniki odbora vztrajajo pri pogovorih z zaporniki v samicah, da bi preučili razmere, v katerih jim je odvzeta prostost, in ravnanje z njimi ter preverili postopke za sprejemanje in pregledovanje takih ukrepov. V tem poglavju splošnega poročila CPT so navedeni kriteriji, ki jih CPT uporablja pri ocenjevanju osamitve. CPT meni, da je bi bilo ob upoštevanju teh kriterijev mogoče zmanjšati uporabo ukrepa osamitve na minimum, zagotoviti omejitev trajanja osamitve – kadar se uporabi – na najkrajše potrebno obdobje, narediti vsak režim osamitve kar najugodnejši za zapornike in zapornikom zagotoviti postopke, ki bi povsem upravičili uporabo tega ukrepa.

54. CPT razlaga izraz »osamitev« kot vsako ločitev zapornika od drugih zapornikov, na primer na podlagi sodne odločbe, kot disciplinski ukrep, izrečen v okviru zaporniškega režima, kot preprečevalni upravni ukrep ali za zaščito samega zapornika. Zapornik, ki mu je izrečen tak ukrep, je običajno zaprt sam. V nekaterih državah sicer lahko namestijo zapornika skupaj s še enim ali dvema zapornikoma, vendar to poglavje enako velja tudi za te primere.

Glede posebnosti osamitve mladoletnikov – prakse, proti kateri ima CPT še posebno hude zadržke – je treba navesti tudi pripombe CPT v njegovem 18. splošnem poročilu². To poglavje ne velja za osamitev zapornikov iz medicinskih razlogov, ker so razlogi za tak ukrep popolnoma drugačne narave.

¹ Izsledki raziskav, ki to potrjujejo, so dobro povzeti v delu Sharon Shalev »A Sourcebook on Solitary Confinement« (Temeljna knjiga o osamitvi, Mannheimski center za kriminologijo, London, 2008), ki je na voljo tudi na spletnem naslovu www.solitaryconfinement.org.
² Glejte Informacijo CPT (2008) št. 25, 26. točka.

COUNCIL OF EUROPE DOCUMENTS



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

21st General Report of the CPT
31 August 2010 – 31 July 2011

(Extract from page 39 to page 50.
 The full report is available on the website:
<http://www.cpt.coe.int/en/docsannual.htm>)

SOLITARY CONFINEMENT OF PRISONERS

Introduction

53. Solitary confinement of prisoners is found, in some shape or form, in every prison system. The CPT has always paid particular attention to prisoners undergoing solitary confinement, because it can have an extremely damaging effect on the mental, somatic and social health of those concerned¹. This damaging effect can be immediate and increases the longer the measure lasts and the more indeterminate it is. The most significant indicator of the damage which solitary confinement can inflict is the considerably higher rate of suicide among prisoners subjected to it than that among the general prison population.

Clearly, therefore, solitary confinement on its own potentially raises issues in relation to the prohibition of torture and inhuman or degrading treatment or punishment. In addition, it can create an opportunity for deliberate ill-treatment of prisoners, away from the attention of other prisoners and staff. Accordingly, it is central to the concerns of the CPT and, on each visit, delegations make a point of interviewing prisoners in solitary confinement in order to examine their conditions of detention and treatment and to check the procedures for deciding on such placements and reviewing them. In this section of its General Report, the CPT sets out the criteria it uses when assessing solitary confinement. The Committee believes that if these criteria are followed, it should be possible to reduce resort to solitary confinement to an absolute minimum, to ensure that when it is used it is for the shortest necessary period of time, to make each of the solitary confinement regimes as positive as possible, and to guarantee that procedures are in place to render the use of this measure fully accountable.

54. The CPT understands the term "solitary confinement" as meaning whenever a prisoner is ordered to be held separately from other prisoners, for example, as a result of a court decision, as a disciplinary sanction imposed within the prison system, as a preventative administrative measure or for the protection of the prisoner concerned. A prisoner subject to such a measure will usually be held on his/her own; however, in some States he/she may be accommodated together with one or two other prisoners, and this section applies equally to such situations.

As regards more specifically the solitary confinement of juveniles, a practice concerning which the CPT has particularly strong reservations, reference should also be made to the comments made by the Committee in its 18th General Report².

This section does not apply to the isolation of prisoners for medical reasons, as the grounds for such a measure are of a fundamentally different nature.

¹ The research evidence for this is well summarised in Sharon Shalev's "A Sourcebook on Solitary Confinement" (Mannheim Centre for Criminology, London, 2008), available electronically at www.solitaryconfinement.org.
² See CPT/Inf (2008) 25, paragraph 26.

Sprejeta načela

55. Osamitev še bolj omejuje že tako zelo omejene pravice ljudi ki jim je bila odvzeta prostost. Dodatne omejitve, ki jih predstavlja osamitev, niso del zaporne kazni, zato jih je treba posebej upravičiti. Da bi preverili, ali je kateri koli posamezni izrek ukrepa upravičen, je smiselno uporabiti klasična preverjanja, ki so zajeta v določbah Evropske konvencije o človekovih pravicah in ki jih je razvila sodna praksa na Evropskem sodišču za človekove pravice. Načela preverjanja povzema angleška kratica **PLANN** (proportionate—lawful—accountable—necessary—non-discriminatory).

- a) **Načelo sorazmernosti:** vsako nadaljnje omejevanje zapornikovih pravic mora biti povezano z dejansko ali potencialno škodo, ki jo je zapornik povzročil ali jo bo povzročil s svojimi dejanji (ali s potencialno ogroženostjo, ki ji je zapornik izpostavljen) v zaporniškem okolju. Ker je osamitev resna omejitev zapornikovih pravic in pomeni skrite nevarnosti za zapornika, mora biti dejanska ali potencialna škoda vsaj tako velika in izključno primerna za reševanje samo s tem ukrepom. To velja denimo za večino držav, kjer je osamitev ukrep samo za najresnejše disciplinske prekrške, vendar je to načelo treba upoštevati ob kakršni koli uvedbi tega ukrepa. Dlje kot traja ukrep, močnejši mora biti razlog zanj in več je treba storiti za to, da bi ukrep dosegel svoj namen.
- b) **Načelo zakonitosti:** nacionalno pravo mora za vsako vrsto osamitve, ki je dovoljena v državi, vsebovati posebno določbo, ki mora biti razumna. Izražena mora biti v taki obliki, da je razumljiva vsakomur, za kogar lahko velja. Zakon mora določati natančne okoliščine, v katerih je vsak ukrep osamitve lahko izrečen, osebe, ki ga lahko izrečejo, postopke, ki jih morajo te osebe upoštevati, pravico prizadetega zapornika do ustnih/pisnih izjav kot sestavnega dela postopka, zahtevo, da so zaporniku podani kar najcelovitejši razlogi za odločitve (seveda lahko v nekaterih primerih obstaja upravičen razlog, da se posebne podrobnosti ne razkrijejo zaradi varnostnih zadržkov ali zavarovanja interesov tretjih oseb), pogostost in postopek pregledovanja odločitev ter postopke za pritožbo zoper odločitve. Vsaka vrsta osamitve mora biti zakonsko urejena s posebnim režimom in režimi se morajo med seboj jasno razlikovati.
- c) **Načelo odgovornosti:** za vse izrečene ukrepe osamitve in za vse preglede odločb se mora voditi popolna evidenca. Ta mora dokumentirati vse dejavnike, ki so bili upoštevani, in vse podatke, na katerih so temeljili. Zajemati mora tudi zapis zapornikovega mnenja ali njegove odklonitve, da sodeluje pri procesu odločanja. Poleg tega je treba voditi popolno evidenco vseh stikov med osebjem zopora in zapornikom v samici, zapisani morajo biti tudi vsi poskusi osebja, da zapornika ogovorijo, in zapornikov odziv na to.
- d) **Načelo nujnosti:** pravilo, ki določa, da so dovoljene samo omejitve, nujne za varen in urejen odvzem zapornikove prostosti ter izpolnitev zakonskih zahtev, velja prav tako za zapornike, ki prestajajo kazen v samici. Zato med prestajanjem kazni v samici zaporniki ne bi smeli samodejno ostati brez pravice do obiskov, telefonskih pogovorov in dopisovanja ali dostopa do virov, ki so običajno zapornikom na voljo (na primer gradivo za branje). Prav tako bi moral biti režim osamitve dovolj prilagodljiv, da bi dovoljeval opustitev katere koli omejitve, ki ni nujna za posameznega zapornika.
- e) **Načelo nerazlikovanja:** pri odločanju o izreku kazni samice je treba ne samo upoštevati vse pomembne zadeve, temveč tudi zagotoviti, da se nepomembne zadeve ne upoštevajo. Uradni organi morajo spremljati uporabo vseh oblik osamitve, zato da se ne uporabljajo nesorazmerno, brez cilja in upravičenega razloga zoper posameznega zapornika ali skupino zapornikov.

The principles involved

55. Solitary confinement further restricts the already highly limited rights of people deprived of their liberty. The extra restrictions involved are not inherent in the fact of imprisonment and thus have to be separately justified. In order to test whether any particular imposition of the measure is justified, it is appropriate to apply the traditional tests enshrined in the provisions of the European Convention on Human Rights and developed by the case-law of the European Court of Human Rights. The simple mnemonic **PLANN** summarises these tests.

- a) **Proportionate:** any further restriction of a prisoner's rights must be linked to the actual or potential harm the prisoner has caused or will cause by his or her actions (or the potential harm to which he/she is exposed) in the prison setting. Given that solitary confinement is a serious restriction of a prisoner's rights which involves inherent risks to the prisoner, the level of actual or potential harm must be at least equally serious and uniquely capable of being addressed by this means. This is reflected, for example, in most countries having solitary confinement as a sanction only for the most serious disciplinary offences, but the principle must be respected in all uses of the measure. The longer the measure is continued, the stronger must be the reason for it and the more must be done to ensure that it achieves its purpose.
- b) **Lawful:** provision must be made in domestic law for each kind of solitary confinement which is permitted in a country, and this provision must be reasonable. It must be communicated in a comprehensible form to everyone who may be subject to it. The law should specify the precise circumstances in which each form of solitary confinement can be imposed, the persons who may impose it, the procedures to be followed by those persons, the right of the prisoner affected to make representations as part of the procedure, the requirement to give the prisoner the fullest possible reasons for the decision (it being understood that there might in certain cases be reasonable justification for withholding specific details on security-related grounds or in order to protect the interests of third parties), the frequency and procedure of reviews of the decision and the procedures for appealing against the decision. The regime for each type of solitary confinement should be established by law, with each of the regimes clearly differentiated from each other.
- c) **Accountable:** full records should be maintained of all decisions to impose solitary confinement and of all reviews of the decisions. These records should evidence all the factors which have been taken into account and the information on which they were based. There should also be a record of the prisoner's input or refusal to contribute to the decision-making process. Further, full records should be kept of all interactions with staff while the prisoner is in solitary confinement, including attempts by staff to engage with the prisoner and the prisoner's response.
- d) **Necessary:** the rule that only restrictions necessary for the safe and orderly confinement of the prisoner and the requirements of justice are permitted applies equally to prisoners undergoing solitary confinement. Accordingly, during solitary confinement there should, for example, be no automatic withdrawal of rights to visits, telephone calls and correspondence or of access to resources normally available to prisoners (such as reading materials). Equally, the regime should be flexible enough to permit relaxation of any restriction which is not necessary in individual cases.
- e) **Non-discriminatory:** not only must all relevant matters be taken into account in deciding to impose solitary confinement, but care must also be taken to ensure that irrelevant matters are not taken into account. Authorities should monitor the use of all forms of solitary confinement to ensure that they are not used disproportionately, without an objective and reasonable justification, against a particular prisoner or particular groups of prisoners.

Vrste osamitve in njihova legitimnost

56. Osamitev se uporablja v glavnem v štirih situacijah. Za vsako obstaja drugačna utemeljitev in vsako bi morali obravnavati drugače:

a) Osamitev na podlagi sodne odločbe

V večini držav so sodišča pooblaščenca, da za osebo v priporu (na primer za osebo v priporu v predkazenskem postopku) odredijo prestajanje kazni v samici za določeno obdobje, če je to v interesu kazenske preiskave. V nekaterih državah je obdobje prestajanja kazni v samici samodejno sestavni del nekaterih kazni, opredeljenih z zakonodajo, ali ga odredi sodišče kot del izrečene kazni.

V zvezi z osamitvijo, ki jo odredi sodišče kot del pripora, lahko nedvomno obstaja utemeljen razlog pri posameznem primeru in na podlagi zadostnih dokazov, da je tak pripornik ločen od drugih posameznih pripornikov, ali v še bolj izjemnih okoliščinah od pripornikov na splošno, in da so mu celo prepovedani stiki z zunanjim svetom. Edini namen pri tem je lahko zavarovanje delovanja sodnega sistema pred dejansko nevarnostjo, upoštevani pa morajo biti tudi zaščitni ukrepi, navedeni v 57. točki tega poročila.

CPT je meni, da prestajanje kazni v samici nikoli ne sme biti odrejeno – niti ne sme obstajati možnost za to – po lastni presoji zadevnega sodišča kot sestavni del izrečene kazni. Na tem mestu se spomnimo splošno sprejetega načela, da so storilci kaznivih dejanj poslani v zapor zaradi kazni, in ne zato, da bi bili v zaporu kaznovani. Zaporna kazen je sama po sebi kazen in potencialno nevarne zaostritve zaporne kazni kot sestavni del kazni niso sprejemljive. Lahko se pokaže nujnost, da mora obsojeni zapornik začasno v samico, vendar morajo biti za izrek takega ukrepa pristojne zaporniške oblasti, nikakor ne sme ukrep postati sestavni del seznama kazenskih sankcij.

b) Osamitev kot disciplinski ukrep

Prepoved stikov z drugimi zaporniki je zaporniku lahko izrečena samo v okviru običajnih zakonsko določenih disciplinskih postopkov, in sicer kot najostrejša disciplinska kazen. Države priznavajo skrite nevarnosti tega ukrepa, zato določijo najdaljše trajanje ukrepa: od le nekaj dni do enega meseca ali več. Nekateri države dovoljujejo, da direktorji zaporov izrekajo najdaljše trajanje ukrepa, s tem da sodni organ lahko odredi še daljše. Večina držav – ne pa vse – prepoveduje zaporedno izrekanje kazni samice.

Glede na potencialno zelo škodljive posledice osamitve CPT meni, da je osamitev po načelu sorazmernosti upravičena kot disciplinski ukrep samo izjemoma in kot zadnja možnost, seveda za najkrajše mogoče obdobje. V marsikateri državi članici Sveta Evrope prevladuje težnja po skrajševanju najdaljšega obdobja kazenske osamitve. CPT meni, da trajanje kazenske osamitve ne bi smelo biti daljše od 14 dni za določen prekršek, bolje še manj³. Poleg tega bi morali prepovedati zaporedno izrekanje disciplinskih kazni, ker je zapornik lahko neprekinjeno v samici dlje časa od najdaljšega obdobja, dopustnega za ta ukrep. Vsa zapornikova kazenska dejanja, ki zahtevajo ostrejšje ukrepe, spadajo v kazensko pravosodje.

³ Najdaljše obdobje osamitve mora vsekakor biti krajše, če so zaporniki mladostniki.

Types of solitary confinement and their legitimacy

56. There are four main situations in which solitary confinement is used. Each has its own rationale and each should be viewed differently:

a) Solitary confinement as the result of a court decision

most countries, courts have the power to order that a person remanded in custody (i.e. placed in pre-trial detention) be held for a certain period in solitary confinement, in the interests of the criminal investigation. Further, in a few countries, a period of solitary confinement is an automatic part of some sentences established by legislation or can be ordered by a court as part of a sentence.

In relation to solitary confinement ordered by a court as part of remand conditions, it is axiomatic that there may be justification, in an individual case and based on sufficient evidence, for keeping a given remand prisoner apart from other particular prisoners or, in even more exceptional circumstances, prisoners in general, and in restricting his/her contact with the outside world. This should only be done to guard against a real risk to the administration of justice and must be subject to the safeguards outlined in paragraph 57 below.

The CPT considers that solitary confinement should never be imposed – or be impossible at the discretion of the court concerned – as part of a sentence. The generally accepted principle that offenders are sent to prison as a punishment, not to receive punishment, should be recalled in this context. Imprisonment is a punishment in its own right and potentially dangerous aggravations of a prison sentence as part of the punishment are not acceptable. It may be necessary for a sentenced prisoner to be subject, for a certain period of time, to a solitary confinement regime; however, the imposition of such a regime should lie with the prison authorities and not be made part of the catalogue of criminal sanctions.

b) Solitary confinement as a disciplinary sanction

Withdrawal of a prisoner from contact with other prisoners may be imposed under the normal disciplinary procedures specified by the law, as the most severe disciplinary punishment. Recognising the inherent dangers of this sanction, countries specify a maximum period for which it may be imposed. This can vary from as little as a few days to as much as a month or more. Some countries allow prison directors to impose a given maximum period, with the possibility for a judicial body to impose a longer period. Most countries – but not all – prohibit sequential sentences of solitary confinement.

Given the potentially very damaging effects of solitary confinement, the CPT considers that the principle of proportionality requires that it be used as a disciplinary punishment only in exceptional cases and as a last resort, and for the shortest possible period of time. The trend in many member States of the Council of

Europe is towards lowering the maximum possible period of solitary confinement as a punishment. The CPT considers that the maximum period should be no higher than 14 days for a given offence, and preferably lower³. Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. Any offences committed by a prisoner which it is felt call for more severe sanctions should be dealt with through the criminal justice system.

³ The maximum period should certainly be lower in respect of juveniles.

c) Preprečevalna administrativna osamitev

Zakonodaja v večini evropskih držav dovoljuje sprejetje upravne odločbe za oddajo zapornikov v samico, če so ti resno poškodovali ali bi verjetno lahko resno poškodovali druge, ali če zelo resno potencialno ogrožajo varnost oseb ali zapora. Osamitev lahko traja samo nekaj ur, če gre za osamljen dogodek, ali pa več let, če zaporniki veljajo za zelo nevarne in pomenijo stalno grožnjo.

Gre za osamitev s potencialno najdaljšo dolžino trajanja in pogosto z najmanj zaščitnimi postopki. Zato je bistveno, da obstajajo pravila, ki zagotavljajo, da se administrativni ukrep osamitve ne bi uporabljal prepogosto (na primer kot pripravljena rešitev za vsak obravnavan disciplinski prekršek), preveč na široko in predolgo. Zato se morajo zaščitni ukrepi, navedeni v 57. točki tega poročila, dosledno upoštevati.

d) Osamitev za zaščito zapornika

Vsak zaporniški režim ima zapornike, ki jih je treba zaščititi pred drugimi zaporniki. To je lahko potrebno zaradi narave njihovega kaznivega dejanja, njihovega sodelovanja s kazenskimi sodnimi organi, rivalstva med tolpami, dolgov zunaj zapora ali v njem ali splošne ranljivosti osebe. Večino zapornikov je v takih razmerah mogoče voditi kot splošno zaporniško populacijo, nekateri zaporniki pa so izpostavljeni tako velikemu tveganju, da jim zapor lahko zagotovi varnost samo z individualno oskrbo, ločeno od drugih zapornikov. Zapor lahko uredi samico na zapornikovo prošnjo ali na pobudo vodstva zapora, ki oceni, da je ta ukrep potreben. Ne glede na postopek ostaja dejstvo, da se zapornik zelo težko reši zaščite do konca prestajanja kazni – in morda celo pri naslednjih kaznih.

Obveznost države je, da zagotovi zapornikom v zaporih varno okolje. Za izpolnitev te obveznosti bi morala država dovoljevati čim več socialnih stikov med zaporniki, seveda ob vzdrževanju dobrega reda. Osamitev naj bi bila res zadnji ukrep za zaščito zapornika takrat, kadar ni nobene druge možnosti za zagotovitev varnosti ogroženega zapornika.

Odločitev za samico: postopki in ukrepi

57. Da bi se ukrep osamitve izvajal samo v izrednih razmerah in za najkrajše potrebno obdobje, mora biti za vsako vrsto osamitve določen poseben postopek za izvajanje in pregledovanje ukrepa osamitve. V nadaljevanju so navedeni postopki, ki so po mnenju CPT najustreznejši:

a) Osamitev kot sestavni del pripora

Kot je že nakazano, naj bi osamitev oseb v priporu veljala samo za redke zapornike in takrat, ko za posamezen primer obstajajo neposredni dokazi, da je resno ogroženo delovanje sodnega sistema, če se zapornik druži z določenimi sojetniki ali drugimi osebami na splošno. Take odločitve morajo biti sprejete na javni obravnavi, s kar najširšo obrazložitvijo sodbe in z možnostjo pritožbe na vsako odločitev posebej. Pristojno sodišče bi moralo redno pregledovati odločitve in ugotavljati, ali še obstaja potreba po osamitvi.

b) Osamitev kot disciplinski ukrep

Razlog za izrek disciplinskega ukrepa osamitve in dolžina trajanja kazni morata biti v celoti dokumentirana v zapisniku o zaslišanju pred disciplinsko komisijo. Ti zapisniki morajo biti na voljo višjim vodilnim delavcem in nadzornim organom. Na voljo mora biti tudi učinkovit pritožbeni postopek, ki omogoča pravočasno ponovno preučitev potrjene krivde in/ali kazni, da je še mogoče spremeniti izvršitev kazni. Potrebna spremljajoča okoliščina tega postopka je možnost pravnih nasvetov, do katerih so zaporniki v tej situaciji upravičeni.

Zapornike, ki prestajajo tako kazen, mora vsak dan obiskati direktor zapora ali kak drug višji vodilni delavec, odprava osamitve pa mora biti odrejena, kadar to zahteva zapornikovo stanje ali vedenje. Treba je voditi evidenco vseh obiskov in z njimi povezanih odločitev.

c) Administrative solitary confinement for preventative purposes

The law in most European countries allows for an administrative decision to place into solitary confinement prisoners who have caused, or are judged likely to cause, serious harm to others or who present a very serious risk to the safety or security of the prison. This may be for as short as a few hours, in the case of an isolated incident, or for as long as a period of years in cases involving prisoners who are considered as particularly dangerous and to continue to pose an imminent threat.

This is potentially the longest lasting type of solitary confinement and often the one with the fewest procedural safeguards. It is therefore crucial that there be rules to ensure that it is not used too readily (e.g. as an immediate response to every disciplinary infraction pending adjudication), too extensively or for too lengthy periods. Accordingly, the safeguards described in paragraph 57 below must be rigorously followed.

d) Solitary confinement for protection purposes

Every prison system has prisoners who may require protection from other prisoners. This may be because of the nature of their offence, their co-operation with the criminal justice authorities, inter-gang rivalry, debts outside or inside the prison or the general vulnerability of the person. While many prisoners can be managed in the general prison population in these circumstances, the risk to some is such that the prison can only discharge its duty of care to the individuals by keeping them apart from all other prisoners. This may be done at the prisoner's own request or at the instigation of management when it is deemed necessary. Whatever the process, the fact is that it can be very difficult for a prisoner to come off protection for the rest of the sentence – and maybe even for subsequent sentences.

States have an obligation to provide a safe environment for those confined to prison and should attempt to fulfil this obligation by allowing as much social interaction as possible among prisoners, consistent with the maintenance of good order. Resort should be had to solitary confinement for protection purposes only when there is absolutely no other way of ensuring the safety of the prisoner concerned.

The decision of placement in solitary confinement: procedures and safeguards

57. In order to ensure that solitary confinement is only imposed in exceptional circumstances and for the shortest time necessary, each type of solitary confinement should have its own distinct process for applying and reviewing it. The CPT outlines here what it considers to be the appropriate processes:

a) Solitary confinement as part of remand conditions

As already indicated, solitary confinement of persons remanded in custody should only be used sparingly and where there is direct evidence in an individual case that there is a serious risk to the administration of justice if the prisoner concerned associates with particular inmates or others in general. Such decisions should be made in open court, with as fully reasoned a judgment as possible, and be separately appealable. They should also be reviewed by the competent court on a frequent basis to ensure that there is a continuing need for solitary confinement.

b) Solitary confinement as part of remand conditions

The reason for the imposition of solitary confinement as a punishment, and the length of time for which it is imposed, should be fully documented in the record of the disciplinary hearing. Such records should be available to senior managers and oversight bodies. There should also be an effective appeal process which can reexamine the finding of guilt and/or the sentence in time to make a difference to them in practice. A necessary concomitant of this is the ready availability of legal advice for prisoners in this situation.

Prisoners undergoing this punishment should be visited on a daily basis by the prison director or another member of senior management, and the order given to terminate solitary confinement when this step is called for on account of the prisoner's condition or behaviour. Records should be kept of such visits and of related decisions.

c) Preprečevalna administrativna osamitev

Osamitev zapornika lahko traja zelo dolgo, saj so upravne odločbe pogosto izdane za nedoločen čas, oba ta dejavnika pa lahko zelo poslabšata negativne posledice ukrepa. Zato je nujen strog nadzor. CPT meni, da lahko administrativno osamitev odobrijo samo najvišji člani zaporniškega osebja. Vedno, ko je osamitev izrečena kot ukrep v sili, mora biti o tem takoj obveščen najvišji član prisotnega dežurnega osebja in čim prej tudi direktor zapor. Preden član osebja, ki je izdal odločbo, odide z dela, mora sestaviti popolno poročilo. V poročilu mora navesti razloge za to odločitev, natančen čas, ko je bil ukrep sprejet, in stališča zapornika, če jih je mogoče ugotoviti. Za vse primere osamitve je treba za prvih nekaj ur voditi neprekinjen dnevniški zapis dogajanja, prizadeta oseba pa mora biti izpuščena iz samice takoj, ko razloga za izrek ukrepa ni več. Vedno kadar ukrep traja več kot 24 ur, mora obstajati popoln pregled nad vsemi okoliščinami primera, da bi lahko ukrep čim prej preklicali.

Če je daljša osamitev zapornika neizogibna, mora biti v odločanje vključen organ zunaj zapor, kjer je zaprt zapornik, na primer višji član uprave. Zapornik mora imeti pravico do pritožbe na neodvisni organ. Po potrditvi odredbe je treba sklicati interdisciplinarni zbor in povabiti zapornika, da temu organu poda pisne in ustne izjave. Glavna naloga revizijske skupine je izdelati načrt za zapornika, ki naj zajema vse zadeve, zaradi katerih je pridržan v samici. Revizijska skupina mora med drugim tudi preveriti, ali so nekatere omejitve, naložene zaporniku, nujno potrebne – zaporniku se morda lahko dovoli omejeno druženje z izbranimi zaporniki.

Zapornik mora od revizijskega organa prejeti pisno in utemeljeno odločbo, ki navaja možnost pritožbe. Ko je izdana prva odločba, morajo biti opravljeni nadaljnji pregledi – najprej čez en mesec in nato vsaj vsake tri mesece. Pri pregledih je treba oceniti, ali je dosežen napredek v skladu z dogovorjenim načrtom, in po potrebi pripraviti nov načrt. Daljše kot je obdobje osamitve, temeljitejši mora biti pregled in več virov, tudi zunanjih, je treba vključiti v poskusu (ponovne) integracije zapornika v zaporniško skupnost. Zapornik mora imeti pravico, da kadar koli vloži zahtevek za pregled in da za tak pregled pridobi neodvisna poročila. Direktor zapor ali višji člani osebja bi morali vztrajati pri obiskovanju teh zapornikov in biti seznanjeni z individualnimi načrti zanje. Tudi medicinsko osebje bi moralo zapornikom v teh razmerah posvetiti posebno pozornost.

d) Osamitev za zaščito zapornika

»Osamitve na prošnjo zapornika« so manj vprašljive kot zaščitne osamitve po odredbi osebja, vendar kljub temu zahtevajo nekaj pozornosti. CPT meni, da je treba najprej preskusiti vse alternativne rešitve, kadar posamezen zapornik potrebuje zaščito ali kadar mu zaporniki povzročajo težave, tudi premestitev v drug zapor, mediacijo in vadbo socialnih veščin; zaporniku je treba pojasniti vse posledice odločitve za zaščitno osamitev. Seveda je treba obravnavati prošnjo vsakega zapornika, ki je v prostovoljni osamitvi, da bi se vrnil med druge zapornike, in prošnjo odobriti, če je vrnitev varna.

Zaporniki, ki so v zaščitni osamitvi proti svoji volji, morajo imeti pravico enakopravno sodelovati v celotni razpravi odločanja in predlagati druge izbirne rešitve.

Upravičeni so do celovite obrazložitve sprejete odločitve in do možnosti pritožbe na višji stopnji. Odločitev se mora pregledovati v predvidenih razmikih, da se osamitev lahko konča takoj, ko ni več potrebna.

c) Administrative solitary confinement for preventative purposes

This can result in very long-term placements under solitary confinement and the administrative decisions involved are often indeterminate; both these elements aggravate the negative effects of the measure. Consequently, there is a need for stringent controls. The CPT considers that placement in administrative solitary confinement should only be authorised by the most senior member of staff in the prison; any imposition of this measure as an emergency should be reported to the most senior member of staff on duty immediately and brought to the attention of the prison director as soon as possible. A full written report should be drawn up before the member of staff who makes the decision goes off-duty. This should record the reasons for the decision and the precise time the measure was adopted as well as the views of the prisoner as far as these can be ascertained. There should be constant, logged, monitoring of all cases for the first few hours and the person should be released from solitary confinement as soon as the reason for the imposition of the measure has been resolved. In all cases where the measure continues for longer than 24 hours, there should be a full review of all aspects of the case with a view to withdrawing the measure at the earliest possible time.

If it becomes clear that solitary confinement is likely to be required for a longer period of time, a body external to the prison holding the prisoner, for example, a senior member of headquarters staff, should become involved. A right of appeal to an independent authority should also be in place. When an order is confirmed, a full interdisciplinary case conference should be convened and the prisoner invited to make representations to this body. A major task for the review team is to establish a plan for the prisoner with a view to addressing the issues which require the prisoner to be kept in solitary confinement. Among other things, the review should also look at whether some of the restrictions imposed on the prisoner are strictly necessary – thus it may be possible to allow some limited association with selected other prisoners. The prisoner should receive a written, reasoned decision from the review body and an indication of how the decision may be appealed. After an initial decision, there should be a further review at least after the first month and thereafter at least every three months, at which progress against the agreed plan can be assessed and if appropriate a new plan developed. The longer a person remains in this situation, the more thorough the review should be and the more resources, including resources external to the prison, made available to attempt to (re)integrate the prisoner into the main prison community. The prisoner should be entitled to require a review at any time and to obtain independent reports for such a review. The prison director or senior members of staff should make a point of visiting such prisoners daily and familiarise themselves with the individual plans. Medical staff should also pay particular attention to prisoners held under these conditions.

d) Solitary confinement for protection purposes

“Own request” protection cases raise fewer questions than those ordered to go on protection by staff, but they still need some consideration. The CPT considers that all the alternatives, including transferring to another prison either the individual prisoner in need of protection or the prisoners causing the problem, mediation and assertiveness training, should be tried first and the full consequences of a decision to go on protection explained to the prisoner. Of course, a request from any prisoner on voluntary protection to return to the mainstream should be considered and granted if this can be safely done.

Those who are placed on protection against their will should have the right to play a full part in the discussion of the decision and to proffer alternative solutions.

They should be given a full explanation of the decision and the opportunity to challenge it at a higher level. The decision should be reviewed on a regular basis so that solitary confinement can be ended as soon as it is no longer necessary.

Materialne razmere zapornikov v samicah

58. Celice, ki se uporabljajo za osamitev, morajo izpolnjevati enake minimalne standarde kot celice drugih zapornikov. To pomeni, da morajo biti enako velike, imeti enako naravno osvetlitev in biti opremljene z umetno osvetlitvijo (v obeh primerih primerno za branje), biti morajo tudi ustrezno ogrevane in prezračevane. Samice morajo imeti tudi opremo za stike z zaporniškim osebjem. Zaporniki morajo imeti v samicah urejeno spodobno opravljanje naravnih potreb in možnost tuširanja vsaj tako pogosto kot zaporniki v običajnem režimu. Zaporniki v samici morajo biti oblečeni v običajna zaporniška oblačila in dobivati običajno zaporniško hrano, tudi posebne diete, če jih potrebujejo. Površina, kjer se zaporniki razgibavajo, mora biti dovolj velika, da jim omogoča pravo razgibavanje, in opremljena tako, da jih ščiti pred naravnimi prvinami.
59. Vse prepogosto delegacije CPT ugotavljajo, da ena ali več teh osnovnih zahtev ni izpolnjenih, zlasti pri zapornikih, zaprtih v samicah na podlagi disciplinskega ukrepa. Samice za to vrsto osamitve so na primer včasih v kletnih prostorih, nimajo ustrezne naravne osvetlitve in prezračevanja, pogosto so vlažne. Običajno so premajhne, pogosto merijo le tri do štiri kvadratne metre. V tej zvezi želi CPT poudariti, da naj bi celice s kvadraturjo manj kot šest kvadratnih metrov izločili iz zaporniških bivalnih zmogljivosti. Površine za razgibavanje teh zapornikov so pogosto prav tako neustrezne.
60. Običajna praksa za celice, kjer so zaprti zaporniki, kaznovani z osamitvijo, je omejeno število kosov pohištva, pa še ti so pogosto pritrjeni na tla. Kljub temu bi morale samice imeti vsaj mizo, ustrezno sedišče (stol ali klop) za čez dan in ustrezno posteljo s posteljnino za čez noč. CPT meni, da bi morale biti celice, kjer so zaprti zaporniki z drugačnimi režimi osamitve, opremljene popolnoma enako kot celice drugih zapornikov.

Režimi osamitve

61. Kar zadeva vse druge zaporniške režime, je treba upoštevati načelo, ki pravi, da zaporniki, ki prestajajo kazen v samici, ne bi smeli imeti več omejitev, kot je potrebno za njihov varen in urejen odvzem prostosti. Prav tako si je treba posebno prizadevati za izboljšanje režimov za tiste zapornike, ki so daljša obdobja zaprti v samicah in potrebujejo posebno pozornost, da bi bile škodljive posledice osamitve kar najmanjše. Odgovor na to vprašanje ni nujno »vse ali nič«. Vsaka posamezna omejitev mora biti uporabljena v skladu z ocenjenim tveganjem za posameznega zapornika. Kot smo že navedli, je treba prav tako jasno razlikovati med režimi, ki veljajo za zapornike, ki prestajajo kazen v samici, in sicer na podlagi posamezne vrste osamitve.
- a) **Z zaporniki, ki so zaprti v samici med priporom v skladu z odredbo sodišča**, je treba ravnati čim bolj enako kot z drugimi priporniki. Posebne omejitve veljajo samo, če so nujno potrebne za delovanje sodnega sistema.
- b) **Zaporniki, ki so zaprti v samici na podlagi disciplinskega ukrepa**, ne smejo nikoli ostati brez stikov s svojo družino, vse omejitve teh stikov so lahko izrečene samo, če se zapornikov prekršek nanaša na te stike. Zaporniki tudi ne smejo imeti omejenih pravic do stika z odvetnikom. Zaporniki morajo imeti pravico, da se vsaj eno uro vsak dan razgibavajo na svežem zraku, in sicer od prvega dne osamitve. Osebe jih mora spodbujati, naj se zunaj razgibavajo. Dovoljen jim mora biti tudi dostop do razumnega obsega branja (na primer brez omejenega dostopa do verskih besedil). Bistveno je, da so zaporniki v samici deležni spodbude, ki jim pomaga vzdrževati dobro duševno počutje.

Material conditions in solitary confinements

58. The cells used for solitary confinement should meet the same minimum standards as those applicable to other prisoner accommodation. Thus, they should be of an adequate size, enjoy access to natural light and be equipped with artificial lighting (in both cases sufficient to read by), and have adequate heating and ventilation. They should also be equipped with a means of communication with prison staff. Proper arrangements should be made for the prisoners to meet the needs of nature in a decent fashion at all times and to shower at least as often as prisoners in normal regime. Prisoners held in solitary confinement should be allowed to wear normal prison clothing and the food provided to them should be the normal prison diet, including special diets when required. As for the exercise area used by such prisoners, it should be sufficiently large to enable them genuinely to exert themselves and should have some means of protection from the elements.
59. All too often, CPT delegations find that one or more of these basic requirements are not met, in particular in respect of prisoners undergoing solitary confinement as a disciplinary sanction. For example, the cells designed for this type of solitary confinement are sometimes located in basement areas, with inadequate access to natural light and ventilation and prone to dampness. And it is not unusual for the cells to be too small, sometimes measuring as little as 3 to 4 metres; in this connection, the CPT wishes to stress that any cell measuring less than 6 metres, should be withdrawn from service as prisoner accommodation. The exercise areas used by the prisoners concerned are also frequently inadequate.
60. It is common practice for cells accommodating prisoners undergoing solitary confinement as a punishment to have a limited amount of furniture, which is often secured to the floor. Nevertheless, such cells should be equipped, as a minimum, with a table, adequate seating for the daytime (i.e. a chair or bench), and a proper bed and bedding at night. As regards the cells used to accommodate prisoners undergoing other types of solitary confinement, the CPT considers that they should be furnished in the same manner as cells used by prisoners on normal location.

Regimes in solitary confinement

61. As with all other regimes applied to prisoners, the principle that prisoners placed in solitary confinement should be subject to no more restrictions than are necessary for their safe and orderly confinement must be followed. Further, special efforts should be made to enhance the regime of those kept in long-term solitary confinement, who need particular attention to minimise the damage that this measure can do to them. It is not necessary to have an "all or nothing" approach to the question. Each particular restriction should only be applied as appropriate to the assessed risk of the individual prisoner. Equally, as already indicated, there should be a clear differentiation between the regimes applied to persons subject to solitary confinement, having regard to the type of solitary confinement involved.
- a) **Prisoners placed in solitary confinement as part of remand conditions ordered by a court** should be treated as far as possible like other remand prisoners, with extra restrictions applied only as strictly required for the administration of justice.
- b) **Prisoners undergoing solitary confinement as a disciplinary sanction** should never be totally deprived of contacts with their families and any restrictions on such contacts should be imposed only where the offence relates to such contacts. And there should be no restriction on their right of access to a lawyer. They should be entitled to at least one hour's outdoor exercise per day, from the very first day of placement in solitary confinement, and be encouraged to take outdoor exercise. They should also be permitted access to a reasonable range of reading material (which, for example, should not be restricted to religious texts). It is crucially important that they have some stimulation to assist in maintaining their mental wellbeing.

- c) **Zaporniki, ki so zaprti v samici na podlagi preprečevalne upravne odločbe**, morajo imeti individualni načrt režima samice, ki obravnava razloge za sprejetje tega ukrepa. Načrt režima samice mora kar najbolj krepiti zapornikove stike z drugimi – na začetku z zaporniškimi osebjem, takoj, ko je to izvedljivo, pa tudi z ustreznimi drugimi zaporniki – in zaporniku omogočati kar najbolj razgibane dejavnosti za zapolnitev dni v samici. Osebe mora močno spodbujati sodelovanje zapornika pri dejavnostih in mu omogočiti stik z zunanjim svetom. Skozi vse obdobje administrativne osamitve mora biti glavni cilj prepričati zapornika, da se ponovno vključi v običajni zaporniški režim.
- d) **Glede zapornikov, ki so zaprti v samici zaradi lastne zaščite**, mora zapor nekako najti ravnotežje med potrebo, da zapornikom prepreči preveliko privlačnost prebivanja v samici na eni strani, in potrebo, da zmanjša omejitve osebi, ki ji je bil izrečen ta ukrep, na drugi strani. Seveda je po končani osamitvi treba sprejeti ukrepe za čim prejšnjo ponovno vključitev zapornika. Če se izkaže, da bo potrebna dolgotrajna zaščita zapornika, in če ni nobene druge možnosti, si je treba prizadevati za izboljševanje režima. Posebno si je treba prizadevati in poiskati tiste zapornike, s katerimi bi se zapornik lahko varno družil, in poskrbeti za okoliščine, ki dovoljujejo zaporniku varen izhod iz samice.

Vloga medicinskega osebja pri oskrbi zapornikov v samicah

62. Zdravniki splošne medicine imajo v zaporih vlogo osebnih zdravnikov in njihova skrb je, da vzpostavijo pozitiven odnos med zdravnikom in pacientom, kar je glavni dejavnik pri varovanju zdravja in dobrega počutja zapornikov. Praksa zdravnikov v zaporu, da potrdijo, ali je zapornik sposoben prestajati kazensko osamitev (ali kako drugo vrsto osamitve v nasprotju z zapornikovimi željami), ne pripomore k vzpostavitvi dobrega odnosa. To dejstvo je bilo priznано v Priporočilu št. R(2006)2 Odbora ministrov državam članicam o evropskih zaporniških pravilih; tako je predpis iz prejšnjega pravilnika, ki zahteva, da zdravnik v zaporu potrdi, ali je zapornik sposoben prestajati kazen, zdaj odstranjen iz tega pravilnika. CPT meni, da medicinsko osebje nikoli ne sme sodelovati pri kakršnem koli procesu odločanja o kateri koli vrsti osamitve, razen takrat, kadar je ukrep potreben iz zdravstvenih razlogov.
63. Po drugi strani mora medicinsko osebje zelo pozorno spremljati položaj vseh zapornikov, ki prestajajo kazen v samici. Medicinsko osebje mora biti obveščeno o vsaki premestitvi zapornika v samico in ga obiskati takoj po prihodu v samico, pozneje pa redno vsaj enkrat na dan, in zaporniku po potrebi ponuditi takojšnjo medicinsko pomoč in zdravljenje. Medicinsko osebje mora poročati direktorju zapore, kadar je zdravje zapornika resno ogroženo zaradi prestajanja kazni v samici.

Sklepna beseda

64. CPT si je pri določanju teh standardov zastavil cilj zmanjševanja uporabe osamitve zapornikov v zaporih ne le zaradi škodljivih duševnih, telesnih in socialnih posledic za zapornika, temveč tudi zato, ker lahko osamitev ustvari priložnost za namerno trpinčenje zapornikov. CPT meni, da je ukrep osamitve lahko izrečen samo v izrednih okoliščinah, kot zadnja možnost in za kar najkrajše obdobje. Zaporniki, ki prestajajo kazen v samici, morajo živeti v spodobnih razmerah. Poleg tega mora ukrep zaporniku nalagati najmanjše omejitve v skladu s ciljem ukrepa in zapornikovim vedenjem. Ukrep mora biti vedno povezan z velikim prizadevanjem osebja zapore, da odpravijo vzroke. Z drugimi besedami, režimi osamitve morajo biti kar najbolj pozitivni in se ukvarjati z dejavniki, ki so sprožili ukrep. Poleg tega je treba v procese odločanja vgraditi zakonske in praktične zaščitne ukrepe v zvezi z izrekanjem in pregledovanjem ukrepov osamitve. Če zagotovimo, da je ukrep osamitve vedno ustrezen odziv na težavne razmere v zaporih, bomo prispevali k pozitivnim medsebojnim odnosom med osebjem zapore in zaporniki in omejili škodljive posledice za osebe, ki so žal pogosto že tako med najhujšimi kršilci med zaporniki.

- c) **Prisoners placed in administrative solitary confinement for preventative purposes** should have an individual regime plan, geared to addressing the reasons for the measure. This plan should attempt to maximise contact with others – staff initially, but as soon as practicable with appropriate other prisoners – and provide as full a range of activities as is possible to fill the days. There should be strong encouragement from staff to partake in activities and contact with the outside world should be facilitated. Throughout the period of administrative solitary confinement, the overall objective should be to persuade the prisoner to re-engage with the normal regime.
- d) **As regards prisoners placed in solitary confinement for protection purposes**, there is a balance to be struck between on the one hand the need to avoid making this kind of solitary confinement too attractive to prisoners and on the other hand minimising the restrictions put on persons to whom the measure is applied. Certainly, at the outset of such a period of solitary confinement, steps should be taken to reintegrate the person as soon as possible; if it becomes clear that there is a need for long-term protection, and no other response is possible, regime enhancement should be pursued. Special efforts should be made to identify other prisoners with whom the prisoner concerned could safely associate and situations where it would be possible to bring the person out of cell.

The role of health-care staff in solitary confinement

62. Medical practitioners in prisons act as the personal doctors of prisoners and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. The practice of prison doctors certifying whether a prisoner is fit to undergo solitary confinement as a punishment (or any other type of solitary confinement imposed against the prisoner's wishes) is scarcely likely to promote that relationship. This point was recognised in the Committee of Ministers' Recommendation Rec (2006) 2 on the Revised Prison Rules; indeed, the rule in the previous version of the Rules obliging prison doctors to certify that prisoners are fit to undergo punishment has now been removed. The CPT considers that medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement, except where the measure is applied for medical reasons.
63. On the other hand, health-care staff should be very attentive to the situation of all prisoners placed under solitary confinement. The health-care staff should be informed of every such placement and should visit the prisoner immediately after placement and thereafter, on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required. They should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in solitary confinement.

Conclusion

64. The aim of the CPT in setting out these standards is to minimise the use of solitary confinement in prisons, not only because of the mental, somatic and social damage it can do to prisoners but also given the opportunity it can provide for the deliberate infliction of ill-treatment. The CPT considers that solitary confinement should only be imposed in exceptional circumstances, as a last resort and for the shortest possible time. Prisoners undergoing solitary confinement should be accommodated in decent conditions. Further, the measure should involve the minimum restrictions on prisoners consistent with its objective and the prisoner's behaviour, and should always be accompanied by strenuous efforts on the part of staff to resolve the underlying issues. More specifically, regimes in solitary confinement should be as positive as possible and directed at addressing the factors which have made the measure necessary. In addition, legal and practical safeguards need to be built into decision-making processes in relation to the imposition and review of solitary confinement. Ensuring that solitary confinement is always a proportionate response to difficult situations in prisons will promote positive staff-prisoner interaction and limit the damage done to the very persons who are often already among the most disturbed members of the inmate population.

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proti mučenju in drugim krutim, nečloveškim ali poniževalnim kaznim ali ravnanju
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